

HOUSE BILL No. 5097

June 16, 2009, Introduced by Rep. Meadows and referred to the Committee on Judiciary.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 3406s.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3406S. (1) AN INSURER THAT DELIVERS, ISSUES FOR DELIVERY,
2 OR RENEWS IN THIS STATE ON OR AFTER JANUARY 1, 2010 A GROUP
3 EXPENSE-INCURRED HOSPITAL, MEDICAL, OR SURGICAL POLICY OR
4 CERTIFICATE AND A HEALTH MAINTENANCE ORGANIZATION THAT ISSUES OR
5 RENEWS A GROUP CONTRACT ON OR AFTER JANUARY 1, 2010 SHALL PROVIDE
6 FOR BOTH OF THE FOLLOWING:

7 (A) THAT COST-SHARING REQUIREMENTS AND BENEFIT OR SERVICE
8 LIMITATIONS FOR OUTPATIENT BIOLOGICALLY BASED MENTAL ILLNESS
9 SERVICES DO NOT PLACE A GREATER FINANCIAL BURDEN ON THE INSURED OR
10 ENROLLEE AND ARE NOT MORE RESTRICTIVE THAN THOSE REQUIREMENTS AND

1 LIMITATIONS FOR OUTPATIENT MEDICAL SERVICES.

2 (B) THAT COST-SHARING REQUIREMENTS AND BENEFIT OR SERVICE
3 LIMITATIONS FOR INPATIENT HOSPITAL BIOLOGICALLY BASED MENTAL
4 ILLNESS SERVICES DO NOT PLACE A GREATER FINANCIAL BURDEN ON THE
5 INSURED OR ENROLLEE AND ARE NOT MORE RESTRICTIVE THAN THOSE
6 REQUIREMENTS AND LIMITATIONS FOR INPATIENT HOSPITAL MEDICAL
7 SERVICES.

8 (2) SUBSECTION (1) APPLIES IF BOTH OF THE FOLLOWING ARE MET:

9 (A) THE BIOLOGICALLY BASED MENTAL ILLNESS IS CLINICALLY
10 DIAGNOSED BY A MENTAL HEALTH PROFESSIONAL.

11 (B) THE PRESCRIBED TREATMENT IS NOT EXPERIMENTAL OR
12 INVESTIGATIONAL, HAVING PROVEN ITS CLINICAL EFFECTIVENESS IN
13 ACCORDANCE WITH GENERALLY ACCEPTED MEDICAL STANDARDS.

14 (3) SUBSECTION (1) DOES NOT APPLY TO AN INSURER OR HEALTH
15 MAINTENANCE ORGANIZATION TO WHICH ALL OF THE FOLLOWING APPLY:

16 (A) THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SUBMITS
17 DOCUMENTATION CERTIFIED BY AN INDEPENDENT MEMBER OF THE AMERICAN
18 ACADEMY OF ACTUARIES TO THE COMMISSIONER SHOWING THAT INCURRED
19 CLAIMS FOR DIAGNOSTIC AND TREATMENT SERVICES FOR BIOLOGICALLY BASED
20 MENTAL ILLNESS FOR A PERIOD OF AT LEAST 6 MONTHS INDEPENDENTLY
21 CAUSED THE INSURER'S OR HEALTH MAINTENANCE ORGANIZATION'S COSTS FOR
22 CLAIMS AND ADMINISTRATIVE EXPENSES FOR THE COVERAGE OF ALL OTHER
23 PHYSICAL DISEASES AND DISORDERS TO INCREASE BY MORE THAN 1% PER
24 YEAR.

25 (B) THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SUBMITS A
26 SIGNED LETTER FROM AN INDEPENDENT MEMBER OF THE AMERICAN ACADEMY OF
27 ACTUARIES TO THE COMMISSIONER OPINING THAT THE INCREASE DESCRIBED

1 IN SUBDIVISION (A) COULD REASONABLY JUSTIFY AN INCREASE OF MORE
2 THAN 1% IN THE ANNUAL PREMIUMS OR RATES CHARGED BY THE INSURER OR
3 HEALTH MAINTENANCE ORGANIZATION FOR THE COVERAGE OF ALL OTHER
4 PHYSICAL DISEASES AND DISORDERS.

