

MAINE STATE LEGISLATURE

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L.D. 595

DATE: 6/16/95

(Filing No. H- 521)

MAJORITY
BANKING AND INSURANCE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 432, L.D. 595, Bill, "An Act Regarding Insurance Coverage for Mental Illness"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2325-A, sub-§5-C, as amended by PL 1995, c. 19, §1, is repealed and the following enacted in its place:

5-C. Coverage for treatment for certain mental illnesses.
Coverage for medical treatment for mental illnesses listed in paragraph A is subject to this subsection.

A. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

(1) Schizophrenia;

(2) Bipolar disorder;

(3) Pervasive developmental disorder, or autism;

(4) Paranoia;

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- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

(1) The contracts must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the group contract.

This subsection does not apply to policies, contracts and certificates covering employees of employers with 20 or fewer employees, whether the group policy is issued to the employer, to an association, to a multiple-employer trust or to another entity.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 2. 24 MRSA §2325-A, sub-§5-D is enacted to read:

5-D. Mandated offer of coverage for certain mental illnesses. Except as otherwise provided, coverage for medical treatment for mental illnesses listed in paragraph A by all individual and group nonprofit hospital and medical services organization health care plan contracts is subject to this subsection.

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A. All individual and group contracts must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. Every nonprofit hospital and medical services organization and nonprofit health care plan must make available coverage in all individual and group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 that provides benefits meeting the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

(1) The offer of coverage must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the individual or group contract.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug

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dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 3. 24 MRSA §2325-A, sub-§8, as enacted by PL 1983, c. 515, §4, is amended to read:

8. **Reports to the Superintendent of Insurance.** Every nonprofit hospital or medical service organization subject to this section shall report its experience for each calendar year ~~beginning with 1984~~ to the superintendent not later than April 30th of the following year. The report shall ~~shall~~ must be in a form prescribed by the superintendent and shall include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for group health care contracts, both separated between those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all nonprofit hospital or medical service organizations in an annual report.

Sec. 4. 24 MRSA §2325-A, sub-§9, as amended by PL 1993, c. 586, §2, is repealed.

Sec. 5. 24-A MRSA §2749-C is enacted to read:

§2749-C. Mandated offer of coverage for certain mental illnesses

1. Coverage for treatment for certain mental illnesses.
Coverage for medical treatment for mental illnesses listed in paragraph A by all individual policies is subject to this section.

A. All individual policies must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

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2 B. All individual policies and contracts executed,
4 delivered, issued for delivery, continued or renewed in this
6 State on or after July 1, 1996 must make available coverage
8 providing benefits that meet the requirements of this
10 paragraph. For purposes of this paragraph, all contracts
12 are deemed renewed no later than the next yearly anniversary
14 of the contract date.

16 (1) The offer of coverage must provide benefits for
18 the treatment and diagnosis of mental illnesses under
20 terms and conditions that are no less extensive than
22 the benefits provided for medical treatment for
24 physical illnesses.

26 (2) At the request of a reimbursing insurer, a
28 provider of medical treatment for mental illness shall
30 furnish data substantiating that initial or continued
32 treatment is medically necessary and appropriate. When
34 making the determination of whether treatment is
36 medically necessary and appropriate, the provider shall
38 use the same criteria for medical treatment for mental
40 illness as for medical treatment for physical illness
42 under the individual policy.

44 This subsection may not be construed to allow coverage and
46 benefits for the treatment of alcoholism or other drug
48 dependencies through the diagnosis of a mental illness listed in
50 paragraph A.

2. Contracts; providers. Subject to approval by the
superintendent pursuant to section 2305, an insurer incorporated
under this chapter shall offer contracts to providers authorizing
the provision of mental health services within the scope of the
provider's licensure.

3. Limits; coinsurance; deductibles. A policy or contract
that provides coverage for the services required by this section
may contain provisions for maximum benefits and coinsurance and
reasonable limitations, deductibles and exclusions to the extent
that these provisions are not inconsistent with the requirements
of this section.

