

**HOUSE . . . . . No. 4423**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, December 12, 2007.

The committee on Mental Health and Substance Abuse, to whom was referred the petition (accompanied by bill, House, No. 1871) of Ruth B. Balsler and others relative to mental health parity, reports recommending that the accompanying bill (House, No. 4423) ought to pass.

For the committee,

RUTH B. BALSER.

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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AN ACT RELATIVE TO MENTAL HEALTH PARITY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 32A of the General Laws is hereby  
2 amended by striking out Section 22, as appearing in the 2006  
3 Official Edition, and inserting in place thereof the following  
4 section:—

5 Section 22. (a) For the purposes of this section, the following  
6 words shall have the following meanings:—

7 “Licensed mental health professional”, a licensed physician  
8 who specializes in the practice of psychiatry, a licensed psycholo-  
9 gist, a licensed independent clinical social worker, a licensed  
10 mental health counselor, or a licensed nurse mental health clinical  
11 specialist.

12 “Nondiscriminatory coverage”, coverage that does not contain  
13 any annual or lifetime dollar or unit of service limitation for the  
14 diagnosis and treatment of mental disorders that is less than any  
15 annual or lifetime dollar or unit of service limitation imposed for  
16 the diagnosis and treatment of physical conditions.

17 (b) The commission shall provide health plans to any active or  
18 retired employee of the Commonwealth insured under the com-  
19 mission that include nondiscriminatory coverage for the diagnosis  
20 and medically necessary and active treatment of mental disorders  
21 and alcoholism and other drug abuse and dependence disorders, as  
22 described in the most recent edition of the Diagnostic and Statis-  
23 tical Manual of Mental Disorders published by the American Psy-  
24 chiatric Association.

25 (c) In addition to the coverage established pursuant to this  
26 section, any health plan offered by the commission shall also pro-  
27 vide coverage on a non-discriminatory basis for the diagnosis and  
28 treatment of rape-related mental or emotional disorders to victims  
29 of a rape or victims of an assault with intent to commit rape, as  
30 defined by Sections 22 and 24 of Chapter 265, whenever the costs

31 of such diagnosis and treatment exceed the maximum compensa-  
32 tion awarded to such victims pursuant to subparagraph (C) of  
33 paragraph (2) of subsection (b) of Section 3 of Chapter 258C.

34 (d) Coverage provided under this section shall:—

35 (i) consist of a range of inpatient, intermediate, and outpatient  
36 services; and

37 (ii) permit noncustodial treatment to take place in the least  
38 restrictive, clinically appropriate setting.

39 Inpatient services may be provided in a general hospital  
40 licensed to provide such services, in a facility under the direction  
41 and supervision of the department of mental health, in a private  
42 mental hospital licensed by the department of mental health, or in  
43 a substance abuse facility licensed by the department of public  
44 health.

45 Intermediate services shall include, but need not be limited to,  
46 community-based detoxification, acute residential treatment, par-  
47 tial hospitalization, day treatment and crisis stabilization licensed  
48 or approved by the department of public health or the department  
49 of mental health.

50 Outpatient services may be provided in a licensed hospital, a  
51 mental health or substance abuse clinic licensed by the department  
52 of public health, a public community mental health center, a pro-  
53 fessional office, or as home-based services; provided, however,  
54 these services are provided by a licensed mental health profes-  
55 sional acting within the scope of license.

56 (e) The commission may, as a condition of providing coverage  
57 under this section, require consent to the disclosure of information  
58 for mental disorders only to the extent required for other medical  
59 conditions.

60 (f) Coverage provided under this section may be denied only by  
61 licensed mental health professionals. This subsection shall not  
62 apply to denials due to the insured's lack of insurance coverage or  
63 use of a facility or professional that has not entered into a negoti-  
64 ated agreement with the health plan.

65 (g) Coverage provided under this section shall meet all other  
66 terms and conditions of the health plan not inconsistent with this  
67 section.

