



Sen. Julie A. Morrison

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10300SB1568sam001

LRB103 28639 BMS 58567 a

1 AMENDMENT TO SENATE BILL 1568

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1568 by replacing  
3 everything after the enacting clause with the following:

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

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

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

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

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

10 (2) administrative denials for no prior authorization;

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

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

14 (5) out-of-network claims;

15 (6) emergency care claims;

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

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

1 (9) when reporting and publishing should begin.

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

7 (j-5) The Department of Insurance shall collect the  
8 following information:

9 (1) the number of disability employment insurance  
10 plans offered in this State;

11 (2) the number of participants in the plans referenced  
12 in paragraph (1) of this subsection;

13 (3) the limits on the plans referenced in paragraph  
14 (1) of this subsection; and

15 (4) the scope of the plans referenced in paragraph (1)  
16 of this subsection.

17 The Department shall present its findings regarding  
18 information collected under this subsection (j-5) to the  
19 General Assembly no later than April 30, 2024.

20 (k) An insurer that amends, delivers, issues, or renews a  
21 group or individual policy of accident and health insurance or  
22 a qualified health plan offered through the health insurance  
23 marketplace in this State providing coverage for hospital or  
24 medical treatment and for the treatment of mental, emotional,  
25 nervous, or substance use disorders or conditions shall submit  
26 an annual report, the format and definitions for which will be

1 developed by the workgroup in subsection (j), to the  
2 Department, or, with respect to medical assistance, the  
3 Department of Healthcare and Family Services starting on or  
4 before July 1, 2020 that contains the following information  
5 separately for inpatient in-network benefits, inpatient  
6 out-of-network benefits, outpatient in-network benefits,  
7 outpatient out-of-network benefits, emergency care benefits,  
8 and prescription drug benefits in the case of accident and  
9 health insurance or qualified health plans, or inpatient,  
10 outpatient, emergency care, and prescription drug benefits in  
11 the case of medical assistance:

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

16 (2) A summary of the internal processes of review for  
17 experimental benefits and unproven technology for mental,  
18 emotional, nervous, or substance use disorder or condition  
19 benefits and those for other medical benefits.

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

24 (4) A description of the process used to develop or  
25 select the medical necessity criteria for mental,  
26 emotional, nervous, or substance use disorder or condition

1 benefits and the process used to develop or select the  
2 medical necessity criteria for medical and surgical  
3 benefits.

4 (5) Identification of all nonquantitative treatment  
5 limitations that are applied to both mental, emotional,  
6 nervous, or substance use disorder or condition benefits  
7 and medical and surgical benefits within each  
8 classification of benefits.

9 (6) The results of an analysis that demonstrates that  
10 for the medical necessity criteria described in  
11 subparagraph (A) and for each nonquantitative treatment  
12 limitation identified in subparagraph (B), as written and  
13 in operation, the processes, strategies, evidentiary  
14 standards, or other factors used in applying the medical  
15 necessity criteria and each nonquantitative treatment  
16 limitation to mental, emotional, nervous, or substance use  
17 disorder or condition benefits within each classification  
18 of benefits are comparable to, and are applied no more  
19 stringently than, the processes, strategies, evidentiary  
20 standards, or other factors used in applying the medical  
21 necessity criteria and each nonquantitative treatment  
22 limitation to medical and surgical benefits within the  
23 corresponding classification of benefits; at a minimum,  
24 the results of the analysis shall:

25 (A) identify the factors used to determine that a  
26 nonquantitative treatment limitation applies to a



1 benefit, including factors that were considered but  
2 rejected;

3 (B) identify and define the specific evidentiary  
4 standards used to define the factors and any other  
5 evidence relied upon in designing each nonquantitative  
6 treatment limitation;

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

17 (D) provide the comparative analyses, including  
18 the results of the analyses, performed to determine  
19 that the processes and strategies used to apply each  
20 nonquantitative treatment limitation, in operation,  
21 for mental, emotional, nervous, or substance use  
22 disorder or condition benefits are comparable to, and  
23 applied no more stringently than, the processes or  
24 strategies used to apply each nonquantitative  
25 treatment limitation, in operation, for medical and  
26 surgical benefits; and

1 (E) disclose the specific findings and conclusions  
2 reached by the insurer that the results of the  
3 analyses described in subparagraphs (C) and (D)  
4 indicate that the insurer is in compliance with this  
5 Section and the Mental Health Parity and Addiction  
6 Equity Act of 2008 and its implementing regulations,  
7 which includes 42 CFR Parts 438, 440, and 457 and 45  
8 CFR 146.136 and any other related federal regulations  
9 found in the Code of Federal Regulations.

10 (7) Any other information necessary to clarify data  
11 provided in accordance with this Section requested by the  
12 Director, including information that may be proprietary or  
13 have commercial value, under the requirements of Section  
14 30 of the Viatical Settlements Act of 2009.

15 (1) An insurer that amends, delivers, issues, or renews a  
16 group or individual policy of accident and health insurance or  
17 a qualified health plan offered through the health insurance  
18 marketplace in this State providing coverage for hospital or  
19 medical treatment and for the treatment of mental, emotional,  
20 nervous, or substance use disorders or conditions on or after  
21 January 1, 2019 (the effective date of Public Act 100-1024)  
22 shall, in advance of the plan year, make available to the  
23 Department or, with respect to medical assistance, the  
24 Department of Healthcare and Family Services and to all plan  
25 participants and beneficiaries the information required in  
26 subparagraphs (C) through (E) of paragraph (6) of subsection

1 (k). For plan participants and medical assistance  
2 beneficiaries, the information required in subparagraphs (C)  
3 through (E) of paragraph (6) of subsection (k) shall be made  
4 available on a publicly-available website whose web address is  
5 prominently displayed in plan and managed care organization  
6 informational and marketing materials.

7 (m) In conjunction with its compliance examination program  
8 conducted in accordance with the Illinois State Auditing Act,  
9 the Auditor General shall undertake a review of compliance by  
10 the Department and the Department of Healthcare and Family  
11 Services with Section 370c and this Section. Any findings  
12 resulting from the review conducted under this Section shall  
13 be included in the applicable State agency's compliance  
14 examination report. Each compliance examination report shall  
15 be issued in accordance with Section 3-14 of the Illinois  
16 State Auditing Act. A copy of each report shall also be  
17 delivered to the head of the applicable State agency and  
18 posted on the Auditor General's website.

19 (Source: P.A. 102-135, eff. 7-23-21; 102-579, eff. 8-25-21;  
20 102-813, eff. 5-13-22.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."