

SENATE BILL NO. 295

BY SENATOR WHEAT AND REPRESENTATIVE KNOX

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AN ACT

To enact R.S. 22:1042.1, relative to coverage of medically necessary treatment for persons with acquired brain injuries; to require health insurance coverage of medically necessary treatment for persons with acquired brain injuries; to provide relative to limitations and cost-sharing; to provide for definitions; to provide for exceptions; to provide for implementation; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1042.1 is hereby enacted to read as follows:

§1042.1. Coverage for medically necessary treatment for persons with an acquired brain injury

A. Every health coverage plan delivered or issued for delivery in this state shall provide, to the extent permitted by federal law, coverage for medically necessary treatment related to or as a result of an acquired brain injury.

B.(1) The coverage provided pursuant to this Section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services.

(2) Any limitations on rehabilitation services in an inpatient rehabilitation facility shall be separate from and shall not be included in any limitations of post-acute rehabilitation.

(3) Any limitations shall be separately stated by the health coverage plan issuer.

C. The coverage provided pursuant to this Section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other similar benefit provided by the health coverage plan.

1 D. A health coverage plan shall not deny coverage for medically
2 necessary treatment based solely on the location or setting in which the
3 treatment is provided, if the treatment is provided in a setting that is clinically
4 appropriate for the level of care necessary and in compliance with applicable
5 state licensure, certification, registration, or accreditation requirements.
6 Clinically appropriate settings may include but are not limited to inpatient
7 hospital or rehabilitation facility settings, outpatient and day treatment settings,
8 post-acute residential treatment settings, and home- and community-based
9 settings.

10 E. For any medically necessary treatment covered pursuant to this
11 Section, any adverse determination issued in connection with a preauthorization
12 or utilization review shall be made by a clinical peer reviewer.

13 F. The commissioner shall promulgate rules and regulations, in
14 accordance with the Administrative Procedure Act, to establish a process for an
15 expedited appeal of any adverse determination by a health coverage plan issuer
16 for medically necessary treatment covered pursuant to this Section.

17 G. Medically necessary treatment covered pursuant to this Section shall
18 be provided by individual practitioners and treatment facilities qualified to
19 provide acute care and post-acute care rehabilitation services to a person with
20 an acquired brain injury through possession of the appropriate licenses,
21 accreditation, training, and experience deemed customary and routine in the
22 trade practice.

23 H. For the purposes of this Section, the following definitions apply:

24 (1) "Acquired brain injury" or "ABI" means any injury to the brain
25 which is not a progressive neurologic disorder, hereditary, congenital, or
26 degenerative in nature, and which occurs after birth and may be caused by
27 infectious diseases, metabolic disorders, endocrine disorders, diminished
28 oxygen, brain tumors, toxins, a disease that affects the blood supply to the brain,
29 stroke, or a traumatic brain injury.

30 (2) "Adverse determination" means a determination by a clinical peer

1 reviewer, upon review based on the clinical information provided, that an
2 admission, extension of stay, or any other covered ABI service is not medically
3 necessary.

4 (3) "Clinical peer reviewer" means a healthcare professional who has
5 experience in the delivery of treatments and services for persons with acquired
6 brain injuries and possesses a current and valid license, certificate, or
7 registration to provide these treatments and services or, where no provision for
8 a license, certificate or registration exists, is credentialed by the national
9 accrediting body appropriate to the profession.

10 (4) "Cognitive communication therapy" means treatment for problems
11 with communication which have an underlying cause in one or more cognitive
12 deficits rather than a primary language or speech deficit.

13 (5) "Cognitive rehabilitation therapy" means a process of relearning
14 cognitive skills essential for daily living through the coordinated specialized,
15 integrated therapeutic treatments which are provided in dynamic settings
16 designed for efficient and effective relearning following damage to brain cells
17 or brain chemistry due to brain injury.

18 (6) "Community reintegration services" means incremental, guided,
19 real-world therapeutic training to develop skills essential for an individual to
20 participate in life including functional daily activities; to safely live
21 independently; and to participate in the community while avoiding
22 rehospitalization and long-term support needs.

23 (7) "Functional rehabilitation therapy" means a structured approach
24 which emphasizes learning by doing, and focuses relearning a specific task in
25 a prescribed format, with maximum opportunity for repeated correct practice.
26 Functional rehabilitation therapy includes compensatory strategies developed
27 for those skills which are persistently impaired with individuals trained on daily
28 implementation. To ensure acquisition and use, the focus of functional
29 rehabilitation therapy is set on relearning those skills essential for safe daily
30 living in home- and community-based settings.

1 **(8) "Health coverage plan" means any hospital, health, or medical**
2 **expense insurance policy, hospital or medical service contract, employee welfare**
3 **benefit plan, contract, or other agreement with a health maintenance**
4 **organization or a preferred provider organization, health and accident**
5 **insurance policy, or any other insurance contract of this type in this state,**
6 **including a group insurance plan or a self-insurance plan. "Health coverage**
7 **plan" does not include a plan providing coverage for excepted benefits as**
8 **defined in R.S. 22:1061, limited benefit health insurance plans, short-term**
9 **policies that have a term of less than twelve months, Medicare, Medicaid, and**
10 **the Office of Group Benefits programs.**

11 **(9) "Medically necessary treatment" means healthcare services that are**
12 **consistent with generally accepted principles of professional medical practice.**
13 **Medically necessary treatment includes but is not limited to cognitive**
14 **rehabilitation therapy; cognitive communication therapy; neurocognitive**
15 **therapy and rehabilitation; neurobehavioral; neurophysiological; and**
16 **neuropsychological testing; neurofeedback therapy; functional rehabilitation**
17 **therapy; community reintegration services; post-acute residential treatment**
18 **services; inpatient services; outpatient and day treatment services; and home-**
19 **and community-based treatment.**

20 **(10) "Neurobehavioral therapy" means a set of medical and therapeutic**
21 **assessments and treatments focused on behavioral impairments associated with**
22 **brain disease or injury and the amelioration of these impairments through the**
23 **development of prosocial behavior.**

24 **(11) "Neurocognitive therapy" means treatment of disorders in which**
25 **the primary clinical deficit is in cognitive function which has not been present**
26 **since birth and is a decline from a previously attained level of function.**

27 **(12) "Neuropsychological testing" means a set of medical and**
28 **therapeutic assessments and treatments focused on amelioration of cognitive,**
29 **emotional, psychosocial, and behavioral deficits caused by brain injury.**

30 **(13) "Post-acute residential treatment" means integrated medical and**

1 therapeutic services, treatment, education, and skills training provided in a
 2 home- and community-based setting and designed to create the maximum
 3 opportunity for correct practice of skill in the context of use to develop new
 4 neural pathways to enable the person to avoid rehospitalization and long-term
 5 care.

6 I. To the extent that any provision of this Section would otherwise
 7 require this state to make a payment under 42 U.S.C. 18031(d)(3)(B)(ii), a
 8 qualified health plan, as defined by 45 CFR Part 155.20, shall not be required
 9 to provide a benefit under this Section that exceeds the essential health benefits
 10 specified under 42 U.S.C. 18022(b).

11 Section 2. The provisions of this Act apply to any new policy, contract, program, or
 12 health coverage plan issued on and after January 1, 2027. Any policy, contract, or health
 13 coverage plan in effect prior to January 1, 2027, shall convert to conform to the provisions
 14 of this Act on or before the renewal date, but no later than January 1, 2028.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____