68 (h) The commission shall not be required under this section to  
69 pay for:—

70 (i) services provided to a person who is presently incarcerated,  
71 confined or committed to a jail, house of correction or prison, or  
72 custodial facility in the department of youth services;

73 (ii) special education services provided by a school committee  
74 under Section 5 of Chapter 71B; or

75 (iii) services provided by the department of mental health.

76 (i) Psychopharmacological services and neuropsychological  
77 assessment services shall be treated as a medical benefit and shall  
78 be covered in a manner identical to all other medical services.

1 SECTION 2. Chapter 175 of the General Laws is hereby  
2 amended by striking out Section 47B, as so appearing, and  
3 inserting in place thereof the following section:—

4 Section 47B. (a) For the purposes of this section, the following  
5 words shall have the following meanings:—

6 “Licensed mental health professional”, a licensed physician  
7 who specializes in the practice of psychiatry, a licensed psycholo-  
8 gist, a licensed independent clinical social worker, a licensed  
9 mental health counselor, or a licensed nurse mental health clinical  
10 specialist.

11 “Nondiscriminatory coverage”, coverage that does not contain  
12 any annual or lifetime dollar or unit of service limitation for the  
13 diagnosis and treatment of mental disorders that is less than any  
14 annual or lifetime dollar or unit of service limitation imposed for  
15 the diagnosis and treatment of physical conditions.

16 (b) Any individual policy of accident and sickness insurance  
17 issued under Section 108 that provides hospital expense and sur-  
18 gical expense insurance, and any group blanket or general policy  
19 of accident and sickness insurance issued under Section 110 that  
20 provides hospital expense and surgical expense insurance, which  
21 is issued or renewed within or without the Commonwealth, shall  
22 provide to residents of the Commonwealth and to all policy-  
23 holders having a principal place of employment in the Common-  
24 wealth nondiscriminatory coverage for the diagnosis and  
25 medically necessary and active treatment of mental disorders and  
26 alcoholism and other drug abuse and dependence disorders, as  
27 described in the most recent edition of the Diagnostic and Statis-

28 tical Manual of Mental Disorders published by the American Psy-  
29 chiatric Association.

30 (c) In addition to the mental health benefits established pur-  
31 suant to this section, any such policy shall also provide benefits  
32 on a non-discriminatory basis for the diagnosis and treatment of  
33 rape-related mental or emotional disorders to victims of a rape or  
34 victims of an assault with intent to commit rape, as defined by  
35 Sections 22 and 24 of Chapter 265, whenever the costs of such  
36 diagnosis and treatment exceed the maximum compensation  
37 awarded to such victims pursuant to subparagraph (C) of para-  
38 graph (2) of subsection (b) of Section 3 of Chapter 258C.

39 (d) Coverage provided under this section shall:—

40 (i) consist of a range of inpatient, intermediate, and outpatient  
41 services; and

42 (ii) permit noncustodial treatment to take place in the least  
43 restrictive, clinically appropriate setting.

44 Inpatient services may be provided in a general hospital  
45 licensed to provide such services, in a facility under the direction  
46 and supervision of the department of mental health, in a private  
47 mental hospital licensed by the department of mental health, or in  
48 a substance abuse facility licensed by the department of public  
49 health.

50 Intermediate services shall include, but need not be limited to,  
51 community-based detoxification, acute residential treatment, par-  
52 tial hospitalization, day treatment and crisis stabilization licensed  
53 or approved by the department of public health or the department  
54 of mental health.

55 Outpatient services may be provided in a licensed hospital, a  
56 mental health or substance abuse clinic licensed by the department  
57 of public health, a public community mental health center, a pro-  
58 fessional office, or as home-based services; provided, however,  
59 these services are provided by a licensed mental health profes-  
60 sional acting within the scope of license.

61 (e) An insurer may, as a condition of providing coverage under  
62 this section, require consent to the disclosure of information for  
63 mental disorders only to the extent required for other medical con-  
64 ditions.

