

TEXT OF REGULATION

Add to Subchapter 3 of Chapter 5 of Title 10 of the California Code of Regulations new

Article 15.2: Mental Health Parity

Adopt: Section 2562.1. Scope of Article; Definition.

(a) This article shall apply only to coverage for services or treatments rendered for pervasive developmental disorder or autism under a policy of health insurance as defined in Insurance Code section 106.

(b) This article shall not apply to a policy described in subdivision (g) of Insurance Code section 10144.5.

(c) As used in this article, the term “behavioral health treatment” has the meaning set forth in subdivision (c)(1) of Insurance Code section 10144.51.

NOTE: Authority cited: Sections 10144.5, 10144.51, 12921 and 12926, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994). Reference: Sections 10144.5 and 10144.51, Insurance Code; *Harlick v. Blue Shield of California*, 686 F.3d 699 (2012).

Adopt: Section 2562.2. Medical Necessity; Case Management and Utilization Review.

(a) Nothing in this article shall be construed to mandate coverage of services that are not medically necessary.

(b) Nothing in this article shall be construed to preclude an insurer from utilizing the following in accordance with the provisions of this article and Insurance Code sections 10144.5 and 10144.51:

- (1) Case management;
- (2) Managed care;
- (3) Network providers;
- (4) Utilization review techniques;
- (5) Prior authorization;
- (6) Copayments; or
- (7) Other cost sharing.

NOTE: Authority cited: Sections 10144.5, 10144.51, 12921 and 12926, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v.*

Garamendi, 8 Cal. 4th 216 (1994). Reference: Sections 10144.5 and 10144.51, Insurance Code; *Harlick v. Blue Shield of California*, 686 F.3d 699 (2012).

Adopt: Section 2562.3. Prohibited Limits on Coverage.

For purposes of Insurance Code section 10144.5,

(a) If treatment or services are

(1) Medically necessary,

(2) Rendered to an individual diagnosed with a health condition indicated in subdivision (d)(7) of Insurance Code section 10144.5, and

(3) Rendered for the purpose of treating that condition;

(b) Then an insurer shall not impose

(1) An annual visit limit, or

(2) An annual dollar limit when the same limit is not equally applicable to all benefits under the policy.

(c) For purposes of subdivision (a) of this section 2562.3, “treatment or services” includes but is not limited to speech therapy, occupational therapy and behavioral health treatment.

NOTE: Authority cited: Sections 10144.5, 10144.51, 12921 and 12926, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994). Reference: Sections 10144.5 and 10144.51, Insurance Code; *Harlick v. Blue Shield of California*, 686 F.3d 699 (2012).

Adopt: Section 2562.4. Behavioral Health Treatment for Pervasive Developmental Disorder or Autism.

(a) Scope of Section. In addition to the limitations on scope set forth in section 2562.1 of this article, the scope of this section 2562.4 shall be further limited by the following sentence: This section does not apply to a policy or plan described in subdivision (d) of Insurance Code section 10144.51.

(b) In cases where behavioral health treatment is medically necessary, an insurer shall not deny or unreasonably delay coverage:

(1) Based on an asserted need for cognitive or intelligence quotient (IQ) testing,

(2) On the grounds that behavioral health treatment is experimental, investigational, or educational, or

(3) On the grounds that behavioral health treatment is not being, will not be, or was not, provided or supervised by a licensed person, entity or group when the provider or supervisor in question is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies.

NOTE: Authority cited: Sections 790.10, 10144.5, 10144.51, 12921 and 12926, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994). Reference: Sections 790.03, 10144.5(a) and (c), 10144.51, Insurance Code.