

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0040.02 Christy Chase x2008

HOUSE BILL 21-1068

HOUSE SPONSORSHIP

Michaelson Jenet and Titone, Weissman

SENATE SPONSORSHIP

Moreno,

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING HEALTH INSURANCE COVERAGE FOR AN ANNUAL MENTAL**
102 **HEALTH WELLNESS EXAMINATION PERFORMED BY A QUALIFIED**
103 **MENTAL HEALTH CARE PROVIDER, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill adds a requirement, as part of mandatory health insurance coverage of preventive health care services, that health plans cover an annual mental health wellness examination of up to 60 minutes that is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
May 17, 2021

performed by a qualified mental health care provider. The coverage must:

- Be comparable to the coverage of a physical examination;
- Comply with the requirements of federal mental health parity laws; and
- Not require any deductibles, copayments, or coinsurance for the mental health wellness examination.

The coverage applies to plans issued on or after January 1, 2022.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Prevention and early identification of mental health issues can
5 lead to better outcomes for families and all people throughout their lives;

6 (b) Mental health conditions that occur in youth before the age of
7 six can interfere with emotional, cognitive, and physical development;

8 (c) The number of aging adults who have a mental health
9 condition is expected to double to fifteen million in the next two decades,
10 leading to increased health care use and higher health care costs;

11 (d) With an increase in suicide and the number of overdose deaths
12 on the rise, it is imperative for Colorado to increase access to preventive
13 annual mental health wellness examinations;

14 (e) Annual mental health wellness examinations help identify
15 potential mental health issues early on and allow individuals to be offered
16 services and supports to address their needs before an issue progresses or
17 becomes a crisis;

18 (f) Primary care providers are important in early detection of
19 mental health issues but often lack the ability to provide adequate
20 education, consultation, and treatment options to clients in need of further
21 mental health support; and

22 (g) Therefore, it is imperative that our health care system works

1 to integrate and collocate mental health services in primary care settings
2 and opens access to annual mental health wellness examinations for all
3 Coloradans, starting at the prenatal phase through the end of life.

4 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **amend**
5 (18)(a)(I) introductory portion; and **add** (18)(b.7), (18)(c)(III.7), and
6 (18)(c)(III.9) as follows:

7 **10-16-104. Mandatory coverage provisions - definitions -**
8 **rules. (18) Preventive health care services.** (a) (I) The following
9 policies and contracts that are ~~delivered~~, issued OR renewed ~~or reinstated~~
10 ~~on or after January 1, 2010~~, IN THIS STATE must provide coverage for the
11 total cost of the preventive health care services specified in ~~paragraph (b)~~
12 ~~of this subsection (18)~~ SUBSECTIONS (18)(b) AND (18)(b.7) OF THIS
13 SECTION:

14 (b.7) (I) FOR LARGE EMPLOYER POLICIES AND CONTRACTS ISSUED
15 OR RENEWED ON OR AFTER JANUARY 1, 2022, AND FOR INDIVIDUAL AND
16 SMALL GROUP POLICIES AND CONTRACTS ISSUED OR RENEWED ON OR
17 AFTER JANUARY 1, 2023, THE COVERAGE REQUIRED BY THIS SUBSECTION
18 (18) MUST INCLUDE AN ANNUAL MENTAL HEALTH WELLNESS
19 EXAMINATION OF UP TO SIXTY MINUTES THAT IS PERFORMED BY A
20 QUALIFIED MENTAL HEALTH CARE PROVIDER. THE COVERAGE FOR AN
21 ANNUAL MENTAL HEALTH WELLNESS EXAMINATION MUST BE NO LESS
22 EXTENSIVE THAN THE COVERAGE PROVIDED FOR A PHYSICAL
23 EXAMINATION AND MUST COMPLY WITH THE REQUIREMENTS OF THE
24 MHPAEA.

25 (II) THE DIVISION SHALL CONDUCT AN ACTUARIAL STUDY TO
26 DETERMINE THE EFFECT, IF ANY, THE COVERAGE REQUIRED BY THIS
27 SUBSECTION (18)(b.7) HAS ON PREMIUMS.

1 (III) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE
2 DATE OF THIS SUBSECTION (18)(b.7), THE DIVISION SHALL SUBMIT TO THE
3 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES:

4 (A) ITS DETERMINATION AS TO WHETHER THE COVERAGE
5 SPECIFIED IN THIS SUBSECTION (18)(b.7) IS IN ADDITION TO ESSENTIAL
6 HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFRAYAL BY THE STATE
7 PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); AND

8 (B) A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE
9 DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE
10 DIVISION'S REQUEST AND SUBMISSION OF ITS DETERMINATION.

11 (IV) THIS SUBSECTION (18)(b.7) APPLIES TO LARGE EMPLOYER
12 POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1,
13 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS
14 ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL
15 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18)(b.7), IF:

16 (A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL
17 DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE
18 SPECIFIED IN THIS SUBSECTION (18)(b.7) DOES NOT CONSTITUTE AN
19 ADDITIONAL BENEFIT THAT REQUIRES DEFRAYAL BY THE STATE PURSUANT
20 TO 42 U.S.C. SEC. 18031 (d)(3)(B);

21 (B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES
22 HAS INFORMED THE DIVISION THAT THE COVERAGE DOES NOT REQUIRE
23 STATE DEFRAYAL; OR

24 (C) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED
25 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR
26 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION
27 (18)(b.7) IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE

1 DEFRAYPAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE
2 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO
3 RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE
4 DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE
5 DELAY A PRECLUSION FROM REQUIRING DEFRAYPAL BY THE STATE.