65 (f) Coverage provided under this section may be denied only by  
66 licensed mental health professionals. This subsection shall not

67 apply to denials due to the insured's lack of insurance coverage or  
68 use of a facility or professional that has not entered into a negoti-  
69 ated agreement with the insurer.

70 (g) Coverage provided under this section shall meet all other  
71 terms and conditions of the policy not inconsistent with this  
72 section.

73 (h) An insurer shall not be required under this section to pay  
74 for:—

75 (i) services provided to a person who is presently incarcerated,  
76 confined or committed to a jail, house of correction or prison, or  
77 custodial facility in the department of youth services;

78 (ii) special education services provided by a school committee  
79 under Section 5 of Chapter 71B; or

80 (iii) services provided by the department of mental health.

81 (i) Psychopharmacological services and neuropsychological  
82 assessment services shall be treated as a medical benefit and shall  
83 be covered in a manner identical to all other medical services.

1 SECTION 3. Section 110 of said Chapter 175, as so appearing,  
2 is hereby amended by striking out subdivision (H).

1 SECTION 4. Chapter 176A of the General Laws is hereby  
2 amended by striking out Section 8A, as so appearing, and  
3 inserting in place thereof the following section:—

4 Section 8A. (a) For the purposes of this section, the following  
5 words shall have the following meanings:—

6 “Licensed mental health professional”, a licensed physician  
7 who specializes in the practice of psychiatry, a licensed psycholo-  
8 gist, a licensed independent clinical social worker, a licensed  
9 mental health counselor, or a licensed nurse mental health clinical  
10 specialist.

11 “Nondiscriminatory coverage”, coverage that does not contain  
12 any annual or lifetime dollar or unit of service limitation for the  
13 diagnosis and treatment of mental disorders that is less than any  
14 annual or lifetime dollar or unit of service limitation imposed for  
15 the diagnosis and treatment of physical conditions.

16 (b) Any contract between a subscriber and the corporation  
17 under an individual or group hospital service plan which is issued  
18 or renewed within or without the Commonwealth shall provide to

19 residents of the Commonwealth and to all individual subscribers  
20 and members and group members having a principal place of  
21 employment in the Commonwealth nondiscriminatory coverage  
22 for the diagnosis and medically necessary and active treatment of  
23 mental disorders and alcoholism and other drug abuse and depen-  
24 dence disorders, as described in the most recent edition of the  
25 Diagnostic and Statistical Manual of Mental Disorders published  
26 by the American Psychiatric Association.

27 (c) In addition to the mental health benefits established pur-  
28 suant to this section, any such contract shall also provide benefits  
29 on a non-discriminatory basis for the diagnosis and treatment of  
30 rape-related mental or emotional disorders to victims of a rape or  
31 victims of an assault with intent to commit rape, as defined by  
32 Sections 22 and 24 of Chapter 265, whenever the costs of such  
33 diagnosis and treatment exceed the maximum compensation  
34 awarded to such victims pursuant to subparagraph (C) of para-  
35 graph (2) of subsection (b) of Section 3 of Chapter 258C.

36 (d) Coverage provided under this section shall:—

37 (i) consist of a range of inpatient, intermediate, and outpatient  
38 services; and (ii) permit noncustodial treatment to take place in  
39 the least restrictive, clinically appropriate setting.

40 Inpatient services may be provided in a general hospital  
41 licensed to provide such services, in a facility under the direction  
42 and supervision of the department of mental health, in a private  
43 mental hospital licensed by the department of mental health, or in  
44 a substance abuse facility licensed by the department of public  
45 health.

46 Intermediate services shall include, but need not be limited to,  
47 community-based detoxification, acute residential treatment, par-  
48 tial hospitalization, day treatment and crisis stabilization licensed  
49 or approved by the department of public health or the department  
50 of mental health.

