

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1217 (Delegate Sample-Hughes, *et al.*)

Health and Government Operations

Finance

Maryland Medical Assistance Program - Specialty Mental Health and Substance
Use Disorder Services - Parity

This bill requires that the Department of Health and Mental Hygiene (DHMH), by June 30, 2017, adopt specified regulations necessary to ensure that Medicaid is in compliance with the federal Mental Health Parity and Addiction Equity Act (MHPAEA) and the federal Patient Protection and Affordable Care Act (ACA), as amended by the federal Health Care and Education Reconciliation Act of 2010. DHMH is not required to adopt regulations for any change that may be made through a process other than the regulatory process.

Fiscal Summary

State Effect: Although DHMH advises that Medicaid is likely already in compliance with parity requirements, to the extent more expansive coverage for mental health and substance use disorder benefits must be offered in order to comply with parity requirements, Medicaid expenditures (60% federal funds, 40% general funds) may increase. If so, federal fund revenues increase accordingly.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The regulations must include standards regarding treatment limitations for specialty mental health and substance use disorder services that comply with MHPAEA and ACA and must relate to (1) the scope of benefits for telehealth and residential treatment programs that are not institutions for mental disease; (2) service notification and

authorization requirements; (3) licensed specialty mental health or substance use disorder program billing for specified services; and (4) reimbursement rates.

The treatment limitations for specialty mental health and substance use disorder services comply with MHPAEA and ACA if the operable processes, strategies, evidentiary standards, or other factors used in applying a treatment limitation are comparable to and no more restrictive than those used in applying the treatment limitation to medical and surgical services.

Current Law: DHMH must include a definition of medical necessity in its Medicaid quality and access standards. DHMH must establish a delivery system for specialty mental health services for enrollees of Medicaid managed care organizations (MCOs). The delivery system must, among other things, provide all specialty mental health services needed by enrollees and coordinate provision of substance use disorder services provided by an MCO for enrollees who are dually diagnosed. DHMH may contract with an MCO for delivery of specialty mental health services if the MCO meets specified performance standards.

Among other provisions, MHPAEA imposes nondiscrimination standards on medical management practices, medical necessity determinations, and provider network and compensation practices (“nonquantitative treatment limitations”). The federal Centers for Medicare and Medicaid Services (CMS) has issued guidance on how MHPAEA applies to State Medicaid programs. In April 2015, CMS issued a proposed parity rule for Medicaid and the Children’s Health Insurance Program. This proposed rule would require that each MCO enrollee in a state be provided access to a set of benefits that meets the requirements of MHPAEA regardless of whether the services are provided by an MCO or through another service delivery system, including an administrative services organization (ASO).

Background: Medicaid currently offers primary mental health services to enrollees through their primary care physicians. Specialty mental health and community-based substance use disorder treatment services are provided by an ASO. DHMH advises that specialty mental health and substance use disorder providers may access information on benefits, authorization, telehealth services, and billing through the website of the ASO, and that Medicaid fee schedules and other information are also available on the DHMH website.

Additional Comments: Senate Bill 430/House Bill 975 of 2015 would have subjected Medicaid mental health and substance use disorder benefits to Maryland’s mental health parity law and required DHMH to use the standards used to determine compliance with MHPAEA in determining compliance with this requirement. The bills also would have required DHMH to use the American Society of Addiction Medicine criteria in determining medical necessity for substance use disorder services. Senate Bill 430 was heard by the

Senate Finance Committee, but no further action was taken on the bill. House Bill 975 was heard by the House Health and Government Operations Committee but later withdrawn.

Additional Information

Prior Introductions: None.

Cross File: SB 899 (Senator Klausmeier, *et al.*) - Finance.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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