

# PROGRAM BILL # 55

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

A.  
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

**\*INSURLA\***  
(Relates to insurance coverage for substance abuse disorder)

Ins. substance abuse disorder cov

## AN ACT

to amend the insurance law and the public health law, in relation to requiring health insurance coverage for substance use disorder treatment services and creating a workgroup to study and make recommendations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

## IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal

s15 Addabbo	s02 Planagan	s28 Krueger	s55 O'Brien	s51 Seward
s11 Avella	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s40 Ball	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s42 Bonacic	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s04 Boyle	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s44 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-Cousins
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s32 Diaz	s36 Hassell-Thompson	s43 Marchione	s56 Robach	s57 Young
s18 Dilan	s27 Hoylman	s07 Martins	s19 Sampson	s03 Zeldin
s31 Espallat	s63 Kennedy	s62 Maziarz	s10 Sanders	s08
s49 Farley	s34 Klein	s25 Montgomery	s23 Savino	s20
s17 Felder		s54 Nozzolio	s29 Serrano	

## IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

a049 Abbate	a147 DiPietro	a076 Kellner	a132 Palmesano	a099 Skoufis
a092 Abinanti	a115 Duprey	a040 Kim	a002 Palumbo	a022 Solages
a084 Arroyo	a004 Englebright	a131 Kolb	a088 Paulin	a114 Stec
a035 Aubry	a109 Fahy	a105 Lalor	a141 Peoples-Stokes	a110 Steck
a120 Barclay	a071 Farrell	a013 Lavine	a058 Perry	a127 Stirpe
a106 Barrett	a126 Finch	a050 Lentol	a086 Pichardo	a011 Sweeney
a082 Benedetto	a008 Fitzpatrick	a125 Lifton	a089 Pretlow	a112 Tedisco
a117 Blankenbush	a124 Friend	a102 Lopez, P.	a073 Quart	a101 Tenney
a062 Borelli	a095 Galef	a123 Lupardo	a019 Ra	a001 Thiele
a026 Braunstein	a137 Gantt	a010 Lupinacci	a012 Raia	a061 Titone
a044 Brennan	a007 Garbarino	a121 Magee	a006 Ramos	a031 Titus
a119 Brindisi	a148 Giglio	a129 Magnarelli	a078 Rivera	a146 Walter
a138 Bronson	a080 Gjonaj	a064 Malliotakis	a128 Roberts	a041 Weinstein
a046 Brook-Krasny	a066 Glick	a030 Markey	a056 Robinson	a020 Weisenberg
a093 Buchwald	a023 Goldfeder	a090 Mayer	a068 Rodriguez	a024 Weprin
a118 Butler	a150 Goodell	a108 McDonald	a072 Rosa	a070 Wright
a103 Cahill	a075 Gottfried	a014 McDonough	a067 Rosenthal	a096 Zebrowski
a043 Camara	a005 Graf	a017 McKeivitt	a025 Rozic	a054
a145 Ceretto	a100 Gunther	a107 McLaughlin	a116 Russell	a055
a033 Clark	a139 Hawley	a038 Miller	a149 Ryan	a059
a047 Colton	a083 Heastie	a052 Millman	a009 Saladino	a060
a032 Cook	a003 Hennessey	a015 Montesano	a111 Santabarbara	a077
a144 Corwin	a028 Hevesi	a136 Morelle	a029 Scarborough	a079
a085 Crespo	a048 Hikind	a057 Mosley	a016 Schimal	a098
a122 Crouch	a018 Hooper	a039 Moya	a140 Schimminger	a113
a021 Curran	a042 Jacobs	a133 Nojay	a087 Sepulveda	a134
a063 Cusick	a097 Jaffee	a037 Nolan	a065 Silver	a143
a045 Cymbrowitz	a135 Johns	a130 Oaks	a027 Simanowitz	
a053 Davila	a094 Katz	a069 O'Donnell	a036 Simotas	
a034 DenDekker	a074 Kavanagh	a051 Ortiz	a104 Skartados	
a081 Dinowitz	a142 Kearns	a091 Otis		

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Subsection (i) of section 3216 of the insurance law is  
2 amended by adding two new paragraphs 30 and 31 to read as follows:

3 (30)(A) Every policy that provides hospital, major medical or similar  
4 comprehensive coverage must provide inpatient coverage for the diagnosis  
5 and treatment of substance use disorder, including detoxification and  
6 rehabilitation services. Such coverage shall not apply financial  
7 requirements or treatment limitations to inpatient substance use disor-  
8 der benefits that are more restrictive than the predominant financial  
9 requirements and treatment limitations applied to substantially all  
10 medical and surgical benefits covered by the policy. Further, such  
11 coverage shall be provided consistent with the federal Paul Wellstone  
12 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008  
13 (29 U.S.C. § 1185a).

