

1 AN ACT concerning regulation.

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

4 Section 5. 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
17 that:

18 (1) the financial requirements applicable to such
19 mental, emotional, nervous, or substance use disorder or
20 condition benefits are no more restrictive than the
21 predominant financial requirements applied to
22 substantially all hospital and medical benefits covered by
23 the policy and that there are no separate cost-sharing

1 requirements that are applicable only with respect to
2 mental, emotional, nervous, or substance use disorder or
3 condition benefits; and

4 (2) the treatment limitations applicable to such
5 mental, emotional, nervous, or substance use disorder or
6 condition benefits are no more restrictive than the
7 predominant treatment limitations applied to substantially
8 all hospital and medical benefits covered by the policy
9 and that there are no separate treatment limitations that
10 are applicable only with respect to mental, emotional,
11 nervous, or substance use disorder or condition benefits.

12 (b) The following provisions shall apply concerning
13 aggregate lifetime limits:

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

23 (A) if the policy does not include an aggregate
24 lifetime limit on substantially all hospital and
25 medical benefits, then the policy may not impose any
26 aggregate lifetime limit on mental, emotional,

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

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

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

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

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

1 nervous, or substance use disorder or condition benefits
2 by substituting for the applicable lifetime limit an
3 average aggregate lifetime limit that is computed taking
4 into account the weighted average of the aggregate
5 lifetime limits applicable to such categories.

6 (c) The following provisions shall apply concerning annual
7 limits:

8 (1) In the case of a group or individual policy of
9 accident and health insurance or a qualified health plan
10 offered through the Health Insurance Marketplace amended,
11 delivered, issued, or renewed in this State on or after
12 September 9, 2015 (the effective date of Public Act
13 99-480) that provides coverage for hospital or medical
14 treatment and for the treatment of mental, emotional,
15 nervous, or substance use disorders or conditions the
16 following provisions shall apply:

17 (A) if the policy does not include an annual limit
18 on substantially all hospital and medical benefits,
19 then the policy may not impose any annual limits on
20 mental, emotional, nervous, or substance use disorder
21 or condition benefits; or

22 (B) if the policy includes an annual limit on
23 substantially all hospital and medical benefits (in
24 this subsection referred to as the "applicable annual
25 limit"), then the policy shall either:

26 (i) apply the applicable annual limit both to

1 the hospital and medical benefits to which it
2 otherwise would apply and to mental, emotional,
3 nervous, or substance use disorder or condition
4 benefits and not distinguish in the application of
5 the limit between the hospital and medical
6 benefits and mental, emotional, nervous, or
7 substance use disorder or condition benefits; or

8 (ii) not include any annual limit on mental,
9 emotional, nervous, or substance use disorder or
10 condition benefits that is less than the
11 applicable annual limit.

12 (2) In the case of a policy that is not described in
13 paragraph (1) of subsection (c) of this Section and that
14 includes no or different annual limits on different
15 categories of hospital and medical benefits, the Director
16 shall establish rules under which subparagraph (B) of
17 paragraph (1) of subsection (c) of this Section is applied
18 to such policy with respect to mental, emotional, nervous,
19 or substance use disorder or condition benefits by
20 substituting for the applicable annual limit an average
21 annual limit that is computed taking into account the
22 weighted average of the annual limits applicable to such
23 categories.

24 (d) With respect to mental, emotional, nervous, or
25 substance use disorders or conditions, an insurer shall use
26 policies and procedures for the election and placement of

1 mental, emotional, nervous, or substance use disorder or
2 condition treatment drugs on their formulary that are no less
3 favorable to the insured as those policies and procedures the
4 insurer uses for the selection and placement of drugs for
5 medical or surgical conditions and shall follow the expedited
6 coverage determination requirements for substance abuse
7 treatment drugs set forth in Section 45.2 of the Managed Care
8 Reform and Patient Rights Act.

9 (e) This Section shall be interpreted in a manner
10 consistent with all applicable federal parity regulations
11 including, but not limited to, the Paul Wellstone and Pete
12 Domenici Mental Health Parity and Addiction Equity Act of
13 2008, final regulations issued under the Paul Wellstone and
14 Pete Domenici Mental Health Parity and Addiction Equity Act of
15 2008 and final regulations applying the Paul Wellstone and
16 Pete Domenici Mental Health Parity and Addiction Equity Act of
17 2008 to Medicaid managed care organizations, the Children's
18 Health Insurance Program, and alternative benefit plans.

19 (f) The provisions of subsections (b) and (c) of this
20 Section shall not be interpreted to allow the use of lifetime
21 or annual limits otherwise prohibited by State or federal law.

22 (g) As used in this Section:

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

1 "Mental, emotional, nervous, or substance use disorder or
2 condition" means a condition or disorder that involves a
3 mental health condition or substance use disorder that falls
4 under any of the diagnostic categories listed in the mental
5 and behavioral disorders chapter of the current edition of the
6 International Classification of Disease or that is listed in
7 the most recent version of the Diagnostic and Statistical
8 Manual of Mental Disorders.

