

By: Zaffirini

S.B. No. 51

A BILL TO BE ENTITLED

AN ACT

relating to the requirement and study of insurance coverage for serious emotional disturbance of a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1355.001, Insurance Code, is amended by adding Subdivision (5) to read as follows:

(5) "Serious emotional disturbance of a child" means an emotional or behavioral disorder or a neuropsychiatric condition that causes a person's functioning to be impaired in thought, perception, affect, or behavior and that:

(A) has been diagnosed or identified, as applicable, in a person who is at least three years of age and younger than 18 years of age by:

(i) a physician licensed to practice medicine in this state and practicing within the scope of the physician's license; or

(ii) a psychologist, licensed professional counselor, licensed marriage and family therapist, or licensed clinical social worker licensed to practice in this state and practicing within the scope of the applicable license; and

(B) meets at least one of the following criteria:

(i) the disorder or condition substantially impairs the person's ability in at least two of the following activities or tasks:

- (a) self-care;
- (b) engaging in family relationships;
- (c) functioning in school; or
- (d) functioning in the community;

(ii) the disorder or condition creates a risk that the person will be removed from the person's home and placed in a more restrictive environment, including in a facility or program operated by the Department of Family and Protective Services or an agency that is part of the juvenile justice system;

(iii) the disorder or condition causes the person to:

- (a) display psychotic features or violent behavior; or
- (b) pose a danger to the person's self or others; or

(iv) the disorder or condition results in the person meeting state special education eligibility requirements for emotional disturbance.

SECTION 2. Subchapter A, Chapter 1355, Insurance Code, is amended by adding Section 1355.0041 to read as follows:

Sec. 1355.0041. REQUIRED COVERAGE FOR SERIOUS EMOTIONAL DISTURBANCE OF A CHILD. (a) Notwithstanding Section 1355.002, this section does not apply to:

- (1) a basic plan under Chapter 1575; or
 - (2) a primary care coverage plan under Chapter 1579.
- (b) A group health benefit plan:
- (1) must provide coverage for serious emotional

1 disturbance of a child, based on medical necessity, for not less
2 than the following treatments in each calendar year:

3 (A) 45 days of inpatient treatment; and
4 (B) 60 visits for outpatient treatment,
5 including group and individual outpatient treatment;

6 (2) may not include a lifetime limitation on the
7 number of days of inpatient treatment or the number of visits for
8 outpatient treatment covered under the plan; and

9 (3) must include the same amount limitations,
10 deductibles, copayments, and coinsurance factors for serious
11 emotional disturbance of a child as the plan includes for physical
12 illness.

13 (c) A group health benefit plan issuer:

14 (1) may not count an outpatient visit for medication
15 management against the number of outpatient visits required to be
16 covered under Subsection (b)(1)(B); and

17 (2) must provide coverage for an outpatient visit
18 described by Subsection (b)(1)(B) under the same terms as the
19 coverage the issuer provides for an outpatient visit for the
20 treatment of physical illness.

21 (d) The department shall conduct a study to determine and
22 evaluate the extent to which enrollees are making claims under
23 coverage for serious emotional disturbance of a child and the
24 impact, if any, the coverage for serious emotional disturbance of a
25 child and the claims have on the cost of the coverage for group
26 health benefit plans.

27 (e) Not later than August 1, 2022, the department shall

1 submit to the governor, the lieutenant governor, the speaker of the
2 house of representatives, and the appropriate standing committees
3 of the legislature a report regarding the results of the study
4 required by Subsection (d), together with any recommendations for
5 legislation.

6 (f) This subsection and Subsections (d) and (e) expire
7 September 1, 2023.

8 SECTION 3. Sections 1355.005 and 1355.007, Insurance Code,
9 are amended to read as follows:

10 Sec. 1355.005. MANAGED CARE PLAN AUTHORIZED. A group
11 health benefit plan issuer may provide or offer coverage required
12 by Section 1355.004 or 1355.0041 through a managed care plan.

13 Sec. 1355.007. SMALL EMPLOYER COVERAGE. An issuer of a
14 group health benefit plan to a small employer must offer the
15 coverage described by Section 1355.004 or 1355.0041 to the employer
16 but is not required to provide the coverage if the employer rejects
17 the coverage.

18 SECTION 4. Section 1355.054(a), Insurance Code, is amended
19 to read as follows:

20 (a) Benefits of coverage provided under this subchapter may
21 be used only in a situation in which:

22 (1) the covered individual has a serious mental
23 illness or serious emotional disturbance of a child as defined by
24 Section 1355.001 that requires confinement of the individual in a
25 hospital unless treatment is available through a residential
26 treatment center for children and adolescents or a crisis
27 stabilization unit; and

1 (2) the covered individual's mental illness or
2 emotional disturbance:

3 (A) substantially impairs the individual's
4 thought, perception of reality, emotional process, or judgment; or

5 (B) as manifested by the individual's recent
6 disturbed behavior, grossly impairs the individual's behavior.

7 SECTION 5. The change in law made by this Act applies only
8 to a group health benefit plan that is delivered, issued for
9 delivery, or renewed on or after January 1, 2022. A group health
10 benefit plan that is delivered, issued for delivery, or renewed
11 before January 1, 2022, is governed by the law as it existed
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 SECTION 6. This Act takes effect September 1, 2021.