



Sen. Julie A. Morrison

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10300SB1568sam002

LRB103 28639 BMS 59448 a

1 AMENDMENT TO SENATE BILL 1568

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

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

7 (215 ILCS 5/370c.1)

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

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

1 disorders or conditions shall ensure prior to policy issuance  
2 that:

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

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

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

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

1 99-480) that provides coverage for hospital or medical  
2 treatment and for the treatment of mental, emotional,  
3 nervous, or substance use disorders or conditions the  
4 following provisions shall apply:

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

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

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

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

1           the applicable lifetime limit.

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

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

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

25           (A) if the policy does not include an annual limit  
26           on substantially all hospital and medical benefits,

1           then the policy may not impose any annual limits on  
2           mental, emotional, nervous, or substance use disorder  
3           or condition benefits; or

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

8           (i) apply the applicable annual limit both to  
9           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 annual limit on mental,  
17          emotional, nervous, or substance use disorder or  
18          condition benefits that is less than the  
19          applicable annual limit.

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

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

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

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

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

4           (g) As used in this Section:

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

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

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

1 "Nonquantitative treatment" means those limitations as  
2 described under federal regulations (26 CFR 54.9812-1).  
3 "Nonquantitative treatment limitations" include, but are not  
4 limited to, those limitations described under federal  
5 regulations 26 CFR 54.9812-1, 29 CFR 2590.712, and 45 CFR  
6 146.136.

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

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



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

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

1 presentation shall:

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

10 (B) Cover the methodology the Departments use to  
11 check for compliance with this Section and Sections  
12 356z.23 and 370c of this Code.

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

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

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

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

1 quantitative and nonquantitative treatment  
2 limitations; and

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

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

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

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

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

1 other initiatives that support parity implementation and  
2 enforcement on behalf of consumers.

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

10 (1) The number of employment disability insurance  
11 plans offered in this State, including, but not limited  
12 to:

13 (A) individual short-term policies;

14 (B) individual long-term policies;

15 (C) group short-term policies; and

16 (D) group long-term policies.

17 (2) The number of policies referenced in paragraph (1)  
18 of this subsection that limit mental health and substance  
19 use disorder benefits.

20 (3) The average defined benefit period for the  
21 policies referenced in paragraph (1) of this subsection,  
22 both for those policies that limit and those policies that  
23 have no limitation on mental health and substance use  
24 disorder benefits.

25 (4) Whether the policies referenced in paragraph (1)  
26 of this subsection are purchased on a voluntary or

1           non-voluntary basis.

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

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

9                   (A) individual short-term policies;

10                   (B) individual long-term policies;

11                   (C) group short-term policies; and

12                   (D) group long-term policies.

13           (7) The average premiums for disability income  
14           insurance issued in this State for:

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

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

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

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

23                   (E) individual short-term policies that include  
24                   mental health and substance use disorder benefits  
25                   without limitation;

26                   (F) individual long-term policies that include

1           mental health and substance use disorder benefits  
2           without limitation;

3           (G) group short-term policies that include mental  
4           health and substance use disorder benefits without  
5           limitation; and

6           (H) group long-term policies that include mental  
7           health and substance use disorder benefits without  
8           limitation.

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

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



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

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

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

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

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

1 medical necessity criteria for medical and surgical  
2 benefits.

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

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

24 (A) identify the factors used to determine that a  
25 nonquantitative treatment limitation applies to a  
26 benefit, including factors that were considered but

1 rejected;

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

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

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

26 (E) disclose the specific findings and conclusions

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

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

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

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

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

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