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STATE OF CALIFORNIA–OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED IN THE OFFICE OF

2014 APR 10 PM 2:14

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2013-1112-12	2014-0307-02C	

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE	2014 MAR -7 PM 3:07
NOV 12 '13 NOV 22 '13	OFFICE OF ADMINISTRATIVE LAW
Office of Administrative Law	
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: Department of Insurance

AGENCY FILE NUMBER (If any): REG-2013-00006

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Mental Health Parity	10	2562.1	November 22, 2013

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
[X] Notice re Proposed Regulatory Action [ ] Other	George Teekell	(415) 538-4390	

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	[ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/ Withdrawn	2013, 472	11/22/2013

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Mental Health Parity

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S): 2013-0228-04E, 2013-0829-01EE, 2013-1112-02EE

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT: 2562.1, 2562.2, 2562.3, 2562.4

AMEND:

REPEAL:

TITLE(S): 10

3. TYPE OF FILING

- [ ] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- [ ] Emergency (Gov. Code, §11346.1(b))
- [X] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- [ ] Emergency Readopt (Gov. Code, §11346.1(h))
- [ ] File & Print
- [ ] Other (Specify)
- [ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- [ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs, title 1, §44 and Gov. Code §11347.1)
February 11, 2014 - February 26, 2014

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- [ ] Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- [X] Effective on filing with Secretary of State
- [ ] §100 Changes Without Regulatory Effect
- [X] Effective other (Specify) Gov. Code sec. 11343.4(b)(3) per agency request RS

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- [X] Department of Finance (Form STD. 399) (SAM §6660)
- [ ] Fair Political Practices Commission
- [ ] State Fire Marshal
- [ ] Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
George Teekell	(415) 538-4390		teekellg@insurance.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE: [signature] DATE: 3/7/14

TYPED NAME AND TITLE OF SIGNATORY: Geoff Margolis, Deputy Commissioner and Special Counsel to the Commissioner

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ENDORSED APPROVED

APR 10 2014

Office of Administrative Law

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

REG-2013-00006 **April 8, 2014**

FINAL TEXT OF REGULATION

MENTAL HEALTH PARITY

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 Limitations 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, a copayment, a deductible, or any other financial term, when the same term or 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 for behavioral health treatment:
(1) Based on an asserted need for cognitive, developmental 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~~.~~,
(4) On the grounds that behavioral health treatment has been, is being, should be or will be provided by a Regional Center contracting with the Department of Developmental Services,
(5) On the grounds that an annual visit limit has been reached or exceeded, or
(6) For any other reason, provided, however, that the insurer may apply a deductible or other financial term or limit when the same term or limit is equally applicable to all benefits under the policy.
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), 10144.5(c) and 10144.51, Insurance Code.