51 Outpatient services may be provided in a licensed hospital, a  
52 mental health or substance abuse clinic licensed by the department  
53 of public health, a public community mental health center, a pro-  
54 fessional office, or as home-based services; provided, however,  
55 these services are provided by a licensed mental health profes-  
56 sional acting within the scope of license.

57 (e) A nonprofit hospital service corporation may, as a condition  
58 of providing coverage under this section, require consent to the  
59 disclosure of information for mental disorders only to the extent  
60 required for other medical conditions.

61 (f) Coverage provided under this section may be denied only by  
62 licensed mental health professionals. This subsection shall not  
63 apply to denials due to the insured's lack of insurance coverage or  
64 use of a facility or professional that has not entered into a negoti-  
65 ated agreement with the hospital service corporation.

66 (g) Coverage provided under this section shall meet all other  
67 terms and conditions of the contract not inconsistent with this  
68 section.

69 (h) A non-profit hospital service corporation shall not be  
70 required under this section to pay for:—

71 (i) services provided to a person who is presently incarcerated,  
72 confined or committed to a jail, house of correction or prison, or  
73 custodial facility in the department of youth services;

74 (ii) special education services provided by a school committee  
75 under Section 5 of Chapter 71B; or

76 (iii) services provided by the department of mental health.

77 (i) Psychopharmacological services and neuropsychological  
78 assessment services shall be treated as a medical benefit and shall  
79 be covered in a manner identical to all other medical services.

1 SECTION 5. Section 10 of said Chapter 176A, as so appearing,  
2 is hereby further amended by striking out the fourth paragraph.

1 SECTION 6. Chapter 176B of the General Laws is hereby  
2 amended by striking out Section 4A, as so appearing, and  
3 inserting in place thereof the following section:—

4 Section 4A. (a) For the purposes of this section, the following  
5 words shall have the following meanings:—

6 “Licensed mental health professional”, a licensed physician  
7 who specializes in the practice of psychiatry, a licensed psycholo-  
8 gist, a licensed independent clinical social worker, a licensed  
9 mental health counselor, or a licensed nurse mental health clinical  
10 specialist.

11 “Nondiscriminatory coverage”, coverage that does not contain  
12 any annual or lifetime dollar or unit of service limitation for the

13 diagnosis and treatment of mental disorders that is less than any  
14 annual or lifetime dollar or unit of service limitation imposed for  
15 the diagnosis and treatment of physical conditions.

16 (b) Any subscription certificate under an individual or group  
17 medical service agreement which is issued or renewed within or  
18 without the Commonwealth shall provide to residents of the Com-  
19 monwealth and to all individual subscribers and members within  
20 the Commonwealth and to all group members having a principal  
21 place of employment in the Commonwealth nondiscriminatory  
22 coverage for the diagnosis and medically necessary and active  
23 treatment of mental disorders and alcoholism and other drug abuse  
24 and dependence disorders, as described in the most recent edition  
25 of the Diagnostic and Statistical Manual of Mental Disorders pub-  
26 lished by the American Psychiatric Association.

27 (c) In addition to the mental health benefits established pur-  
28 suant to this section, any such subscription certificate shall also  
29 provide benefits on a non-discriminatory basis for the diagnosis  
30 and treatment of rape-related mental or emotional disorders to vic-  
31 tims of a rape or victims of an assault with intent to commit rape,  
32 as defined by Sections 22 and 24 of Chapter 265, whenever the  
33 costs of such diagnosis and treatment exceed the maximum com-  
34 pensation awarded to such victims pursuant to subparagraph (C)  
35 of paragraph (2) of subsection (b) of Section 3 of Chapter 258C.

36 (d) Coverage provided under this section shall:—

37 (i) consist of a range of inpatient, intermediate, and outpatient  
38 services; and

39 (ii) permit noncustodial treatment to take place in the least  
40 restrictive, clinically appropriate setting.

41 Inpatient services may be provided in a general hospital  
42 licensed to provide such services, in a facility under the direction  
43 and supervision of the department of mental health, in a private  
44 mental hospital licensed by the department of mental health, or in  
45 a substance abuse facility licensed by the department of public  
46 health.

