



Sen. Laura Fine

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10300HB1364sam001

LRB103 24835 BMS 61190 a

1 AMENDMENT TO HOUSE BILL 1364

2 AMENDMENT NO. _____. Amend House Bill 1364 on page 7,
3 immediately below line 5, by inserting the following:

4 "Section 90. The Illinois Insurance Code is amended by
5 changing Section 370c.1 as follows:

6 (215 ILCS 5/370c.1)

7 Sec. 370c.1. Mental, emotional, nervous, or substance use
8 disorder or condition parity.

9 (a) On and after July 23, 2021 (the effective date of
10 Public Act 102-135), every insurer that amends, delivers,
11 issues, or renews a group or individual policy of accident and
12 health insurance or a qualified health plan offered through
13 the Health Insurance Marketplace in this State providing
14 coverage for hospital or medical treatment and for the
15 treatment of mental, emotional, nervous, or substance use
16 disorders or conditions shall ensure prior to policy issuance

1 that:

2 (1) the financial requirements applicable to such
3 mental, emotional, nervous, or substance use disorder or
4 condition benefits are no more restrictive than the
5 predominant financial requirements applied to
6 substantially all hospital and medical benefits covered by
7 the policy and that there are no separate cost-sharing
8 requirements that are applicable only with respect to
9 mental, emotional, nervous, or substance use disorder or
10 condition benefits; and

11 (2) the treatment limitations applicable to such
12 mental, emotional, nervous, or substance use disorder or
13 condition benefits are no more restrictive than the
14 predominant treatment limitations applied to substantially
15 all hospital and medical benefits covered by the policy
16 and that there are no separate treatment limitations that
17 are applicable only with respect to mental, emotional,
18 nervous, or substance use disorder or condition benefits.

19 (b) The following provisions shall apply concerning
20 aggregate lifetime limits:

21 (1) In the case of a group or individual policy of
22 accident and health insurance or a qualified health plan
23 offered through the Health Insurance Marketplace amended,
24 delivered, issued, or renewed in this State on or after
25 September 9, 2015 (the effective date of Public Act
26 99-480) that provides coverage for hospital or medical

1 treatment and for the treatment of mental, emotional,
2 nervous, or substance use disorders or conditions the
3 following provisions shall apply:

4 (A) if the policy does not include an aggregate
5 lifetime limit on substantially all hospital and
6 medical benefits, then the policy may not impose any
7 aggregate lifetime limit on mental, emotional,
8 nervous, or substance use disorder or condition
9 benefits; or

10 (B) if the policy includes an aggregate lifetime
11 limit on substantially all hospital and medical
12 benefits (in this subsection referred to as the
13 "applicable lifetime limit"), then the policy shall
14 either:

15 (i) apply the applicable lifetime limit both
16 to the hospital and medical benefits to which it
17 otherwise would apply and to mental, emotional,
18 nervous, or substance use disorder or condition
19 benefits and not distinguish in the application of
20 the limit between the hospital and medical
21 benefits and mental, emotional, nervous, or
22 substance use disorder or condition benefits; or

23 (ii) not include any aggregate lifetime limit
24 on mental, emotional, nervous, or substance use
25 disorder or condition benefits that is less than
26 the applicable lifetime limit.

1 (2) In the case of a policy that is not described in
2 paragraph (1) of subsection (b) of this Section and that
3 includes no or different aggregate lifetime limits on
4 different categories of hospital and medical benefits, the
5 Director shall establish rules under which subparagraph
6 (B) of paragraph (1) of subsection (b) of this Section is
7 applied to such policy with respect to mental, emotional,
8 nervous, or substance use disorder or condition benefits
9 by substituting for the applicable lifetime limit an
10 average aggregate lifetime limit that is computed taking
11 into account the weighted average of the aggregate
12 lifetime limits applicable to such categories.

13 (c) The following provisions shall apply concerning annual
14 limits:

15 (1) In the case of a group or individual policy of
16 accident and health insurance or a qualified health plan
17 offered through the Health Insurance Marketplace amended,
18 delivered, issued, or renewed in this State on or after
19 September 9, 2015 (the effective date of Public Act
20 99-480) that provides coverage for hospital or medical
21 treatment and for the treatment of mental, emotional,
22 nervous, or substance use disorders or conditions the
23 following provisions shall apply:

24 (A) if the policy does not include an annual limit
25 on substantially all hospital and medical benefits,
26 then the policy may not impose any annual limits on

1 mental, emotional, nervous, or substance use disorder
2 or condition benefits; or

3 (B) if the policy includes an annual limit on
4 substantially all hospital and medical benefits (in
5 this subsection referred to as the "applicable annual
6 limit"), then the policy shall either:

7 (i) apply the applicable annual limit both to
8 the hospital and medical benefits to which it
9 otherwise would apply and to mental, emotional,
10 nervous, or substance use disorder or condition
11 benefits and not distinguish in the application of
12 the limit between the hospital and medical
13 benefits and mental, emotional, nervous, or
14 substance use disorder or condition benefits; or

15 (ii) not include any annual limit on mental,
16 emotional, nervous, or substance use disorder or
17 condition benefits that is less than the
18 applicable annual limit.