6 (c) For purposes of this subsection (18):

7 (III.7) "MENTAL HEALTH WELLNESS EXAMINATION" MEANS AN
8 EXAMINATION THAT SEEKS TO IDENTIFY ANY BEHAVIORAL OR MENTAL
9 HEALTH NEEDS AND APPROPRIATE RESOURCES FOR TREATMENT. THE
10 EXAMINATION MAY INCLUDE:

11 (A) OBSERVATION; A BEHAVIORAL HEALTH SCREENING;
12 EDUCATION AND CONSULTATION ON HEALTHY LIFESTYLE CHANGES;
13 REFERRALS TO ONGOING TREATMENT, MENTAL HEALTH SERVICES, AND
14 OTHER NECESSARY SUPPORTS; AND DISCUSSION OF POTENTIAL OPTIONS
15 FOR MEDICATION; AND

16 (B) AGE-APPROPRIATE SCREENINGS OR OBSERVATIONS TO
17 UNDERSTAND A COVERED PERSON'S MENTAL HEALTH HISTORY, PERSONAL
18 HISTORY, AND MENTAL OR COGNITIVE STATE AND, WHEN APPROPRIATE,
19 RELEVANT ADULT INPUT THROUGH SCREENINGS, INTERVIEWS, AND
20 QUESTIONS.

21 (III.9) "QUALIFIED MENTAL HEALTH CARE PROVIDER" MEANS:

22 (A) A PHYSICIAN LICENSED TO PRACTICE MEDICINE PURSUANT TO
23 ARTICLE 240 OF TITLE 12 WHO HAS SPECIFIC BOARD CERTIFICATION OR
24 TRAINING IN PSYCHIATRY OR OTHER MENTAL OR BEHAVIORAL HEALTH
25 CARE AREAS;

26 (B) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO ARTICLE 240
27 OF TITLE 12 WHO HAS TRAINING IN PSYCHIATRY OR MENTAL HEALTH;

1 (C) A PSYCHOLOGIST LICENSED PURSUANT TO PART 3 OF ARTICLE
2 245 OF TITLE 12;

3 (D) A CLINICAL SOCIAL WORKER LICENSED PURSUANT TO PART 4
4 OF ARTICLE 245 OF TITLE 12;

5 (E) A MARRIAGE AND FAMILY THERAPIST LICENSED PURSUANT TO
6 PART 5 OF ARTICLE 245 OF TITLE 12;

7 (F) A PROFESSIONAL COUNSELOR LICENSED PURSUANT TO PART 6
8 OF ARTICLE 245 OF TITLE 12;

9 (G) AN ADDICTION COUNSELOR LICENSED PURSUANT TO PART 8 OF
10 ARTICLE 245 OF TITLE 12; OR

11 (H) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN
12 SECTION 12-255-104 (1), WITH SPECIFIC TRAINING IN PSYCHIATRIC
13 NURSING.

14 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, **add**
15 (40.5) as follows:

16 **10-16-102. Definitions.** As used in this article 16, unless the
17 context otherwise requires:

18 (40.5) (a) "LARGE EMPLOYER" MEANS ANY PERSON, FIRM,
19 CORPORATION, PARTNERSHIP, OR ASSOCIATION THAT:

20 (I) IS ACTIVELY ENGAGED IN BUSINESS;

21 (II) EMPLOYED AN AVERAGE OF MORE THAN ONE HUNDRED
22 ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY
23 PRECEDING CALENDAR YEAR, EXCEPT AS PROVIDED IN SUBSECTION
24 (40.5)(c) OF THIS SECTION; AND

25 (III) WAS NOT FORMED PRIMARILY FOR THE PURPOSE OF
26 PURCHASING INSURANCE.

27 (b) FOR PURPOSES OF DETERMINING WHETHER AN EMPLOYER IS A

1 "LARGE EMPLOYER", THE NUMBER OF ELIGIBLE EMPLOYEES IS
2 CALCULATED USING THE METHOD SET FORTH IN 26 U.S.C. SEC. 4980H
3 (c)(2)(E).

4 (c) IN THE CASE OF AN EMPLOYER THAT WAS NOT IN EXISTENCE
5 THROUGHOUT THE PRECEDING CALENDAR QUARTER, THE DETERMINATION
6 OF WHETHER THE EMPLOYER IS A LARGE EMPLOYER IS BASED ON THE
7 AVERAGE NUMBER OF EMPLOYEES THAT THE EMPLOYER IS REASONABLY
8 EXPECTED TO EMPLOY ON BUSINESS DAYS IN THE CURRENT CALENDAR
9 YEAR.

10 (d) THE FOLLOWING EMPLOYERS ARE SINGLE EMPLOYERS FOR
11 PURPOSES OF DETERMINING THE NUMBER OF EMPLOYEES:

12 (I) A PERSON OR ENTITY THAT IS A SINGLE EMPLOYER PURSUANT
13 TO 26 U.S.C. SEC. 414 (b), (c), (m), OR (o); AND

14 (II) AN EMPLOYER AND ANY PREDECESSOR EMPLOYER.

15 **SECTION 4. Appropriation.** For the 2021-22 state fiscal year,
16 \$26,353 is appropriated to the department of regulatory agencies for use
17 by the division of insurance. This appropriation is from the division of
18 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
19 on an assumption that the division will require an additional 0.2 FTE. To
20 implement this act, the division may use this appropriation for personal
21 services.

22 **SECTION 5. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.