

SECTION-BY-SECTION

Behavioral Health Coverage Transparency Act

This legislation requires health insurance issuers, group health plans, and third party administrators to disclose information on their compliance with federal mental health parity laws. The bill also creates a consumer parity protection unit to assist consumers with coverage concerns and publicize information on enforcement actions, and authorizes grants for states to promote parity with mental health coverage in line with federal law.

Section 2. Strengthening Parity in Mental Health and Substance Use Disorder (SUD) Benefits.

- ***NQTL Analyses***—This section requires health insurance plans to submit analyses of coverage limitations regarding mental health and SUD services (called non-quantitative treatment limitations, or NQTLs), rather than submitting analyses “upon request” as the law currently provides. Third party administrators of group health plans and issuers are required to submit analyses, as well. The minimum number of analyses that must be reviewed annually by the Secretary increases from 20 to 60. Additionally, the Secretary must submit to Congress annually the names of each plan or issuer that has not submitted complete NQTL analyses, and plans that have received complaints for noncompliance with Section 3 of the bill.
- ***Randomized Audits***—This section establishes an audit process whereby no less than 40 annual randomized audits will be performed on insurance plans, issuers, and third party administrators, including audits on plans reported through a complaint process. Randomized audits shall be performed in addition to the 60 analyses the Secretary is required to review annually.
- ***Reporting Requirements***—Within 6 months, the Secretary must clarify the process for current and potential plan participants and their representatives to file complaints for violations to the relevant offices. Within two years, the Secretary must include additional categories of information in its annual reports to Congress, including data comparing denial rates, network adequacy, and reimbursement rates for mental health and SUD services with medical and surgical benefits. These changes will apply to Public Health Services Act (PHSA), ERISA (the Employment Retirement Income Security Act), and the Internal Revenue Code.

Section 3. Consumer Parity Unit for Mental Health and Substance Use Disorder Parity Violations.

- ***Consumer Parity Unit***—This section establishes a consumer parity unit that collects, monitors, and responds to consumer and provider complaints regarding potential violations of mental health parity laws. The unit must create a toll-free phone number and a public website portal that includes guidance and reports issued by the Secretary and information on all ongoing and concluded audits, including the names of all plans, issuers, and third party administrators that have been subjected to a completed audit, and those who have not submitted complete NQTL analyses. This unit is required to promptly respond to all consumer complaints within 90 days of receipt, and insurance plans must respond to requests from state and federal regulators for information to investigate complaints within 7 days.
- ***Report to Congress***—The Secretary must submit an annual year-end report to Congress on the complaints received by the consumer parity unit including data on complaint numbers, types, how they were resolved, and the names of the plans and issuers that were subject to the complaints, which will also be posted on the website. The Secretary and the consumer parity unit will ensure privacy protection clauses are not violated by the public disclosures.
- ***Support to States***—The Secretary will work with state governments to help them collaborate with the federal parity unit. The initial funding for this section is \$30 million.

Section 4. Grants for Health Insurance Information Concerning Mental Health and Substance Use Disorder Benefits.

- ***State Support Offices***—This section authorizes the Secretary of Health and Human Services to provide grants to states to help them establish, expand, or support offices of health insurance consumer assistance and health insurance ombudsman programs. Programs that help consumers file complaints and appeals, enroll in health plans, resolve problems with obtaining premium tax credits, and educate consumers on mental health or SUD benefits are eligible. The initial funding for this section is \$25 million.