19 (2) In the case of a policy that is not described in
20 paragraph (1) of subsection (c) of this Section and that
21 includes no or different annual limits on different
22 categories of hospital and medical benefits, the Director
23 shall establish rules under which subparagraph (B) of
24 paragraph (1) of subsection (c) of this Section is applied
25 to such policy with respect to mental, emotional, nervous,
26 or substance use disorder or condition benefits by

1 substituting for the applicable annual limit an average
2 annual limit that is computed taking into account the
3 weighted average of the annual limits applicable to such
4 categories.

5 (d) With respect to mental, emotional, nervous, or
6 substance use disorders or conditions, an insurer shall use
7 policies and procedures for the election and placement of
8 mental, emotional, nervous, or substance use disorder or
9 condition treatment drugs on their formulary that are no less
10 favorable to the insured as those policies and procedures the
11 insurer uses for the selection and placement of drugs for
12 medical or surgical conditions and shall follow the expedited
13 coverage determination requirements for substance abuse
14 treatment drugs set forth in Section 45.2 of the Managed Care
15 Reform and Patient Rights Act.

16 (e) This Section shall be interpreted in a manner
17 consistent with all applicable federal parity regulations
18 including, but not limited to, the Paul Wellstone and Pete
19 Domenici Mental Health Parity and Addiction Equity Act of
20 2008, final regulations issued under the Paul Wellstone and
21 Pete Domenici Mental Health Parity and Addiction Equity Act of
22 2008 and final regulations applying the Paul Wellstone and
23 Pete Domenici Mental Health Parity and Addiction Equity Act of
24 2008 to Medicaid managed care organizations, the Children's
25 Health Insurance Program, and alternative benefit plans.

26 (f) The provisions of subsections (b) and (c) of this

1 Section shall not be interpreted to allow the use of lifetime
2 or annual limits otherwise prohibited by State or federal law.

3 (g) As used in this Section:

4 "Financial requirement" includes deductibles, copayments,
5 coinsurance, and out-of-pocket maximums, but does not include
6 an aggregate lifetime limit or an annual limit subject to
7 subsections (b) and (c).

8 "Mental, emotional, nervous, or substance use disorder or
9 condition" means a condition or disorder that involves a
10 mental health condition or substance use disorder that falls
11 under any of the diagnostic categories listed in the mental
12 and behavioral disorders chapter of the current edition of the
13 International Classification of Disease or that is listed in
14 the most recent version of the Diagnostic and Statistical
15 Manual of Mental Disorders.

16 "Treatment limitation" includes limits on benefits based
17 on the frequency of treatment, number of visits, days of
18 coverage, days in a waiting period, or other similar limits on
19 the scope or duration of treatment. "Treatment limitation"
20 includes both quantitative treatment limitations, which are
21 expressed numerically (such as 50 outpatient visits per year),
22 and nonquantitative treatment limitations, which otherwise
23 limit the scope or duration of treatment. A permanent
24 exclusion of all benefits for a particular condition or
25 disorder shall not be considered a treatment limitation.

26 "Nonquantitative treatment" means those limitations as

1 described under federal regulations (26 CFR 54.9812-1).
2 "Nonquantitative treatment limitations" include, but are not
3 limited to, those limitations described under federal
4 regulations 26 CFR 54.9812-1, 29 CFR 2590.712, and 45 CFR
5 146.136.

6 (h) The Department of Insurance shall implement the
7 following education initiatives:

8 (1) By January 1, 2016, the Department shall develop a
9 plan for a Consumer Education Campaign on parity. The
10 Consumer Education Campaign shall focus its efforts
11 throughout the State and include trainings in the
12 northern, southern, and central regions of the State, as
13 defined by the Department, as well as each of the 5 managed
14 care regions of the State as identified by the Department
15 of Healthcare and Family Services. Under this Consumer
16 Education Campaign, the Department shall: (1) by January
17 1, 2017, provide at least one live training in each region
18 on parity for consumers and providers and one webinar
19 training to be posted on the Department website and (2)
20 establish a consumer hotline to assist consumers in
21 navigating the parity process by March 1, 2017. By January
22 1, 2018 the Department shall issue a report to the General
23 Assembly on the success of the Consumer Education
24 Campaign, which shall indicate whether additional training
25 is necessary or would be recommended.