14 (B) Coverage provided under this paragraph may be limited to facili-  
15 ties in New York state which are certified by the office of alcoholism  
16 and substance abuse services and, in other states, to those which are  
17 accredited by the joint commission as alcoholism, substance abuse, or  
18 chemical dependence treatment programs.

19 (C) Coverage provided under this paragraph may be subject to annual  
20 deductibles and co-insurance as deemed appropriate by the superintendent  
21 and that are consistent with those imposed on other benefits within a  
22 given policy.

23 (31) (A) Every policy that provides medical, major medical or similar  
24 comprehensive-type coverage must provide outpatient coverage for the  
25 diagnosis and treatment of substance use disorder, including detoxifica-  
26 tion and rehabilitation services. Such coverage shall not apply finan-  
27 cial requirements or treatment limitations to outpatient substance use  
28 disorder benefits that are more restrictive than the predominant finan-

1 cial requirements and treatment limitations applied to substantially all  
2 medical and surgical benefits covered by the policy. Further, such  
3 coverage shall be provided consistent with the federal Paul Wellstone  
4 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008  
5 (29 U.S.C. § 1185a).

6 (B) Coverage under this paragraph may be limited to facilities in New  
7 York state certified by the office of alcoholism and substance abuse  
8 services or licensed by such office as outpatient clinics or medically  
9 supervised ambulatory substance abuse programs and, in other states, to  
10 those which are accredited by the joint commission as alcoholism or  
11 chemical dependence substance abuse treatment programs.

12 (C) Coverage provided under this paragraph may be subject to annual  
13 deductibles and co-insurance as deemed appropriate by the superintendent  
14 and that are consistent with those imposed on other benefits within a  
15 given policy.

16 (D) A policy providing coverage for substance use disorder services  
17 pursuant to this paragraph shall provide up to twenty outpatient visits  
18 per policy or calendar year to an individual who identifies him or  
19 herself as a family member of a person suffering from substance use  
20 disorder and who seeks treatment as a family member who is otherwise  
21 covered by the applicable policy pursuant to this paragraph. The cover-  
22 age required by this paragraph shall include treatment as a family  
23 member pursuant to such family member's own policy provided such family  
24 member:

25 (i) does not exceed the allowable number of family visits provided by  
26 the applicable policy pursuant to this paragraph; and

27 (ii) is otherwise entitled to coverage pursuant to this paragraph and  
28 such family member's applicable policy.

1 § 2. Paragraphs 6 and 7 of subsection (1) of section 3221 of the  
2 insurance law, paragraph 6 as amended by chapter 558 of the laws of 1999  
3 and paragraph 7 as amended by chapter 565 of the laws of 2000, are  
4 amended to read as follows:

5 (6) (A) Every [insurer delivering a group or school blanket policy or  
6 issuing a group or school blanket policy for delivery, in this state,  
7 which] policy that provides [coverage for inpatient hospital care]  
8 hospital, major medical or similar comprehensive coverage must [make  
9 available and, if requested by the policyholder,] provide inpatient  
10 coverage for the diagnosis and treatment of [chemical abuse and chemical  
11 dependence, however defined in such policy, provided, however, that the  
12 term chemical abuse shall mean and include alcohol and substance abuse  
13 and chemical dependence shall mean and include alcoholism and substance  
14 dependence, however defined in such policy. Written notice of the avail-  
15 ability of such coverage shall be delivered to the policyholder prior to  
16 inception of such group policy and annually thereafter, except that this  
17 notice shall not be required where a policy covers two hundred or more  
18 employees or where the benefit structure was the subject of collective  
19 bargaining affecting persons who are employed in more than one state.

20 (B) Such coverage shall be at least equal to the following:

21 (i) with respect to benefits for detoxification as a consequence of  
22 chemical dependence, inpatient benefits in a hospital or a detoxifica-  
23 tion facility may not be limited to less than seven days of active  
24 treatment in any calendar year; and

25 (ii) with respect to benefits for rehabilitation services, such bene-  
26 fits may not be limited to less than thirty days of inpatient care in  
27 any calendar year.] substance use disorder, including detoxification and  
28 rehabilitation services. Such coverage shall not apply financial

1 requirements or treatment limitations to inpatient substance use disor-  
2 der benefits that are more restrictive than the predominant financial  
3 requirements and treatment limitations applied to substantially all  
4 medical and surgical benefits covered by the policy. Further, such  
5 coverage shall be provided consistent with the federal Paul Wellstone  
6 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008  
7 (29 U.S.C. § 1185a).