4. Reports to the superintendent. Every insurer subject to
this section shall report its experience for each calendar year
to the superintendent no later than April 30th of the following
year. The report must be in a form prescribed by the
superintendent and include the amount of claims paid in this
State for the services required by this section and the total
amount of claims paid in this State for individual health care
policies, both separated according to those paid for inpatient,

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2 day treatment and outpatient services. The superintendent shall
3 compile this data for all insurers in an annual report.

4 5. Application. Except as otherwise provided, the
5 requirements of this section apply to all policies and contracts
6 executed, delivered, issued for delivery, continued or renewed in
7 this State on or after July 1, 1996. For purposes of this
8 section, all policies are deemed renewed no later than the next
9 yearly anniversary of the contract date. Nothing in this section
10 applies to accidental injury, specified disease, hospital
11 indemnity, Medicare supplement, long-term care or other limited
12 benefit health insurance policies.

14 Sec. 6. 24-A MRSA §2843, sub-§5-C, as amended by PL 1995, c.
15 19, §1, is repealed and the following enacted in its place:

16 5-C. Coverage for treatment for certain mental illnesses.
17 Coverage for medical treatment for mental illnesses listed in
18 paragraph A is subject to this subsection.

19 A. All group contracts must provide, at a minimum, benefits
20 according to paragraph B, subparagraph (1) for a person
21 receiving medical treatment for any of the following mental
22 illnesses diagnosed by a licensed allopathic or osteopathic
23 physician:

- 24 (1) Schizophrenia;
- 25 (2) Bipolar disorder;
- 26 (3) Pervasive developmental disorder, or autism;
- 27 (4) Paranoia;
- 28 (5) Panic disorder;
- 29 (6) Obsessive-compulsive disorder; or
- 30 (7) Major depressive disorder.

31 B. All policies, contracts and certificates executed,
32 delivered, issued for delivery, continued or renewed in this
33 State on or after July 1, 1996 must provide benefits that
34 meet the requirements of this paragraph. For purposes of
35 this paragraph, all contracts are deemed renewed no later
36 than the next yearly anniversary of the contract date.

37 (1) The contracts must provide benefits for the
38 treatment and diagnosis of mental illnesses under terms
39 and conditions that are no less extensive than the
40 requirements of this paragraph.

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benefits provided for medical treatment for physical illnesses.

(2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the group contract.

This subsection does not apply to policies, contracts and certificates covering employees of employers with 20 or fewer employees, whether the group policy is issued to the employer, to an association, to a multiple-employer trust or to another entity.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 7. 24-A MRSA §2843, sub-§5-D is enacted to read:

5-D. Mandated offer of coverage for certain mental illnesses. Except as otherwise provided in subsection 5-C, coverage for medical treatment for mental illnesses listed in paragraph A by all group contracts is subject to this subsection.

A. All group contracts must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

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2 B. All group policies, contracts and certificates executed,
4 delivered, issued for delivery, continued or renewed in this
6 State on or after July 1, 1996 must make available coverage
8 providing benefits that meet the requirements of this
paragraph. For purposes of this paragraph, all contracts
are deemed renewed no later than the next yearly anniversary
of the contract date.

10 (1) The offer of coverage must provide benefits for
12 the treatment and diagnosis of mental illnesses under
14 terms and conditions that are no less extensive than
the benefits provided for medical treatment for
physical illnesses.

16 (2) At the request of a reimbursing insurer, a
18 provider of medical treatment for mental illness shall
20 furnish data substantiating that initial or continued
22 treatment is medically necessary and appropriate. When
24 making the determination of whether treatment is
medically necessary and appropriate, the provider shall
use the same criteria for medical treatment for mental
illness as for medical treatment for physical illness
under the group contract.

26 This subsection may not be construed to allow coverage and
28 benefits for the treatment of alcoholism and other drug
30 dependencies through the diagnosis of a mental illness listed in
paragraph A.