26 (2) The Department, in coordination with the

1 Department of Human Services and the Department of
2 Healthcare and Family Services, shall convene a working
3 group of health care insurance carriers, mental health
4 advocacy groups, substance abuse patient advocacy groups,
5 and mental health physician groups for the purpose of
6 discussing issues related to the treatment and coverage of
7 mental, emotional, nervous, or substance use disorders or
8 conditions and compliance with parity obligations under
9 State and federal law. Compliance shall be measured,
10 tracked, and shared during the meetings of the working
11 group. The working group shall meet once before January 1,
12 2016 and shall meet semiannually thereafter. The
13 Department shall issue an annual report to the General
14 Assembly that includes a list of the health care insurance
15 carriers, mental health advocacy groups, substance abuse
16 patient advocacy groups, and mental health physician
17 groups that participated in the working group meetings,
18 details on the issues and topics covered, and any
19 legislative recommendations developed by the working
20 group.

21 (3) Not later than January 1 of each year, the
22 Department, in conjunction with the Department of
23 Healthcare and Family Services, shall issue a joint report
24 to the General Assembly and provide an educational
25 presentation to the General Assembly. The report and
26 presentation shall:

1 (A) Cover the methodology the Departments use to
2 check for compliance with the federal Paul Wellstone
3 and Pete Domenici Mental Health Parity and Addiction
4 Equity Act of 2008, 42 U.S.C. 18031(j), and any
5 federal regulations or guidance relating to the
6 compliance and oversight of the federal Paul Wellstone
7 and Pete Domenici Mental Health Parity and Addiction
8 Equity Act of 2008 and 42 U.S.C. 18031(j).

9 (B) Cover the methodology the Departments use to
10 check for compliance with this Section and Sections
11 356z.23 and 370c of this Code.

12 (C) Identify market conduct examinations or, in
13 the case of the Department of Healthcare and Family
14 Services, audits conducted or completed during the
15 preceding 12-month period regarding compliance with
16 parity in mental, emotional, nervous, and substance
17 use disorder or condition benefits under State and
18 federal laws and summarize the results of such market
19 conduct examinations and audits. This shall include:

20 (i) the number of market conduct examinations
21 and audits initiated and completed;

22 (ii) the benefit classifications examined by
23 each market conduct examination and audit;

24 (iii) the subject matter of each market
25 conduct examination and audit, including
26 quantitative and nonquantitative treatment

1 limitations; and

2 (iv) a summary of the basis for the final
3 decision rendered in each market conduct
4 examination and audit.

5 Individually identifiable information shall be
6 excluded from the reports consistent with federal
7 privacy protections.

8 (D) Detail any educational or corrective actions
9 the Departments have taken to ensure compliance with
10 the federal Paul Wellstone and Pete Domenici Mental
11 Health Parity and Addiction Equity Act of 2008, 42
12 U.S.C. 18031(j), this Section, and Sections 356z.23
13 and 370c of this Code.

14 (E) The report must be written in non-technical,
15 readily understandable language and shall be made
16 available to the public by, among such other means as
17 the Departments find appropriate, posting the report
18 on the Departments' websites.

19 (i) The Parity Advancement Fund is created as a special
20 fund in the State treasury. Moneys from fines and penalties
21 collected from insurers for violations of this Section shall
22 be deposited into the Fund. Moneys deposited into the Fund for
23 appropriation by the General Assembly to the Department shall
24 be used for the purpose of providing financial support of the
25 Consumer Education Campaign, parity compliance advocacy, and
26 other initiatives that support parity implementation and

1 enforcement on behalf of consumers.