8 [(C) Such coverage] (B) Coverage provided under this paragraph may be  
9 limited to facilities in New York state which are certified by the  
10 office of alcoholism and substance abuse services and, in other states,  
11 to those which are accredited by the joint commission [on accreditation  
12 of hospitals] as alcoholism, substance abuse or chemical dependence  
13 treatment programs.

14 [(D) Such coverage shall be made available at the inception of all new  
15 policies and with respect to all other policies at any anniversary date  
16 of the policy subject to evidence of insurability.

17 (E) Such coverage] (C) Coverage provided under this paragraph may be  
18 subject to annual deductibles and co-insurance as [may be] deemed appro-  
19 priate by the superintendent and that are consistent with those imposed  
20 on other benefits within a given policy. [Further, each insurer shall  
21 report to the superintendent each year the number of contract holders to  
22 whom it has issued policies for the inpatient treatment of chemical  
23 dependence, and the approximate number of persons covered by such poli-  
24 cies.

25 (F) Such coverage shall not replace, restrict or eliminate existing  
26 coverage provided by the policy.]

27 (7) (A) Every [insurer delivering a group or school blanket policy or  
28 issuing a group or school blanket policy for delivery in this state

1 which] policy that provides [coverage for inpatient hospital care]  
2 medical, major medical or similar comprehensive-type coverage must  
3 provide outpatient coverage for [at least sixty outpatient visits in any  
4 calendar year for] the diagnosis and treatment of [chemical dependence  
5 of which up to twenty may be for family members, except that this  
6 provision shall not apply to a policy which covers persons employed in  
7 more than one state or the benefit structure of which was the subject of  
8 collective bargaining affecting persons who are employed in more than  
9 one state.] substance use disorder, including detoxification and reha-  
10 bilitation services. Such coverage shall not apply financial require-  
11 ments or treatment limitations to outpatient substance use disorder  
12 benefits that are more restrictive than the predominant financial  
13 requirements and treatment limitations applied to substantially all  
14 medical and surgical benefits covered by the policy. Further, such  
15 coverage shall be provided consistent with the federal Paul Wellstone  
16 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008  
17 (29 U.S.C. § 1185a).

18 [Such coverage] (B) Coverage under this paragraph may be limited to  
19 facilities in New York state certified by the office of alcoholism and  
20 substance abuse services or licensed by such office as outpatient clin-  
21 ics or medically supervised ambulatory substance abuse programs and, in  
22 other states, to those which are accredited by the joint commission [on  
23 accreditation of hospitals] as alcoholism or chemical dependence treat-  
24 ment programs.

25 [Such coverage] (C) Coverage provided under this paragraph may be  
26 subject to annual deductibles and co-insurance as [may be] deemed appro-  
27 priate by the superintendent and that are consistent with those imposed  
28 on other benefits within a given policy. [Such coverage shall not

1 replace, restrict, or eliminate existing coverage provided by the poli-  
2 cy. Except as otherwise provided in the applicable policy or contract,  
3 no insurer delivering a group or school blanket policy or issuing a  
4 group or school blanket policy providing coverage for alcoholism or  
5 substance abuse services pursuant to this section shall deny coverage to  
6 a family member]

7 (D) A policy providing coverage for substance use disorder services  
8 pursuant to this paragraph shall provide up to twenty outpatient visits  
9 per policy or calendar year to an individual who identifies [themselves]  
10 him or herself as a family member of a person suffering from [the  
11 disease of alcoholism, substance abuse or chemical dependency] substance  
12 use disorder and who seeks treatment as a family member who is otherwise  
13 covered by the applicable policy [or contract] pursuant to this  
14 [section] paragraph. The coverage required by this paragraph shall  
15 include treatment as a family member pursuant to such family [members']  
16 member's own policy [or contract] provided such family member:

17 (i) does not exceed the allowable number of family visits provided by  
18 the applicable policy [or contract] pursuant to this [section,] para-  
19 graph; and

20 (ii) is otherwise entitled to coverage pursuant to this [section]  
21 paragraph and such family [members'] member's applicable policy [or  
22 contract].

