



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3438

Introduced 1/18/2022, by Sen. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

New Act  
5 ILCS 100/5-45.21 new

Creates the Mental Health Assessment Reform Act. Provides that the purpose of the Act is to remove barriers to care in the Medicaid mental health assessment and treatment planning process. Provides that, within 3 months after the effective date of the Act, the Department of Healthcare and Family Services shall clearly identify the minimum information necessary to establish and document medical necessity in an individual's medical record for each community mental health general rehabilitation option service through the use of the Department's standardized assessment and treatment planning tool required in the integrated assessment and treatment planning process. Requires minimum medical necessity documentation requirements to be publicly available to all community mental health centers and behavioral health clinics. Provides that an individual is immediately eligible to receive any community mental health service upon documentation of the specified medical necessity criteria in his or her medical record, and the provider shall be reimbursed for such delivered services. Provides that the integrated assessment and treatment planning process shall be required no more frequently than annually for specified community mental health services. Contains provisions requiring the Department to establish a workgroup to resolve certain issues identified by the Department with the assessment tool and the integrated assessment and treatment planning process. Requires the Department to submit a report to the General Assembly that outlines the issues and recommendations discussed by the workgroup. Contains provisions concerning the Department's development of a billing code, modifier, or other mechanism to reimburse providers for the full time spent on the integrated assessment and treatment planning process; assessment tool training; and other matters. Requires the Department to seek federal approval, if required to implement the Act. Permits the Department, with input from the Department's workgroup, to adopt emergency rules in accordance with the Illinois Administrative Procedure Act. Effective immediately.

LRB102 22893 KTG 32045 b

A BILL FOR

1 AN ACT concerning mental health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Mental  
5 Health Assessment Reform Act.

6 Section 3. Purpose. The purpose of this Act is to remove  
7 major barriers to care in the Medicaid mental health  
8 assessment and treatment planning process.

9 Section 5. Clear delineation of eligibility criteria for  
10 Medicaid community mental health services. Within 3 months  
11 after the effective date of this Act and in accordance with  
12 this Section, the Department of Healthcare and Family Services  
13 shall clearly identify the minimum information necessary to  
14 establish and document medical necessity in an individual's  
15 medical record for each community mental health general  
16 rehabilitation option service through the use of the  
17 Department's standardized assessment and treatment planning  
18 tool (assessment tool) required in the integrated assessment  
19 and treatment planning process. Such minimum medical necessity  
20 documentation requirements through the use of the assessment  
21 tool shall be publicly available to all community mental  
22 health centers and behavioral health clinics.

1           (1) Documenting medical necessity. The information  
2           required to be gathered and documented through the  
3           assessment tool to establish medical necessity for a  
4           mental health service shall be no broader than what is  
5           required to establish eligibility, duration, and frequency  
6           for such service:

7                   (A) Mental health symptoms or functional  
8                   impairment.

9                   (B) A mental health diagnosis listed in the most  
10                  recent edition of the Diagnostic and Statistical  
11                  Manual of Mental Health Disorders or the International  
12                  Classification of Diseases.

13                  (C) Any other information necessary solely for  
14                  purposes of determining eligibility, duration, and  
15                  frequency for a community-based mental health service.

16                  (D) A recommendation for such service by an  
17                  appropriate mental health or medical professional for  
18                  the treatment of a mental health condition or symptoms  
19                  or to improve functional impairment.

20           (2) Improved access to care. An individual shall  
21           immediately be eligible to receive any community mental  
22           health service or services upon documentation of the  
23           specified medical necessity criteria in his or her medical  
24           record and the provider shall be reimbursed for such  
25           delivered services. An individual's background,  
26           experiences, health, or other information that is not

1 necessary to a medical necessity determination for a  
2 community mental health service shall be left to the  
3 clinical discretion of the provider as to the relevance  
4 for developing a treatment plan in the integrated  
5 assessment and treatment planning process. The absence of  
6 discretionary information in an individual's integrated  
7 assessment and treatment planning or medical record that  
8 is unrelated to medical necessity shall not be used by the  
9 Department or any contracted third party to delay or deny  
10 a community mental health service. The integrated  
11 assessment and treatment planning process shall remain  
12 open for no less than 90 days to allow providers to gather  
13 the relevant and appropriate information from an  
14 individual to complete the integrated assessment and  
15 treatment planning process.

16 (3) No further assessment or treatment planning  
17 documentation shall be required if services are terminated  
18 or completed within 90 days. If an individual terminates  
19 or completes his or her community mental health services  
20 within 90 days from the date of his or her first treatment  
21 contact with his or her provider, the integrated  
22 assessment and treatment planning process also terminates,  
23 and no further documentation shall be required using the  
24 Department's assessment tool or in the individual's  
25 medical record. A provider shall be fully reimbursed for  
26 any services delivered for which medical necessity is

1 established during these 90 days, and such services shall  
2 not be delayed or denied by the Department or a managed  
3 care organization.

4 Section 10. Preventing re-traumatization and unnecessary  
5 re-assessments. Beginning on the effective date of this Act,  
6 the integrated assessment and treatment planning process shall  
7 be required no more frequently than annually for any community  
8 mental health service covered under 89 Ill. Adm. Code 140.453,  
9 140.455, and 140.TABLE N (c) and (e).