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

19 "Nonquantitative treatment" means those limitations as
20 described under federal regulations (26 CFR 54.9812-1).

21 "Nonquantitative treatment limitations" include, but are not
22 limited to, those limitations described under federal
23 regulations 26 CFR 54.9812-1, 29 CFR 2590.712, and 45 CFR
24 146.136.

25 (h) The Department of Insurance shall implement the
26 following education initiatives:

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

19 (2) The Department, in coordination with the
20 Department of Human Services and the Department of
21 Healthcare and Family Services, shall convene a working
22 group of health care insurance carriers, mental health
23 advocacy groups, substance abuse patient advocacy groups,
24 and mental health physician groups for the purpose of
25 discussing issues related to the treatment and coverage of
26 mental, emotional, nervous, or substance use disorders or

1 conditions and compliance with parity obligations under
2 State and federal law. Compliance shall be measured,
3 tracked, and shared during the meetings of the working
4 group. The working group shall meet once before January 1,
5 2016 and shall meet semiannually thereafter. The
6 Department shall issue an annual report to the General
7 Assembly that includes a list of the health care insurance
8 carriers, mental health advocacy groups, substance abuse
9 patient advocacy groups, and mental health physician
10 groups that participated in the working group meetings,
11 details on the issues and topics covered, and any
12 legislative recommendations developed by the working
13 group.

14 (3) Not later than January 1 of each year, the
15 Department, in conjunction with the Department of
16 Healthcare and Family Services, shall issue a joint report
17 to the General Assembly and provide an educational
18 presentation to the General Assembly. The report and
19 presentation shall:

20 (A) Cover the methodology the Departments use to
21 check for compliance with the federal Paul Wellstone
22 and Pete Domenici Mental Health Parity and Addiction
23 Equity Act of 2008, 42 U.S.C. 18031(j), and any
24 federal regulations or guidance relating to the
25 compliance and oversight of the federal Paul Wellstone
26 and Pete Domenici Mental Health Parity and Addiction

1 Equity Act of 2008 and 42 U.S.C. 18031(j).

2 (B) Cover the methodology the Departments use to
3 check for compliance with this Section and Sections
4 356z.23 and 370c of this Code.

5 (C) Identify market conduct examinations or, in
6 the case of the Department of Healthcare and Family
7 Services, audits conducted or completed during the
8 preceding 12-month period regarding compliance with
9 parity in mental, emotional, nervous, and substance
10 use disorder or condition benefits under State and
11 federal laws and summarize the results of such market
12 conduct examinations and audits. This shall include:

13 (i) the number of market conduct examinations
14 and audits initiated and completed;

15 (ii) the benefit classifications examined by
16 each market conduct examination and audit;

17 (iii) the subject matter of each market
18 conduct examination and audit, including
19 quantitative and nonquantitative treatment
20 limitations; and

21 (iv) a summary of the basis for the final
22 decision rendered in each market conduct
23 examination and audit.

24 Individually identifiable information shall be
25 excluded from the reports consistent with federal
26 privacy protections.

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

7 (E) The report must be written in non-technical,
8 readily understandable language and shall be made
9 available to the public by, among such other means as
10 the Departments find appropriate, posting the report
11 on the Departments' websites.

12 (i) The Parity Advancement Fund is created as a special
13 fund in the State treasury. Moneys from fines and penalties
14 collected from insurers for violations of this Section shall
15 be deposited into the Fund. Moneys deposited into the Fund for
16 appropriation by the General Assembly to the Department shall
17 be used for the purpose of providing financial support of the
18 Consumer Education Campaign, parity compliance advocacy, and
19 other initiatives that support parity implementation and
20 enforcement on behalf of consumers.

21 (j) The Department of Insurance and the Department of
22 Healthcare and Family Services shall convene and provide
23 technical support to a workgroup of 11 members that shall be
24 comprised of 3 mental health parity experts recommended by an
25 organization advocating on behalf of mental health parity
26 appointed by the President of the Senate; 3 behavioral health

1 providers recommended by an organization that represents
2 behavioral health providers appointed by the Speaker of the
3 House of Representatives; 2 representing Medicaid managed care
4 organizations recommended by an organization that represents
5 Medicaid managed care plans appointed by the Minority Leader
6 of the House of Representatives; 2 representing commercial
7 insurers recommended by an organization that represents
8 insurers appointed by the Minority Leader of the Senate; and a
9 representative of an organization that represents Medicaid
10 managed care plans appointed by the Governor.