23 § 3. Subsections (k) and (l) of section 4303 of the insurance law,  
24 subsection (k) as amended by chapter 558 of the laws of 1999 and  
25 subsection (l) as amended by chapter 565 of the laws of 2000, are  
26 amended to read as follows:

27 (k) [A hospital service corporation or a health service corporation  
28 which] (l) Every contract that provides [group, group remittance or

1 school blanket coverage for inpatient hospital care] hospital, major  
2 medical or similar comprehensive coverage must [make available and if  
3 requested by the contract holder] provide inpatient coverage for the  
4 diagnosis and treatment of [chemical abuse and chemical dependence,  
5 however defined in such policy, provided, however, that the term chemi-  
6 cal abuse shall mean and include alcohol and substance abuse and chemi-  
7 cal dependence shall mean and include alcoholism and substance depend-  
8 ence, however defined in such policy, except that this provision shall  
9 not apply to a policy which covers persons employed in more than one  
10 state or the benefit structure of which was the subject of collective  
11 bargaining affecting persons who are employed in more than one state.  
12 Such coverage shall be at least equal to the following: (1) with respect  
13 to benefits for detoxification as a consequence of chemical dependence,  
14 inpatient benefits for care in a hospital or detoxification facility may  
15 not be limited to less than seven days of active treatment in any calen-  
16 dar year; and (2) with respect to benefits for inpatient rehabilitation  
17 services, such benefits may not be limited to less than thirty days of  
18 inpatient rehabilitation in a hospital based or free standing chemical  
19 dependence facility in any calendar year.] substance use disorder,  
20 including detoxification and rehabilitation services. Such coverage  
21 shall not apply financial requirements or treatment limitations to inpa-  
22 tient substance use disorder benefits that are more restrictive than the  
23 predominant financial requirements and treatment limitations applied to  
24 substantially all medical and surgical benefits covered by the contract.  
25 Further, such coverage shall be provided consistent with the federal  
26 Paul Wellstone and Pete Domenici Mental Health Parity and Addiction  
27 Equity Act of 2008 (29 U.S.C. § 1185a).

1 [Such coverage] (2) Coverage provided under this subsection may be  
2 limited to facilities in New York state which are certified by the  
3 office of alcoholism and substance abuse services and, in other states,  
4 to those which are accredited by the joint commission [on accreditation  
5 of hospitals] as alcoholism, substance abuse, or chemical dependence  
6 treatment programs. [Such coverage shall be made available at the incep-  
7 tion of all new policies and with respect to policies issued before the  
8 effective date of this subsection at the first annual anniversary date  
9 thereafter, without evidence of insurability and at any subsequent annu-  
10 al anniversary date subject to evidence of insurability.

11 Such coverage] (3) Coverage provided under this subsection may be  
12 subject to annual deductibles and co-insurance as [may be] deemed appro-  
13 priate by the superintendent and that are consistent with those imposed  
14 on other benefits within a given [policy] contract. [Further, each  
15 hospital service corporation or health service corporation shall report  
16 to the superintendent each year the number of contract holders to whom  
17 it has issued policies for the inpatient treatment of chemical depend-  
18 ence, and the approximate number of persons covered by such policies.  
19 Such coverage shall not replace, restrict or eliminate existing coverage  
20 provided by the policy. Written notice of the availability of such  
21 coverage shall be delivered to the group remitting agent or group  
22 contract holder prior to inception of such contract and annually there-  
23 after, except that this notice shall not be required where a policy  
24 covers two hundred or more employees or where the benefit structure was  
25 the subject of collective bargaining affecting persons who are employed  
26 in more than one state.]

27 (1) [A hospital service corporation or a health service corporation  
28 which] (1) Every contract that provides [group, group remittance or

1 school blanket coverage for inpatient hospital care] medical, major  
2 medical or similar comprehensive-type coverage must provide outpatient  
3 coverage for [at least sixty outpatient visits in any calendar year for]  
4 the diagnosis and treatment of [chemical dependence of which up to twen-  
5 ty may be for family members, except that this provision shall not apply  
6 to a contract issued pursuant to section four thousand three hundred  
7 five of this article which covers persons employed in more than one  
8 state or the benefit structure of which was the subject of collective  
9 bargaining affecting persons who are employed in more than one state.]  
10 substance use disorder, including detoxification and rehabilitation  
11 services. Such coverage shall not apply financial requirements or  
12 treatment limitations to outpatient substance use disorder benefits that  
13 are more restrictive than the predominant financial requirements and  
14 treatment limitations applied to substantially all medical and surgical  
15 benefits covered by the contract. Further, such coverage shall be  
16 provided consistent with the federal Paul Wellstone and Pete Domenici  
17 Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. §  
18 1185a).