32 **Sec. 8. 24-A MRSA §2843, sub-§7, as enacted by PL 1983, c.**
34 **515, §6, is amended to read:**

36 **7. Reports to the Superintendent of Insurance.** Every
38 insurer subject to this section shall report its experience for
40 each calendar year ~~beginning with 1984~~ to the superintendent not
42 later than April 30th of the following year. The report shall
44 must be in a form prescribed by the superintendent and shall
include the amount of claims paid in this State for the services
required by this section and the total amount of claims paid in
this State for group health care contracts, both separated
between those paid for inpatient, day treatment and outpatient
services. The superintendent shall compile this data for all
insurers in an annual report.

46 **Sec. 9. 24-A MRSA §2843, sub-§8, as amended by PL 1993, c.**
48 **586, §4, is repealed and the following enacted in its place:**

50 **8. Application.** This section does not apply to accidental
injury, specified disease, hospital indemnity, Medicare

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2 supplement, long-term care or other limited benefit health
insurance policies.

4 **Sec. 10. 24-A MRS §4234-A is enacted to read:**

6 **§4234-A. Mental health services coverage**

8 **1. Findings.** The Legislature finds that:

10 A. Mental illness affects nearly 170,000 people of this
12 State each year, resulting in anguish, grief, desperation,
fear, isolation and a sense of hopelessness of significant
14 levels among victims and families;

16 B. Consequences of mental illness include the expenditure
of millions of dollars of public funds for treatment and
losses of millions of dollars by businesses in the State in
18 accidents, absenteeism, nonproductivity and turnover.
Excessive stress and anxiety and other forms of mental
20 illness clearly contribute to general health problems and
costs;

22 C. Typical health coverage in this State discriminates
24 against mental illness, the victims and affected families
with nonexistent or limited benefits compared to provisions
26 for other illnesses; and

28 D. Experience in this State and several other states
demonstrates that the risk of mental illness can be insured
30 at reasonable cost and with adequate controls on quality and
utilization of treatment.

32 **2. Policy and purpose.** The Legislature declares that it is
34 the policy of this State to:

36 A. Promote equitable and nondiscriminatory health coverage
benefits for all forms of illness including mental and
38 emotional disorders that are of significant consequence to
the health of people of the State and that can be treated in
40 a cost-effective manner;

42 B. Ensure that victims of mental and other illnesses have
access to and choice of appropriate treatment at the
44 earliest point of illness in the least restrictive settings;

46 C. Ensure that costs of treatment of mental illness are
supported through an equitable combination of public and
48 private responsibilities; and

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2 D. Ensure that the Legislature reasonably exercises its
3 legal responsibility for insurance policy in this State by
4 prescribing types of illnesses and treatment for which
5 benefits must be provided.

6 3. Definitions. For purposes of this section, unless the
7 context otherwise indicates, the following terms have the
8 following meanings.

10 A. "Day treatment services" includes psychoeducational,
11 physiological, psychological and psychosocial concepts,
12 techniques and processes necessary to maintain or develop
13 functional skills of clients, provided to individuals and
14 groups for periods of more than 2 hours but less than 24
15 hours a day.

16 B. "Inpatient services" includes a range of physiological,
17 psychological and other intervention concepts, techniques
18 and processes used in a community mental health psychiatric
19 inpatient unit, general hospital psychiatric unit or
20 psychiatric hospital licensed by the Department of Human
21 Services or in an accredited public hospital to restore
22 psychosocial functioning sufficient to allow maintenance and
23 support of the client in a less restrictive setting.

24 C. "Outpatient services" includes screening, evaluation,
25 consultations, diagnosis and treatment involving use of
26 psychoeducational, physiological, psychological and
27 psychosocial evaluative and interventive concepts,
28 techniques and processes provided to individuals and groups.