11 The workgroup shall provide recommendations to the General
12 Assembly on health plan data reporting requirements that
13 separately break out data on mental, emotional, nervous, or
14 substance use disorder or condition benefits and data on other
15 medical benefits, including physical health and related health
16 services no later than December 31, 2019. The recommendations
17 to the General Assembly shall be filed with the Clerk of the
18 House of Representatives and the Secretary of the Senate in
19 electronic form only, in the manner that the Clerk and the
20 Secretary shall direct. This workgroup shall take into account
21 federal requirements and recommendations on mental health
22 parity reporting for the Medicaid program. This workgroup
23 shall also develop the format and provide any needed
24 definitions for reporting requirements in subsection (k). The
25 research and evaluation of the working group shall include,
26 but not be limited to:

1 (1) claims denials due to benefit limits, if
2 applicable;

3 (2) administrative denials for no prior authorization;

4 (3) denials due to not meeting medical necessity;

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

7 (5) out-of-network claims;

8 (6) emergency care claims;

9 (7) network directory providers in the outpatient
10 benefits classification who filed no claims in the last 6
11 months, if applicable;

12 (8) the impact of existing and pertinent limitations
13 and restrictions related to approved services, licensed
14 providers, reimbursement levels, and reimbursement
15 methodologies within the Division of Mental Health, the
16 Division of Substance Use Prevention and Recovery
17 programs, the Department of Healthcare and Family
18 Services, and, to the extent possible, federal regulations
19 and law; and

20 (9) when reporting and publishing should begin.

21 Representatives from the Department of Healthcare and
22 Family Services, representatives from the Division of Mental
23 Health, and representatives from the Division of Substance Use
24 Prevention and Recovery shall provide technical advice to the
25 workgroup.

26 (j-5) The Department of Insurance shall collect the

1 following information:

2 (1) The number of employment disability insurance
3 plans offered in this State, including, but not limited
4 to:

5 (A) individual short-term policies;

6 (B) individual long-term policies;

7 (C) group short-term policies; and

8 (D) group long-term policies.

9 (2) The number of policies referenced in paragraph (1)
10 of this subsection that limit mental health and substance
11 use disorder benefits.

12 (3) The average defined benefit period for the
13 policies referenced in paragraph (1) of this subsection,
14 both for those policies that limit and those policies that
15 have no limitation on mental health and substance use
16 disorder benefits.

17 (4) Whether the policies referenced in paragraph (1)
18 of this subsection are purchased on a voluntary or
19 non-voluntary basis.

20 (5) The identities of the individuals, entities, or a
21 combination of the 2, that assume the cost associated with
22 covering the policies referenced in paragraph (1) of this
23 subsection.

24 (6) The average defined benefit period for plans that
25 cover physical disability and mental health and substance
26 abuse without limitation, including, but not limited to:

1 (A) individual short-term policies;

2 (B) individual long-term policies;

3 (C) group short-term policies; and

4 (D) group long-term policies.

5 (7) The average premiums for disability income
6 insurance issued in this State for:

7 (A) individual short-term policies that limit
8 mental health and substance use disorder benefits;

9 (B) individual long-term policies that limit
10 mental health and substance use disorder benefits;

11 (C) group short-term policies that limit mental
12 health and substance use disorder benefits;

13 (D) group long-term policies that limit mental
14 health and substance use disorder benefits;

15 (E) individual short-term policies that include
16 mental health and substance use disorder benefits
17 without limitation;

18 (F) individual long-term policies that include
19 mental health and substance use disorder benefits
20 without limitation;

21 (G) group short-term policies that include mental
22 health and substance use disorder benefits without
23 limitation; and

24 (H) group long-term policies that include mental
25 health and substance use disorder benefits without
26 limitation.

1 The Department shall present its findings regarding
2 information collected under this subsection (j-5) to the
3 General Assembly no later than April 30, 2024. Information
4 regarding a specific insurance provider's contributions to the
5 Department's report shall be exempt from disclosure under
6 paragraph (t) of subsection (1) of Section 7 of the Freedom of
7 Information Act. The aggregated information gathered by the
8 Department shall not be exempt from disclosure under paragraph
9 (t) of subsection (1) of Section 7 of the Freedom of
10 Information Act.

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

1 outpatient, emergency care, and prescription drug benefits in
2 the case of medical assistance:

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

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

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

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

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

26 (6) The results of an analysis that demonstrates that

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

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

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

24 (C) provide the comparative analyses, including
25 the results of the analyses, performed to determine
26 that the processes and strategies used to design each

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

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

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

1 (7) Any other information necessary to clarify data
2 provided in accordance with this Section requested by the
3 Director, including information that may be proprietary or
4 have commercial value, under the requirements of Section
5 30 of the Viatical Settlements Act of 2009.

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

24 (m) In conjunction with its compliance examination program
25 conducted in accordance with the Illinois State Auditing Act,
26 the Auditor General shall undertake a review of compliance by

1 the Department and the Department of Healthcare and Family
2 Services with Section 370c and this Section. Any findings
3 resulting from the review conducted under this Section shall
4 be included in the applicable State agency's compliance
5 examination report. Each compliance examination report shall
6 be issued in accordance with Section 3-14 of the Illinois
7 State Auditing Act. A copy of each report shall also be
8 delivered to the head of the applicable State agency and
9 posted on the Auditor General's website.

10 (Source: P.A. 102-135, eff. 7-23-21; 102-579, eff. 8-25-21;
11 102-813, eff. 5-13-22.)