47 Intermediate services shall include, but need not be limited to,  
48 community-based detoxification, acute residential treatment, par-  
49 tial hospitalization, day treatment and crisis stabilization licensed  
50 or approved by the department of public health or the department  
51 of mental health.

52 Outpatient services may be provided in a licensed hospital, a  
53 mental health or substance abuse clinic licensed by the department  
54 of public health, a public community mental health center, a pro-  
55 fessional office, or as home-based services; provided, however,  
56 these services are provided by a licensed mental health profes-  
57 sional acting within the scope of license.

58 (e) A nonprofit medical service corporation may, as a condition  
59 of providing coverage under this section, require consent to the  
60 disclosure of information for mental disorders only to the extent  
61 required for other medical conditions.

62 (f) Coverage provided under this section may be denied only by  
63 licensed mental health professionals. This subsection shall not  
64 apply to denials due to the insured's lack of insurance coverage or  
65 use of a facility or professional that has not entered into a negoti-  
66 ated agreement with the medical service corporation.

67 (g) Coverage provided under this section shall meet all other  
68 terms and conditions of the subscription certificate not inconsis-  
69 tent with this section.

70 (h) A non-profit medical service corporation shall not be  
71 required under this section to pay for:—

72 (i) services provided to a person who is presently incarcerated,  
73 confined or committed to a jail, house of correction or prison, or  
74 custodial facility in the department of youth services;

75 (ii) special education services provided by a school committee  
76 under Section 5 of Chapter 71B; or

77 (iii) services provided by the department of mental health.

78 (i) Psychopharmacological services and neuropsychological  
79 assessment services shall be treated as a medical benefit and shall  
80 be covered in a manner identical to all other medical services.

1 SECTION 7. Section 4A½ of said Chapter 176B is hereby  
2 repealed.

1 SECTION 8. Section 4 of Chapter 176G of the General Laws,  
2 as so appearing, is hereby amended by striking out the first para-  
3 graph and inserting in place thereof the following paragraph:—

4 Any health maintenance contract shall provide coverage for:—

5 (i) pregnant women, infants and children as set forth in Section  
6 47C of Chapter 175;

- 7 (ii) cardiac rehabilitation as set forth in Section 47D of Chapter  
8 175;
- 9 (iii) prenatal care, childbirth and postpartum care as set forth in  
10 Section 47F of Chapter 175;
- 11 (iv) cytologic screening and mammographic examination as set  
12 forth in Section 47G of Chapter 175;
- 13 (v) diagnosis and treatment of infertility as set forth in Section  
14 47H of Chapter 175; and
- 15 (vi) services rendered by a certified registered nurse anesthetist  
16 or nurse practitioner as set forth in Section 47Q of Chapter 175,  
17 subject to the terms of a negotiated agreement between the health  
18 maintenance organization and the provider of health care services.

1 SECTION 9. Said Chapter 176G is hereby further amended by  
2 striking out Section 4M, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 4M. (a) For the purposes of this section, the following  
5 words shall have the following meanings:—

6 “Licensed mental health professional”, a licensed physician  
7 who specializes in the practice of psychiatry, a licensed psycholo-  
8 gist, a licensed independent clinical social worker, a licensed  
9 mental health counselor, or a licensed nurse mental health clinical  
10 specialist.

11 “Nondiscriminatory coverage”, coverage that does not contain  
12 any annual or lifetime dollar or unit of service limitation for the  
13 diagnosis and treatment of mental disorders that is less than any  
14 annual or lifetime dollar or unit of service limitation imposed for  
15 the diagnosis and treatment of physical conditions.