19 [Such coverage] (2) Coverage under this subsection may be limited to  
20 facilities in New York state certified by the office of alcoholism and  
21 substance abuse services or licensed by such office as outpatient clin-  
22 ics or medically supervised ambulatory substance abuse programs and, in  
23 other states, to those which are accredited by the joint commission [on  
24 accreditation of hospitals] as alcoholism or chemical dependence  
25 substance abuse treatment programs.

26 [Such coverage] (3) Coverage provided under this subsection may be  
27 subject to annual deductibles and co-insurance as [may be] deemed appro-  
28 priate by the superintendent and that are consistent with those imposed

1 on other benefits within a given [policy] contract. [Such coverage  
2 shall not replace, restrict or eliminate existing coverage provided by  
3 the policy. Except as otherwise provided in the applicable policy or  
4 contract, no hospital service corporation or health service corporation  
5 providing coverage for alcoholism or substance abuse services pursuant  
6 to this section shall deny coverage to a family member]

7 (4) A contract providing coverage for substance use disorder services  
8 pursuant to this subsection shall provide up to twenty outpatient visits  
9 per contract or calendar year to an individual who identifies [themselves]  
10 him or herself as a family member of a person suffering from [the  
11 disease of alcoholism, substance abuse or chemical dependency] substance  
12 use disorder and who seeks treatment as a family member who is otherwise  
13 covered by the applicable [policy or] contract pursuant to this  
14 [section] subsection. The coverage required by this subsection shall  
15 include treatment as a family member pursuant to such family [members']  
16 member's own [policy or] contract provided such family member;

17 [(i)] (A) does not exceed the allowable number of family visits  
18 provided by the applicable [policy or] contract pursuant to this  
19 [section,] subsection; and

20 [(ii)] (B) is otherwise entitled to coverage pursuant to this  
21 [section] subsection and such family [members'] member's applicable  
22 [policy or] contract.

23 § 3-a. Item (ii) of subparagraph (B) of paragraph 1 of subsection (b)  
24 of section 4900 of the insurance law, as amended by chapter 586 of the  
25 laws of 1998, is amended and a new subparagraph (C) is added to read as  
26 follows:

27 (ii) is in the same profession and same or similar specialty as the  
28 health care provider who typically manages the medical condition or

1 disease or provides the health care service or treatment under review;  
2 [and] or

3 (C) for purposes of a determination involving substance use disorder  
4 treatment:

5 (i) a physician who possesses a current and valid non-restricted  
6 license to practice medicine and who specializes in behavioral health  
7 and has experience in the delivery of substance use disorder courses of  
8 treatment; or

9 (ii) a health care professional other than a licensed physician who  
10 specializes in behavioral health and has experience in the delivery of  
11 substance use disorder courses of treatment and, where applicable,  
12 possesses a current and valid non-restricted license, certificate or  
13 registration or, where no provision for a license, certificate or regis-  
14 tration exists, is credentialed by the national accrediting body appro-  
15 priate to the profession; and

16 § 4. Subsection (a) of section 4902 of the insurance law is amended by  
17 adding a new paragraph 9 to read as follows:

18 (9) When conducting utilization review for purposes of determining  
19 health care coverage for substance use disorder treatment, a utilization  
20 review agent shall utilize recognized evidence-based and peer reviewed  
21 clinical review criteria that is appropriate to the age of the patient  
22 and is deemed appropriate and approved for such use by the commissioner  
23 of the office of alcoholism and substance abuse services in consultation  
24 with the commissioner of health and the superintendent.

25 The office of alcoholism and substance abuse services in consultation  
26 with the commissioner of health and the superintendent shall approve a  
27 recognized evidence-based and peer reviewed clinical review criteria, in

1 addition to any other approved evidence-based and peer reviewed clinical  
2 review criteria.