2 (j) (Blank). ~~The Department of Insurance and the~~
3 ~~Department of Healthcare and Family Services shall convene and~~
4 ~~provide technical support to a workgroup of 11 members that~~
5 ~~shall be comprised of 3 mental health parity experts~~
6 ~~recommended by an organization advocating on behalf of mental~~
7 ~~health parity appointed by the President of the Senate; 3~~
8 ~~behavioral health providers recommended by an organization~~
9 ~~that represents behavioral health providers appointed by the~~
10 ~~Speaker of the House of Representatives; 2 representing~~
11 ~~Medicaid managed care organizations recommended by an~~
12 ~~organization that represents Medicaid managed care plans~~
13 ~~appointed by the Minority Leader of the House of~~
14 ~~Representatives; 2 representing commercial insurers~~
15 ~~recommended by an organization that represents insurers~~
16 ~~appointed by the Minority Leader of the Senate; and a~~
17 ~~representative of an organization that represents Medicaid~~
18 ~~managed care plans appointed by the Governor.~~

19 ~~The workgroup shall provide recommendations to the General~~
20 ~~Assembly on health plan data reporting requirements that~~
21 ~~separately break out data on mental, emotional, nervous, or~~
22 ~~substance use disorder or condition benefits and data on other~~
23 ~~medical benefits, including physical health and related health~~
24 ~~services no later than December 31, 2019. The recommendations~~
25 ~~to the General Assembly shall be filed with the Clerk of the~~
26 ~~House of Representatives and the Secretary of the Senate in~~

1 ~~electronic form only, in the manner that the Clerk and the~~
2 ~~Secretary shall direct. This workgroup shall take into account~~
3 ~~federal requirements and recommendations on mental health~~
4 ~~parity reporting for the Medicaid program. This workgroup~~
5 ~~shall also develop the format and provide any needed~~
6 ~~definitions for reporting requirements in subsection (k). The~~
7 ~~research and evaluation of the working group shall include,~~
8 ~~but not be limited to:~~

9 ~~(1) claims denials due to benefit limits, if~~
10 ~~applicable;~~

11 ~~(2) administrative denials for no prior authorization;~~

12 ~~(3) denials due to not meeting medical necessity;~~

13 ~~(4) denials that went to external review and whether~~
14 ~~they were upheld or overturned for medical necessity;~~

15 ~~(5) out of network claims;~~

16 ~~(6) emergency care claims;~~

17 ~~(7) network directory providers in the outpatient~~
18 ~~benefits classification who filed no claims in the last 6~~
19 ~~months, if applicable;~~

20 ~~(8) the impact of existing and pertinent limitations~~
21 ~~and restrictions related to approved services, licensed~~
22 ~~providers, reimbursement levels, and reimbursement~~
23 ~~methodologies within the Division of Mental Health, the~~
24 ~~Division of Substance Use Prevention and Recovery~~
25 ~~programs, the Department of Healthcare and Family~~
26 ~~Services, and, to the extent possible, federal regulations~~

1 ~~and law; and~~

2 ~~(9) when reporting and publishing should begin.~~

3 ~~Representatives from the Department of Healthcare and~~
4 ~~Family Services, representatives from the Division of Mental~~
5 ~~Health, and representatives from the Division of Substance Use~~
6 ~~Prevention and Recovery shall provide technical advice to the~~
7 ~~workgroup.~~

8 (k) An insurer that amends, delivers, issues, or renews a
9 group or individual policy of accident and health insurance or
10 a qualified health plan offered through the health insurance
11 marketplace in this State providing coverage for hospital or
12 medical treatment and for the treatment of mental, emotional,
13 nervous, or substance use disorders or conditions shall submit
14 an annual report, the format and definitions for which will be
15 determined ~~developed~~ by ~~the workgroup in subsection (j),~~ to
16 the Department and ~~, or, with respect to medical assistance,~~
17 the Department of Healthcare and Family Services and posted on
18 their respective websites, starting on September 1, 2023 and
19 annually thereafter, ~~or before July 1, 2020~~ that contains the
20 following information separately for inpatient in-network
21 benefits, inpatient out-of-network benefits, outpatient
22 in-network benefits, outpatient out-of-network benefits,
23 emergency care benefits, and prescription drug benefits in the
24 case of accident and health insurance or qualified health
25 plans, or inpatient, outpatient, emergency care, and
26 prescription drug benefits in the case of medical assistance:

1 (1) A summary of the plan's pharmacy management
2 processes for mental, emotional, nervous, or substance use
3 disorder or condition benefits compared to those for other
4 medical benefits.

5 (2) A summary of the internal processes of review for
6 experimental benefits and unproven technology for mental,
7 emotional, nervous, or substance use disorder or condition
8 benefits and those for other medical benefits.

9 (3) A summary of how the plan's policies and
10 procedures for utilization management for mental,
11 emotional, nervous, or substance use disorder or condition
12 benefits compare to those for other medical benefits.

13 (4) A description of the process used to develop or
14 select the medical necessity criteria for mental,
15 emotional, nervous, or substance use disorder or condition
16 benefits and the process used to develop or select the
17 medical necessity criteria for medical and surgical
18 benefits.