16 (b) A health maintenance contract issued or renewed within or  
17 without the Commonwealth shall provide to residents of the Com-  
18 monwealth and to all members or enrollees having a principal  
19 place of employment in the Commonwealth nondiscriminatory  
20 coverage for the diagnosis and medically necessary and active  
21 treatment of mental disorders and alcoholism and other drug abuse  
22 and dependence disorders, as described in the most recent edition  
23 of the Diagnostic and Statistical Manual of Mental Disorders pub-  
24 lished by the American Psychiatric Association.

25 (c) In addition to the mental health benefits established pur-  
26 suant to this section, any such health maintenance contract shall

27 also provide benefits on a non-discriminatory basis for the diag-  
28 nosis and treatment of rape-related mental or emotional disorders  
29 to victims of a rape or victims of an assault with intent to commit  
30 rape, as defined by Sections 22 and 24 of Chapter 265, whenever  
31 the costs of such diagnosis and treatment exceed the maximum  
32 compensation awarded to such victims pursuant to subparagraph  
33 (C) of paragraph (2) of subsection (b) of Section 3 of Chapter  
34 258C.

35 (d) Coverage provided under this section shall:—

36 (i) consist of a range of inpatient, intermediate, and outpatient  
37 services; and

38 (ii) permit noncustodial treatment to take place in the least  
39 restrictive, clinically appropriate setting.

40 Inpatient services may be provided in a general hospital  
41 licensed to provide such services, in a facility under the direction  
42 and supervision of the department of mental health, in a private  
43 mental hospital licensed by the department of mental health, or in  
44 a substance abuse facility licensed by the department of public  
45 health.

46 Intermediate services shall include, but need not be limited to,  
47 community-based detoxification, acute residential treatment, par-  
48 tial hospitalization, day treatment and crisis stabilization licensed  
49 or approved by the department of public health or the department  
50 of mental health.

51 Outpatient services may be provided in a licensed hospital, a  
52 mental health or substance abuse clinic licensed by the department  
53 of public health, a public community mental health center, a pro-  
54 fessional office, or as home-based services; provided, however,  
55 these services are provided by a licensed mental health profes-  
56 sional acting within the scope of license.

57 (e) A health maintenance organization may, as a condition of  
58 providing coverage under this section, require consent to the dis-  
59 closure of information for mental disorders only to the extent  
60 required for other medical conditions.

61 (f) Coverage provided under this section may be denied only by  
62 licensed mental health professionals. This subsection shall not  
63 apply to denials due to the insured's lack of insurance coverage or  
64 use of a facility or professional that has not entered into a negoti-  
65 ated agreement with the health maintenance organization.

66 (g) Coverage provided under this section shall meet all other  
67 terms and conditions of the health maintenance contract not  
68 inconsistent with this section.

69 (h) A health maintenance organization shall not be required  
70 under this section to pay for:—

71 (i) services provided to a person who is presently incarcerated,  
72 confined or committed to a jail, house of correction or prison, or  
73 custodial facility in the department of youth services;

74 (ii) special education services provided by a school committee  
75 under Section 5 of Chapter 71B; or

76 (iii) services provided by the department of mental health.

77 (i) Psychopharmacological services and neuropsychological  
78 assessment services shall be treated as a medical benefit and shall  
79 be covered in a manner identical to all other medical services.

1 SECTION 10. The coverage of mental disorders required under  
2 Section 47B of Chapter 175 of the General Laws shall apply to  
3 small group health benefit plans subject to Chapter 176J of the  
4 General Laws and nongroup health benefit plans subject to  
5 Chapter 176M of the General Laws.

1 SECTION 11. All policies, contracts and certificates of health  
2 insurance subject to Section 22 of Chapter 32, Section 47B of  
3 Chapter 175, Section 8A of Chapter 176A, Section 4A of Chapter  
4 176B, or Section 4M of Chapter 176G of the General Laws that  
5 are delivered, issued, or renewed on or after January 1, 2009 shall  
6 conform with this act. Form filings implementing this act shall be  
7 subject to the approval of the commissioner of insurance.

1 SECTION 12. This act shall take effect on January 1, 2009.