3 § 5. Subsection (c) of section 4903 of the insurance law, as amended  
4 by chapter 237 of the laws of 2009, is amended to read as follows:

5 (c) (1) A utilization review agent shall make a determination involv-  
6 ing continued or extended health care services, additional services for  
7 an insured undergoing a course of continued treatment prescribed by a  
8 health care provider, or requests for inpatient substance use disorder  
9 treatment, or home health care services following an inpatient hospital  
10 admission, and shall provide notice of such determination to the insured  
11 or the insured's designee, which may be satisfied by notice to the  
12 insured's health care provider, by telephone and in writing within one  
13 business day of receipt of the necessary information except, with  
14 respect to home health care services following an inpatient hospital  
15 admission, within seventy-two hours of receipt of the necessary informa-  
16 tion when the day subsequent to the request falls on a weekend or holi-  
17 day and except, with respect to inpatient substance use disorder treat-  
18 ment, within twenty-four hours of receipt of the request for services  
19 when the request is submitted at least twenty-four hours prior to  
20 discharge from an inpatient admission. Notification of continued or  
21 extended services shall include the number of extended services  
22 approved, the new total of approved services, the date of onset of  
23 services and the next review date.

24 (2) Provided that a request for home health care services and all  
25 necessary information is submitted to the utilization review agent prior  
26 to discharge from an inpatient hospital admission pursuant to this  
27 subsection, a utilization review agent shall not deny, on the basis of  
28 medical necessity or lack of prior authorization, coverage for home

1 health care services while a determination by the utilization review  
2 agent is pending.

3 (3) Provided that a request for inpatient treatment for substance use  
4 disorder is submitted to the utilization review agent at least twenty-  
5 four hours prior to discharge from an inpatient admission pursuant to  
6 this subsection, a utilization review agent shall not deny, on the basis  
7 of medical necessity or lack of prior authorization, coverage for the  
8 inpatient substance use disorder treatment while a determination by the  
9 utilization review agent is pending.

10 § 6. Subsection (b) of section 4904 of the insurance law, as amended  
11 by chapter 237 of the laws of 2009, is amended to read as follows:

12 (b) A utilization review agent shall establish an expedited appeal  
13 process for appeal of an adverse determination involving (1) continued  
14 or extended health care services, procedures or treatments or additional  
15 services for an insured undergoing a course of continued treatment  
16 prescribed by a health care provider or home health care services  
17 following discharge from an inpatient hospital admission pursuant to  
18 subsection (c) of section four thousand nine hundred three of this arti-  
19 cle or (2) an adverse determination in which the health care provider  
20 believes an immediate appeal is warranted except any retrospective  
21 determination. Such process shall include mechanisms which facilitate  
22 resolution of the appeal including but not limited to the sharing of  
23 information from the insured's health care provider and the utilization  
24 review agent by telephonic means or by facsimile. The utilization review  
25 agent shall provide reasonable access to its clinical peer reviewer  
26 within one business day of receiving notice of the taking of an expe-  
27 dited appeal. Expedited appeals shall be determined within two business  
28 days of receipt of necessary information to conduct such appeal except,

1 with respect to inpatient substance use disorder treatment provided  
2 pursuant to paragraph three of subsection (c) of section four thousand  
3 nine hundred three of this article, expedited appeals shall be deter-  
4 mined within twenty-four hours of receipt of such appeal. Expedited  
5 appeals which do not result in a resolution satisfactory to the appeal-  
6 ing party may be further appealed through the standard appeal process,  
7 or through the external appeal process pursuant to section four thousand  
8 nine hundred fourteen of this article as applicable. Provided that the  
9 insured or the insured's health care provider files an expedited inter-  
10 nal and external appeal within twenty-four hours from receipt of an  
11 adverse determination for inpatient substance use disorder treatment for  
12 which coverage was provided while the initial utilization review deter-  
13 mination was pending pursuant to paragraph three of subsection (c) of  
14 section four thousand nine hundred three of this article, a utilization  
15 review agent shall not deny on the basis of medical necessity or lack of  
16 prior authorization such substance use disorder treatment while a deter-  
17 mination by the utilization review agent or external appeal agent is  
18 pending.

19 § 6-a. Item (B) of subparagraph (i) of paragraph (a) of subdivision 2  
20 of section 4900 of the public health law, as amended by chapter 586 of  
21 the laws of 1998, is amended and a new subparagraph (iii) is added to  
22 read as follows:

23 (B) is in the same profession and same or similar specialty as the  
24 health care provider who typically manages the medical condition or  
25 disease or provides the health care service or treatment under review;  
26 [and] or

27 (iii) for purposes of a determination involving substance use disorder  
28 treatment:

1 (A) a physician who possesses a current and valid non-restricted  
2 license to practice medicine and who specializes in behavioral health  
3 and has experience in the delivery of substance use disorder courses of  
4 treatment; or