29 D. "Person suffering from a mental or nervous condition"
30 means a person whose psychobiological processes are impaired
31 severely enough to manifest problems in the area of social,
32 psychological or biological functioning. Such a person has a
33 disorder of thought, mood, perception, orientation or memory
34 that impairs judgment, behavior, capacity to recognize or
35 ability to cope with the ordinary demands of life. The
36 person manifests an impaired capacity to maintain acceptable
37 levels of functioning in the area of intellect, emotion or
38 physical well-being.

39 E. "Provider" means an individual included in Title 24,
40 section 2303, subsection 2, a licensed physician, an
41 accredited public hospital or psychiatric hospital or a
42 community agency licensed at the comprehensive service level
43 by the Department of Mental Health and Mental Retardation.
44 All agency or institutional providers named in this
45 paragraph shall ensure that services are supervised by a
46 psychiatrist or licensed psychologist.

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2 4. Requirement. Every health maintenance organization that
3 issues individual or group health care contracts providing
4 coverage for hospital care to residents of this State shall
5 provide benefits as required in this section to any subscriber or
6 other person covered under those contracts for conditions arising
7 from mental illness.

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9 5. Services. Each individual or group contract must
10 provide, at a minimum, the following benefits for a person
11 suffering from a mental or nervous condition:

- 12 A. Inpatient services;
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14 B. Day treatment services; and
15
16 C. Outpatient services.
17

18 6. Coverage for treatment of certain mental illnesses.
19 Coverage for medical treatment for mental illnesses listed in
20 paragraph A is subject to this subsection.

21 A. All group contracts must provide, at a minimum, benefits
22 according to paragraph B, subparagraph (1) for a person
23 receiving medical treatment for any of the following mental
24 illnesses diagnosed by a licensed allopathic or osteopathic
25 physician:

- 26 (1) Schizophrenia;
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28 (2) Bipolar disorder;
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30 (3) Pervasive developmental disorder, or autism;
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32 (4) Paranoia;
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34 (5) Panic disorder;
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36 (6) Obsessive-compulsive disorder; or
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38 (7) Major depressive disorder.
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40 B. All policies, contracts and certificates executed,
41 delivered, issued for delivery, continued or renewed in this
42 State on or after July 1, 1996 must provide benefits that
43 meet the requirements of this paragraph. For purposes of
44 this paragraph, all contracts are deemed renewed no later
45 than the next yearly anniversary of the contract date.
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2 (1) The contracts must provide benefits for the
3 treatment and diagnosis of mental illnesses under terms
4 and conditions that are no less extensive than the
5 benefits provided for medical treatment for physical
6 illnesses.

7 (2) At the request of a reimbursing health maintenance
8 organization, a provider of medical treatment for
9 mental illness shall furnish data substantiating that
10 initial or continued treatment is medically necessary
11 and appropriate. When making the determination of
12 whether treatment is medically necessary and
13 appropriate, the provider shall use the same criteria
14 for medical treatment for mental illness as for medical
15 treatment for physical illness under the group contract.

16 This subsection does not apply to policies, contracts or
17 certificates covering employees of employers with 20 or fewer
18 employees, whether the group policy is issued to the employer, to
19 an association, to a multiple-employer trust or to another entity.

20 This subsection may not be construed to allow coverage and
21 benefits for the treatment of alcoholism and other drug
22 dependencies through the diagnosis of a mental illness listed in
23 paragraph A.

24 **7. Mandated offer of coverage for certain mental**
25 **illnesses. Except as provided in subsection 6, coverage for**
26 **medical treatment for mental illnesses listed in paragraph A by**
27 **all individual and group contracts is subject to this subsection.**

28 **A. All individual and group contracts shall make available**
29 **coverage providing, at a minimum, benefits according to**
30 **paragraph B, subparagraph (1) for a person receiving medical**
31 **treatment for any of the following mental illnesses**
32 **diagnosed by a licensed allopathic or osteopathic physician:**

- 33 (1) Schizophrenia;
- 34 (2) Bipolar disorder;
- 35 (3) Pervasive developmental disorder, or autism;
- 36 (4) Paranoia;
- 37 (5) Panic disorder;
- 38 (6) Obsessive-compulsive disorder; or
- 39 (7) Major depressive disorder.