19 (5) Identification of all nonquantitative treatment
20 limitations that are applied to both mental, emotional,
21 nervous, or substance use disorder or condition benefits
22 and medical and surgical benefits within each
23 classification of benefits.

24 (6) The results of an analysis that demonstrates that
25 for the medical necessity criteria described in
26 subparagraph (A) and for each nonquantitative treatment

1 limitation identified in subparagraph (B), as written and
2 in operation, the processes, strategies, evidentiary
3 standards, or other factors used in applying the medical
4 necessity criteria and each nonquantitative treatment
5 limitation to mental, emotional, nervous, or substance use
6 disorder or condition benefits within each classification
7 of benefits are comparable to, and are applied no more
8 stringently than, the processes, strategies, evidentiary
9 standards, or other factors used in applying the medical
10 necessity criteria and each nonquantitative treatment
11 limitation to medical and surgical benefits within the
12 corresponding classification of benefits; at a minimum,
13 the results of the analysis shall:

14 (A) identify the factors used to determine that a
15 nonquantitative treatment limitation applies to a
16 benefit, including factors that were considered but
17 rejected;

18 (B) identify and define the specific evidentiary
19 standards used to define the factors and any other
20 evidence relied upon in designing each nonquantitative
21 treatment limitation;

22 (C) provide the comparative analyses, including
23 the results of the analyses, performed to determine
24 that the processes and strategies used to design each
25 nonquantitative treatment limitation, as written, for
26 mental, emotional, nervous, or substance use disorder

1 or condition benefits are comparable to, and are
2 applied no more stringently than, the processes and
3 strategies used to design each nonquantitative
4 treatment limitation, as written, for medical and
5 surgical benefits;

6 (D) provide the comparative analyses, including
7 the results of the analyses, performed to determine
8 that the processes and strategies used to apply each
9 nonquantitative treatment limitation, in operation,
10 for mental, emotional, nervous, or substance use
11 disorder or condition benefits are comparable to, and
12 applied no more stringently than, the processes or
13 strategies used to apply each nonquantitative
14 treatment limitation, in operation, for medical and
15 surgical benefits; and

16 (E) disclose the specific findings and conclusions
17 reached by the insurer that the results of the
18 analyses described in subparagraphs (C) and (D)
19 indicate that the insurer is in compliance with this
20 Section and the Mental Health Parity and Addiction
21 Equity Act of 2008 and its implementing regulations,
22 which includes 42 CFR Parts 438, 440, and 457 and 45
23 CFR 146.136 and any other related federal regulations
24 found in the Code of Federal Regulations.

25 (7) Any other information necessary to clarify data
26 provided in accordance with this Section requested by the

1 Director, including information that may be proprietary or
2 have commercial value, under the requirements of Section
3 30 of the Viatical Settlements Act of 2009.

4 (l) An insurer that amends, delivers, issues, or renews a
5 group or individual policy of accident and health insurance or
6 a qualified health plan offered through the health insurance
7 marketplace in this State providing coverage for hospital or
8 medical treatment and for the treatment of mental, emotional,
9 nervous, or substance use disorders or conditions on or after
10 January 1, 2019 (the effective date of Public Act 100-1024)
11 shall, in advance of the plan year, make available to the
12 Department or, with respect to medical assistance, the
13 Department of Healthcare and Family Services and to all plan
14 participants and beneficiaries the information required in
15 subparagraphs (C) through (E) of paragraph (6) of subsection
16 (k). For plan participants and medical assistance
17 beneficiaries, the information required in subparagraphs (C)
18 through (E) of paragraph (6) of subsection (k) shall be made
19 available on a publicly-available website whose web address is
20 prominently displayed in plan and managed care organization
21 informational and marketing materials.

22 (m) In conjunction with its compliance examination program
23 conducted in accordance with the Illinois State Auditing Act,
24 the Auditor General shall undertake a review of compliance by
25 the Department and the Department of Healthcare and Family
26 Services with Section 370c and this Section. Any findings

1 resulting from the review conducted under this Section shall
2 be included in the applicable State agency's compliance
3 examination report. Each compliance examination report shall
4 be issued in accordance with Section 3-14 of the Illinois
5 State Auditing Act. A copy of each report shall also be
6 delivered to the head of the applicable State agency and
7 posted on the Auditor General's website.

8 (Source: P.A. 102-135, eff. 7-23-21; 102-579, eff. 8-25-21;
9 102-813, eff. 5-13-22.)".