5 (B) a health care professional other than a licensed physician who  
6 specializes in behavioral health and has experience in the delivery of  
7 substance use disorder courses of treatment and, where applicable,  
8 possesses a current and valid non-restricted license, certificate or  
9 registration or, where no provision for a license, certificate or regis-  
10 tration exists, is credentialed by the national accrediting body appro-  
11 priate to the profession; and

12 § 7. Subdivision 1 of section 4902 of the public health law is amended  
13 by adding a new paragraph (i) to read as follows:

14 (i) When conducting utilization review for purposes of determining  
15 health care coverage for substance use disorder treatment, a utilization  
16 review agent shall utilize recognized evidence-based and peer reviewed  
17 clinical review criteria that is appropriate to the age of the patient  
18 and is deemed appropriate and approved for such use by the commissioner  
19 of the office of alcoholism and substance abuse services in consultation  
20 with the commissioner and the superintendent of financial services.

21 The office of alcoholism and substance abuse services in consultation  
22 with the commissioner and the superintendent of financial services shall  
23 approve a recognized evidence-based and peer reviewed clinical review  
24 criteria, in addition to any other approved evidence-based and peer  
25 reviewed clinical review criteria.

26 § 8. Subdivision 3 of section 4903 of the public health law, as  
27 amended by chapter 237 of the laws of 2009, is amended to read as  
28 follows:

1 3. (a) A utilization review agent shall make a determination involving  
2 continued or extended health care services, additional services for an  
3 enrollee undergoing a course of continued treatment prescribed by a  
4 health care provider, or requests for inpatient substance use disorder  
5 treatment, or home health care services following an inpatient hospital  
6 admission, and shall provide notice of such determination to the enrol-  
7 lee or the enrollee's designee, which may be satisfied by notice to the  
8 enrollee's health care provider, by telephone and in writing within one  
9 business day of receipt of the necessary information except, with  
10 respect to home health care services following an inpatient hospital  
11 admission, within seventy-two hours of receipt of the necessary informa-  
12 tion when the day subsequent to the request falls on a weekend or holi-  
13 day and except, with respect to inpatient substance use disorder treat-  
14 ment, within twenty-four hours of receipt of the request for services  
15 when the request is submitted at least twenty-four hours prior to  
16 discharge from an inpatient admission. Notification of continued or  
17 extended services shall include the number of extended services  
18 approved, the new total of approved services, the date of onset of  
19 services and the next review date.

20 (b) Provided that a request for home health care services and all  
21 necessary information is submitted to the utilization review agent prior  
22 to discharge from an inpatient hospital admission pursuant to this  
23 subdivision, a utilization review agent shall not deny, on the basis of  
24 medical necessity or lack of prior authorization, coverage for home  
25 health care services while a determination by the utilization review  
26 agent is pending.

27 (c) Provided that a request for inpatient treatment for substance use  
28 disorder is submitted to the utilization review agent at least twenty-

1 four hours prior to discharge from an inpatient admission pursuant to  
2 this subdivision, a utilization review agent shall not deny, on the  
3 basis of medical necessity or lack of prior authorization, coverage for  
4 the inpatient substance use disorder treatment while a determination by  
5 the utilization review agent is pending.

6 § 9. Subdivision 2 of section 4904 of the public health law, as  
7 amended by chapter 237 of the laws of 2009, is amended to read as  
8 follows:

9 2. A utilization review agent shall establish an expedited appeal  
10 process for appeal of an adverse determination involving:

11 (a) continued or extended health care services, procedures or treat-  
12 ments or additional services for an enrollee undergoing a course of  
13 continued treatment prescribed by a health care provider home health  
14 care services following discharge from an inpatient hospital admission  
15 pursuant to subdivision three of section forty-nine hundred three of  
16 this article; or

17 (b) an adverse determination in which the health care provider  
18 believes an immediate appeal is warranted except any retrospective  
19 determination. Such process shall include mechanisms which facilitate  
20 resolution of the appeal including but not limited to the sharing of  
21 information from the enrollee's health care provider and the utilization  
22 review agent by telephonic means or by facsimile. The utilization review  
23 agent shall provide reasonable access to its clinical peer reviewer  
24 within one business day of receiving notice of the taking of an expe-  
25 dited appeal. Expedited appeals shall be determined within two business  
26 days of receipt of necessary information to conduct such appeal except,  
27 with respect to inpatient substance use disorder treatment provided  
28 pursuant to paragraph (c) of subdivision 3 of section four thousand nine