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2 B. All individual and group policies, contracts and
4 certificates executed, delivered, issued for delivery,
6 continued or renewed in this State on or after July 1, 1996
8 must make available coverage providing benefits that meet
 the requirements of this paragraph. For purposes of this
 paragraph, all contracts are deemed renewed no later than
 the next yearly anniversary of the contract date.

10 (1) The offer of coverage must provide benefits for
12 the treatment and diagnosis of mental illnesses under
14 terms and conditions that are no less extensive than
 the benefits provided for medical treatment for
 physical illnesses.

16 (2) At the request of a reimbursing health maintenance
18 organization, a provider of medical treatment for
20 mental illness shall furnish data substantiating that
22 initial or continued treatment is medically necessary
24 and appropriate. When making the determination of
 whether treatment is medically necessary and
 appropriate, the provider shall use the same criteria
 for medical treatment for mental illness as for medical
 treatment for physical illness under the individual or
 group contract.

26 This subsection may not be construed to allow coverage and
28 benefits for the treatment of alcoholism and other drug
30 dependencies through the diagnosis of a mental illness listed in
 paragraph A.

32 8. Contracts; providers. Subject to approval by the
34 superintendent pursuant to section 4204, a health maintenance
36 organization incorporated under this chapter shall allow
38 providers to contract, subject to the health maintenance
 organization's credentialing policy, for the provision of mental
 health services within the scope of the provider's licensure.

40 9. Limits; coinsurance; deductibles. A policy or contract
42 that provides coverage for the services required by this section
44 may contain provisions for maximum benefits and coinsurance and
 reasonable limitations, deductibles and exclusions to the extent
 that these provisions are not inconsistent with the requirements
 of this section.

46 10. Reports to the superintendent. Every health
48 maintenance organization subject to this section shall report its
50 experience for each calendar year to the superintendent no later
 than April 30th of the following year. The report must be in a
 form prescribed by the superintendent and include the amount of

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claims paid in this State for the services required by this section and the total amount of claims paid in this State for individual and group health care contracts, both separated according to those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all health maintenance organizations in an annual report.

11. Application. Except as otherwise provided, the requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on and after July 1, 1996. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The requirement that health insurance policies provide the same level of coverage for certain mental illnesses as for physical illness will increase the costs of the state employee health insurance program during the current biennium by a total of \$682,160 in fiscal year 1996-97. The General Fund share of these costs is \$341,080; the Highway Fund share is \$102,324; and the share for all other funds is \$238,756. The ability of all state departments and agencies to absorb these additional personal services expenditures can not be determined at this time.

The Bureau of Insurance will incur some minor additional costs to process any new rate filings that may occur as a result of changes in the statutory requirements for insurance coverage for mental illness. These costs can be absorbed within the bureau's existing budgeted resources.'

STATEMENT OF FACT

This amendment replaces the original bill and does the following.

1. It removes the emergency preamble and emergency clause.

2. It requires parity for the treatment of biologically-based mental illnesses for all group policies and contracts covering employees of employers with more than twenty employees issued by nonprofit hospital and medical service organizations, commercial insurers and health maintenance organizations.

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2 3. It requires that nonprofit and commercial insurers and
health maintenance organizations offer coverage for
4 biologically-based mental illnesses to the same extent that
coverage is provided for physical illnesses in individual and
6 small group policies.

8 4. It removes childhood schizophrenia and psychotic
depression from the list of biologically-based mental illnesses
10 because these illnesses are now included in other diagnoses and
specifies that treatment for alcoholism and other drug
12 dependencies can not be provided through the diagnosis of a
biologically-based mental illness.

14

5. It provides for an effective date of July 1, 1996.

16

6. It adds a fiscal note to the bill.