HOUSE DOCKET, NO. 687 FILED ON: 1/17/2023

HOUSE . . . . . No. 1068

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to further define medical necessity determinations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Kay Khan	*11th Middlesex*	*1/17/2023*
Samantha Montaño	*15th Suffolk*	*2/13/2023*
Carol A. Doherty	*3rd Bristol*	*2/20/2023*
Margaret R. Scarsdale	*1st Middlesex*	*11/8/2023*

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HOUSE . . . . . No. 1068

By Representative Khan of Newton, a petition (accompanied by bill, House, No. 1068) of Kay Khan, Samantha Montaño and Carol A. Doherty relative to health plan coverage for medically necessary mental health crisis stabilization services. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1136* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to further define medical necessity determinations.

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

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17R the following section:-

Section 17S. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that

utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after section 10N the following section:-

Section 10O. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides

psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract

to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after section 47NN the following section:-

Section 47OO. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION 4. Chapter 176A of the General Laws is hereby amended by inserting after section 8OO the following section:-

Section 8PP. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall

provide coverage for medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION 5. Chapter 176B of the General Laws is hereby amended by inserting after section 4OO the following section:-

Section 4PP. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually

provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity

shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION 6. Chapter 176G of the General Laws is hereby amended by inserting after section 4GG the following section:-

Section 4HH. For the purposes of this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Mental health acute treatment", 24-hour medically supervised mental health services provided in an inpatient facility, licensed by the department of mental health, that provides

psychiatric evaluation, management, treatment and discharge planning in a structured treatment milieu.

"Mental health crisis stabilization services", 24-hour clinically managed mental health diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually provided as an alternative to mental health acute treatment or following mental health acute treatment, which may include intensive crisis stabilization counseling, outreach to families and significant others and aftercare planning.

"Community-based acute treatment (CBAT)", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment (ICBAT)", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents, as defined by the department of early education and care, usually provided as an alternative to mental health acute treatment.

Any individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary mental health acute treatment and shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary mental health crisis stabilization services for up to 14 days and shall not require preauthorization prior to obtaining such services; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan

within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary community based acute treatment services for up to 21 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 10. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

Any individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary intensive community based acute treatment services for up to 14 days; provided, that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.