1 hundred three of this article, expedited appeals shall be determined  
2 within twenty-four hours of receipt of such appeal. Expedited appeals  
3 which do not result in a resolution satisfactory to the appealing party  
4 may be further appealed through the standard appeal process, or through  
5 the external appeal process pursuant to section forty-nine hundred four-  
6 teen of this article as applicable. Provided that the enrollee or the  
7 enrollee's health care provider files an expedited internal and external  
8 appeal within twenty-four hours from receipt of an adverse determination  
9 for inpatient substance use disorder treatment for which coverage was  
10 provided while the initial utilization review determination was pending  
11 pursuant to paragraph (c) of subdivision 3 of section four thousand nine  
12 hundred three of this article, a utilization review agent shall not deny  
13 on the basis of medical necessity or lack of prior authorization such  
14 substance use disorder treatment while a determination by the utiliza-  
15 tion review agent or external appeal agent is pending.

16 § 10. Section 309 of the insurance law is amended by adding a new  
17 subsection (c) to read as follows:

18 (c) As part of an examination, the superintendent shall review deter-  
19 minations of coverage for substance use disorder treatment and shall  
20 ensure that such determinations are issued in compliance with sections  
21 three thousand two hundred sixteen, three thousand two hundred twenty-  
22 one, four thousand three hundred three, and title one of article forty-  
23 nine of this chapter.

24 § 10-a. Subdivision 2 of section 4409 of the public health law, as  
25 amended by chapter 805 of the laws of 1984, is amended to read as  
26 follows:

27 2. The superintendent shall examine not less than once every three  
28 years into the financial affairs of each health maintenance organiza-

1 tion, and transmit his findings to the commissioner. In connection with  
2 any such examination, the superintendent shall have convenient access at  
3 all reasonable hours to all books, records, files and other documents  
4 relating to the affairs of such organization, which are relevant to the  
5 examination. The superintendent may exercise the powers set forth in  
6 sections three hundred four, three hundred five, three hundred six and  
7 three hundred ten of the insurance law in connection with such examina-  
8 tions, and may also require special reports from such health maintenance  
9 organizations as specified in section three hundred eight of the insur-  
10 ance law. As part of an examination, the superintendent shall review  
11 determinations of coverage for substance use disorder treatment and  
12 shall ensure that such determinations are issued in compliance with  
13 section four thousand three hundred three of the insurance law and title  
14 one of article forty-nine of this chapter.

15 § 11. 1. Within thirty days of the effective date of this act, the  
16 commissioner of the office of alcoholism and substance abuse services,  
17 superintendent of the department of financial services, and the commis-  
18 sioner of health, shall jointly convene a workgroup to study and make  
19 recommendations on improving access to and availability of substance use  
20 disorder treatment services in the state. The workgroup shall be  
21 co-chaired by such commissioners and superintendent, and shall also  
22 include, but not be limited to, representatives of health care provid-  
23 ers, insurers, additional professionals, individuals and families who  
24 have been affected by addiction. The workgroup shall include, but not be  
25 limited to, a review of the following:

26 a. Identifying barriers to obtaining necessary substance use disorder  
27 treatment services for across the state;

1 b. Recommendations for increasing access to and availability of  
2 substance use disorder treatment services in the state, including under-  
3 served areas of the state;

4 c. Identifying best clinical practices for substance use disorder  
5 treatment services;

6 d. A review of current insurance coverage requirements and recommenda-  
7 tions for improving insurance coverage for substance use disorder treat-  
8 ment;

9 e. Recommendations for improving state agency communication and  
10 collaboration relating to substance use disorder treatment services in  
11 the state;

12 f. Resources for affected individuals and families who are having  
13 difficulties obtaining necessary substance use disorder treatment  
14 services; and

15 g. Methods for developing quality standards to measure the performance  
16 of substance use disorder treatment facilities in the state.

17 2. The workgroup shall submit a report of its findings and recommenda-  
18 tions to the governor, the temporary president of the senate, the speak-  
19 er of the assembly, the chairs of the senate and assembly insurance  
20 committees, and the chairs of the senate and assembly health committees  
21 no later than December 31, 2015.

22 § 12. This act shall take effect immediately; provided, however that  
23 sections one, two, three, three-a, four, five, six, six-a, seven, eight  
24 and nine of this act shall take effect April 1, 2015 and shall apply to  
25 policies and contracts issued, renewed, modified, altered or amended on  
26 and after such date.