



# House of Representatives

General Assembly

**File No. 446**

February Session, 2014

Substitute House Bill No. 5529

*House of Representatives, April 8, 2014*

The Committee on Public Health reported through REP. JOHNSON of the 49th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE DEFINITION OF MEDICAL NECESSITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-482a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) No insurer, health care center, hospital service corporation,  
4 medical service corporation or other entity delivering, issuing for  
5 delivery, renewing, continuing or amending any individual health  
6 insurance policy providing coverage of the type specified in  
7 subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469 in this  
8 state shall deliver or issue for delivery in this state any such policy  
9 unless such policy contains a definition of "medically necessary" or  
10 "medical necessity" as follows: "Medically necessary" or "medical  
11 necessity" means health care services that a physician, exercising  
12 prudent clinical judgment, would provide to a patient for the purpose  
13 of preventing, evaluating, diagnosing or treating an illness, including  
14 mental illness or its effects, injury, disease or its symptoms, and that  
15 are: (1) In accordance with generally accepted standards of medical

16 practice; (2) clinically appropriate, in terms of type, frequency, extent,  
17 site and duration and considered effective for the patient's illness,  
18 injury or disease; [and] (3) not primarily for the convenience of the  
19 patient, physician or other health care provider and not more costly  
20 than an alternative service or sequence of services at least as likely to  
21 produce equivalent therapeutic or diagnostic results as to the diagnosis  
22 or treatment of that patient's illness, injury or disease; and (4) based on  
23 an assessment of the patient and his or her medical condition. For the  
24 purposes of this subsection, "generally accepted standards of medical  
25 practice" means standards that are [based on credible scientific  
26 evidence published in peer-reviewed medical literature] generally  
27 recognized by the relevant medical community or otherwise consistent  
28 with the standards set forth in policy issues involving clinical  
29 judgment.

30 (b) The provisions of subsection (a) of this section shall not apply to  
31 any insurer, health care center, hospital service corporation, medical  
32 service corporation or other entity that has entered into any national  
33 settlement agreement until the expiration of any such agreement.

34 Sec. 2. Section 38a-513c of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective October 1, 2014*):

36 (a) No insurer, health care center, hospital service corporation,  
37 medical service corporation or other entity delivering, issuing for  
38 delivery, renewing, continuing or amending any group health  
39 insurance policy providing coverage of the type specified in  
40 subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469 in this  
41 state shall deliver or issue for delivery in this state any such policy  
42 unless such policy contains a definition of "medically necessary" or  
43 "medical necessity" as follows: "Medically necessary" or "medical  
44 necessity" means health care services that a physician, exercising  
45 prudent clinical judgment, would provide to a patient for the purpose  
46 of preventing, evaluating, diagnosing or treating an illness, including  
47 mental illness or its effects, injury, disease or its symptoms, and that  
48 are: (1) In accordance with generally accepted standards of medical

49 practice; (2) clinically appropriate, in terms of type, frequency, extent,  
 50 site and duration and considered effective for the patient's illness,  
 51 injury or disease; [and] (3) not primarily for the convenience of the  
 52 patient, physician or other health care provider and not more costly  
 53 than an alternative service or sequence of services at least as likely to  
 54 produce equivalent therapeutic or diagnostic results as to the diagnosis  
 55 or treatment of that patient's illness, injury or disease; and (4) based on  
 56 an assessment of the patient and his or her medical condition. For the  
 57 purposes of this subsection, "generally accepted standards of medical  
 58 practice" means standards that are [based on credible scientific  
 59 evidence published in peer-reviewed medical literature] generally  
 60 recognized by the relevant medical community or otherwise consistent  
 61 with the standards set forth in policy issues involving clinical  
 62 judgment.

63 (b) The provisions of subsection (a) of this section shall not apply to  
 64 any insurer, health care center, hospital service corporation, medical  
 65 service corporation or other entity that has entered into any national  
 66 settlement agreement until the expiration of any such agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	38a-482a
Sec. 2	October 1, 2014	38a-513c

**Statement of Legislative Commissioners:**

In sections 1(a)(4) and 2(a)(4), "individual" was changed to "patient", for internal consistency.

**PH**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
State Comptroller - Fringe Benefits (State Employee and Retiree Health Plan)	GF, TF - Uncertain	See Below	See Below

**Municipal Impact:**

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Uncertain	See Below	See Below

**Explanation**

It is uncertain what the fiscal impact of the bill's changes to the definition of medical necessity will have on the state employee and retiree health plan or municipal health plans. Explicitly including "mental illness" in the definition is not anticipated to result in a fiscal impact to the state or municipalities. If excluding "credible scientific evidence" is interpreted in such a manner to provide coverage for treatment otherwise excluded, there will be a cost to the state and municipalities. The impact will depend on the interpretation of the definition of medical necessity and the extent to which it impacts the utilization of services.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5529****AN ACT CONCERNING THE DEFINITION OF MEDICAL NECESSITY.****SUMMARY:**

This bill amends the definition of “medically necessary” or “medical necessity” that insurers, HMOs, and other entities must include in individual and group health insurance policies. It:

1. broadens what is considered medically necessary or a medical necessity, by removing the requirement that the services be based on credible scientific evidence published in peer-reviewed medical literature;
2. explicitly applies the definition to health care services for mental illness or its effects; and
3. specifies that the determination of medical necessity must be based on an assessment of the patient and his or her medical condition.

EFFECTIVE DATE: October 1, 2014

**MEDICAL NECESSITY**

Existing law prohibits insurers, HMOs, hospital and medical service corporations, and other entities from delivering or issuing individual or group health insurance policies that do not contain a specified definition of “medically necessary” or “medical necessity.”

Under the current definition, these terms mean health care services that a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, injury, disease, or its symptoms, and that meet

certain criteria, discussed below. The bill makes clear that “illness” includes mental illness or its effects.

Under the current definition, the services must be:

1. in accordance with generally accepted standards of medical practice;
2. clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for the patient’s illness, injury, or disease; and
3. not primarily for the convenience of the patient, physician, or other health care provider and no more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient’s illness, injury, or disease.

The bill adds the requirement that the services be based on an assessment of the patient and his or her medical condition.

It also broadens the definition of “generally accepted standards of medical practice.” That term currently means standards that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community, or otherwise consistent with the standards set forth in policy issues involving clinical judgment.

The bill removes the reference to evidence in peer-reviewed literature. Thus, it defines “generally accepted standards of medical practice” as standards that are generally recognized by the relevant medical community or otherwise consistent with the standards set forth in policy issues involving clinical judgment.

### ***Application***

By law, the requirement to include this definition of “medically necessary” or “medical necessity” in health insurance policies applies to insurers, HMOs, hospital and medical service corporations, and

other entities delivering, issuing, renewing, continuing, or amending individual or group health insurance policies in Connecticut that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) accidents only, (5) limited benefits, or (6) hospital or medical services.

Various provisions in the insurance statutes mandate coverage for specified treatment or services when medically necessary. The definition of medically necessary or medical necessity also applies to the statutes concerning the process to challenge a claims denial or other adverse determination by a health carrier.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 17      Nay 9      (03/21/2014)