5 (C) THE COMMISSIONER, PURSUANT TO THE ADMINISTRATIVE
6 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, MAKES
7 THE FOLLOWING DETERMINATIONS FROM THE DOCUMENTATION AND OPINION
8 SUBMITTED PURSUANT TO SUBDIVISIONS (A) AND (B):

9 (i) INCURRED CLAIMS FOR DIAGNOSTIC AND TREATMENT SERVICES FOR
10 BIOLOGICALLY BASED MENTAL ILLNESSES FOR A PERIOD OF AT LEAST 6
11 MONTHS INDEPENDENTLY CAUSED THE INSURER'S OR HEALTH MAINTENANCE
12 ORGANIZATION'S COSTS FOR CLAIMS AND ADMINISTRATIVE EXPENSES FOR THE
13 COVERAGE OF ALL OTHER PHYSICAL DISEASES AND DISORDERS TO INCREASE
14 BY MORE THAN 1% PER YEAR.

15 (ii) THE INCREASE IN COSTS REASONABLY JUSTIFIES AN INCREASE OF
16 MORE THAN 1% IN THE ANNUAL PREMIUMS OR RATES CHARGED BY THE INSURER
17 OR HEALTH MAINTENANCE ORGANIZATION FOR THE COVERAGE OF ALL OTHER
18 PHYSICAL DISEASES AND DISORDERS.

19 (4) THIS SECTION DOES NOT PROHIBIT AN INSURER OR HEALTH
20 MAINTENANCE ORGANIZATION FROM DOING ANY OF THE FOLLOWING:

21 (A) NEGOTIATING SEPARATELY WITH MENTAL HEALTH CARE PROVIDERS
22 ON REIMBURSEMENT RATES AND THE DELIVERY OF HEALTH CARE SERVICES.

23 (B) OFFERING POLICIES, CERTIFICATES, AND CONTRACTS THAT
24 PROVIDE BENEFITS SOLELY FOR THE DIAGNOSIS AND TREATMENT OF
25 BIOLOGICALLY BASED MENTAL ILLNESSES.

26 (C) MANAGING THE PROVISION OF BENEFITS FOR THE DIAGNOSIS OR
27 TREATMENT OF BIOLOGICALLY BASED MENTAL ILLNESSES THROUGH THE USE OF

1 PREADMISSION SCREENING, BY REQUIRING PRIOR AUTHORIZATION BEFORE
2 TREATMENT, OR THROUGH THE USE OF ANY OTHER MECHANISM DESIGNED TO
3 LIMIT COVERAGE TO THAT TREATMENT THAT IS DETERMINED TO BE
4 NECESSARY.

5 (D) ENFORCING THE TERMS AND CONDITIONS OF THE POLICY,
6 CERTIFICATE, OR CONTRACT.

7 (5) THIS SECTION DOES NOT APPLY TO ANY POLICY, CERTIFICATE, OR
8 CONTRACT THAT PROVIDES COVERAGE FOR SPECIFIC DISEASES OR ACCIDENTS
9 ONLY, OR TO ANY HOSPITAL INDEMNITY, MEDICARE SUPPLEMENT, LONG-TERM
10 CARE, DISABILITY INCOME, OR 1-TIME LIMITED DURATION POLICY OR
11 CERTIFICATE OF NO LONGER THAN 6 MONTHS.

12 (6) AS USED IN THIS SECTION:

13 (A) "BIOLOGICALLY BASED MENTAL ILLNESS" MEANS SCHIZOPHRENIA,
14 SCHIZOAFFECTIVE DISORDER, MAJOR DEPRESSIVE DISORDER, BIPOLAR
15 DISORDER, PARANOIA AND OTHER PSYCHOTIC DISORDERS, OBSESSIVE-
16 COMPULSIVE DISORDER, AND PANIC DISORDER, AS THOSE TERMS ARE DEFINED
17 IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS
18 PUBLISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION.

19 (B) "MENTAL HEALTH PROFESSIONAL" MEANS ANY OF THE FOLLOWING:

20 (i) A PHYSICIAN LICENSED TO PRACTICE MEDICINE OR OSTEOPATHIC
21 MEDICINE AND SURGERY IN THIS STATE UNDER ARTICLE 15 OF THE PUBLIC
22 HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

23 (ii) A PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE UNDER
24 ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO
25 333.18838.

26 (iii) A MASTER'S SOCIAL WORKER LICENSED UNDER ARTICLE 15 OF THE
27 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

1 (iv) A PROFESSIONAL COUNSELOR LICENSED UNDER ARTICLE 15 OF THE
2 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.