10 Section 15. Assessment and treatment planning process  
11 centered on motivational interviewing. Within 3 months after  
12 the effective date of this Act, through a workgroup  
13 established by the Department of Healthcare and Family  
14 Services to review the practical challenges of the  
15 Department's standardized assessment and treatment planning  
16 tool, the Department and stakeholders, including people with  
17 lived experience, shall work to resolve the issues listed  
18 below with the assessment tool and the integrated assessment  
19 and treatment planning process. Within 6 months after the  
20 effective date of this Act, the Department of Healthcare and  
21 Family Services shall deliver a report to the General  
22 Assembly, with a copy delivered to the Chairs of the Senate  
23 Behavioral and Mental Health Committee and the House Mental  
24 Health and Addiction Committee, that outlines in plain

1 language the issues and recommendations discussed by the  
2 workgroup, what stakeholder recommendations the Department  
3 agreed with and will implement and the timeline for  
4 implementation, and which recommendations the Department  
5 declined to address and the reason for such decline.

6 (1) Reforming the Department's standardized assessment  
7 and treatment planning tool to enable the integrated  
8 assessment and treatment planning process to be centered  
9 on motivational interviewing.

10 (2) Avoiding requesting information in the integrated  
11 assessment and treatment planning process that can  
12 re-traumatize individuals by continuing to ask about past  
13 traumatic personal experiences that are better addressed  
14 through the clinical relationship.

15 (3) Examine the assessment tool for any potential  
16 racial or cultural biases.

17 (4) Ensure the confidentiality protections afforded  
18 individuals under Section 4 of the Mental Health and  
19 Developmental Disabilities Confidentiality Act are fully  
20 respected throughout the integrated assessment and  
21 treatment planning processes, in particular as it relates  
22 to the rights of minors between the age of 12 and 17 to  
23 limit their parents' access to mental health information.

24 (5) Ensure that individuals' mental health and  
25 substance use parity rights afforded under Section 370c.1  
26 of the Illinois Insurance Code are fully recognized and

1           protected in the integrated assessment and treatment  
2           planning process.

3           (6) Streamline the documentation process to ensure  
4           that clinician time is not wasted on unnecessary and  
5           duplicative paperwork and process.

6           (7) Ensure that managed care organizations do not deny  
7           a service for which medical necessity has been established  
8           and documented in the individual's medical record.

9           Section 20. Payment for the full assessment process. The  
10          Department of Healthcare and Family Services shall develop a  
11          billing code, modifier, or other mechanism to reimburse  
12          providers for the full time spent on the integrated assessment  
13          and treatment planning process, including Department-required  
14          documentation and submission of the integrated assessment and  
15          treatment planning without the client present, including  
16          transferring information onto the Department-required form;  
17          collateral interviews to collect client information; review of  
18          documentation received by hospitals, schools, and other health  
19          care entities; and uploading the information into the  
20          Department of Healthcare and Family Services' portal since  
21          this is a core part of the assessment and treatment planning  
22          process mandated by the Department. The reimbursement rate for  
23          documentation and submission shall be equal to the rate and  
24          rate add-on payment paid for the related specific integrated  
25          assessment and treatment planning service delivered. Provider

1 payment for such services shall begin no later than July 1,  
2 2022. If the Department of Healthcare and Family Services  
3 experiences any delays in implementation of this Section for  
4 any reason, including seeking federal approval, payment shall  
5 be retroactive to July 1, 2022.

6 Section 25. Improving training for mental health  
7 assessments with on-the-ground, experienced clinicians. By no  
8 later than the effective date of this Act, to enable more  
9 consistency and effective use of the Department's standardized  
10 assessment and treatment planning tool used in the integrated  
11 assessment and treatment planning process, the Department of  
12 Healthcare and Family Services shall provide a  
13 train-the-trainer model as an alternative to the  
14 State-sponsored trainings, so providers can elect to train  
15 their own staff in the use and application of the assessment  
16 tool. This train-the-trainer model allows providers to  
17 maintain fidelity to the tool while providing practical  
18 knowledge of how the tool is implemented within the provider's  
19 unique service delivery environment, and allows for more  
20 timely training of new staff. All assessment tool trainings  
21 sponsored by the State shall be available in in-person and  
22 video modalities, including recorded trainings that can be  
23 accessed anytime, to ensure the timely training of provider  
24 staff.



1 Section 30. Federal approval and State administrative  
2 rulemaking. If federal approval is required for any provision  
3 of this Act, the Department of Healthcare and Family Services  
4 shall seek approval from the Centers for Medicare and Medicaid  
5 Services within 30 days after the effective date of this Act.  
6 Within 3 months after the Department receives federal  
7 approval, the Department may, with prior input from the  
8 Department's workgroup referenced in Section 15, adopt  
9 emergency rules to implement any provision of this Act in  
10 accordance with the Illinois Administrative Procedure Act.

11 Section 35. The Illinois Administrative Procedure Act is  
12 amended by adding Section 5-45.21 as follows:

13 (5 ILCS 100/5-45.21 new)

14 Sec. 5-45.21. Emergency rulemaking; Department of  
15 Healthcare and Family Services. To provide for the expeditious  
16 and timely implementation of the Mental Health Assessment  
17 Reform Act, emergency rules implementing any provision of the  
18 Mental Health Assessment Reform Act may be adopted in  
19 accordance with Section 5-45 by the Department of Healthcare  
20 and Family Services. The adoption of emergency rules  
21 authorized by Section 5-45 and this Section is deemed to be  
22 necessary for the public interest, safety, and welfare.

23 This Section is repealed one year after the effective date  
24 of this amendatory Act of the 102nd General Assembly.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.