

HB1074/243228/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 1074  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, insert “EMERGENCY BILL”; in the sponsor line, strike “**Delegate Bagnall**” and substitute “**Delegates Bagnall, Alston, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White Holland, and Woods**”; strike beginning with “authorizing” in line 7 down through “circumstances;” in line 9; in line 13, after “Act;” insert “repealing the requirement that the Commissioner use a certain form for the reporting requirements;”; after line 20, insert:

“BY repealing and reenacting, without amendments,

Article - Insurance

Section 15-1309(a)(1) and (3)

Annotated Code of Maryland

(2017 Replacement Volume and 2023 Supplement)

BY repealing

Chapter 211 of the Acts of the General Assembly of 2020

Section 2”;

and after line 23, insert:

“BY repealing

Chapter 212 of the Acts of the General Assembly of 2020

Section 2”.

AMENDMENT NO. 2

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On page 3, after line 19, insert:

**“(9) “PRODUCT” HAS THE MEANING STATED IN § 15-1309(A)(3) OF THIS TITLE.”;**

in line 20, strike “(9)” and substitute “**(10)**”; after line 23, insert:

**“(C) (1) EACH CARRIER SUBJECT TO THIS SECTION SHALL:**

**(I) FOR EACH PARITY ACT CLASSIFICATION, IDENTIFY ALL NONQUANTITATIVE TREATMENT LIMITATIONS THAT ARE APPLIED TO MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS;**

**(II) IN ACCORDANCE WITH THE PARITY ACT, PERFORM AND DOCUMENT COMPARATIVE ANALYSES OF THE DESIGN AND APPLICATION OF ALL NONQUANTITATIVE TREATMENT LIMITATIONS IMPOSED ON MENTAL HEALTH BENEFITS AND SUBSTANCE USE DISORDER BENEFITS;**

**(III) PROVIDE THE COMPARATIVE ANALYSIS FOR EACH NONQUANTITATIVE TREATMENT LIMITATION REQUESTED BY THE COMMISSIONER WITHIN:**

- 1. 15 WORKING DAYS AFTER A WRITTEN REQUEST; OR**
- 2. IF ADOPTED BY THE FEDERAL GOVERNMENT, LESS THAN 15 WORKING DAYS TO ALIGN WITH THE FEDERAL RULE OR REGULATION;**

**(IV) WITHIN 30 DAYS AFTER A WRITTEN REQUEST, PROVIDE THE COMPARATIVE ANALYSIS FOR EACH NONQUANTITATIVE TREATMENT**

LIMITATION AND RELATED IN OPERATION DATA ANALYSIS, IF AVAILABLE AND REQUESTED BY A MEMBER IN ACCORDANCE WITH THE PARITY ACT DISCLOSURE REQUIREMENTS OR, FOR MEMBERS WITH INDIVIDUAL PLANS, IN ACCORDANCE WITH SUBSECTION (E)(7) OF THIS SECTION; AND

(V) SUBMIT THE REPORTS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION.”;

in line 24, strike “(c) (1)” and substitute “(2)”; strike beginning with “MARCH” in line 24 down through “2025” in line 25 and substitute “JULY 1, 2024, AND EVERY 2 YEARS THEREAFTER”; strike beginning with the colon in line 25 down through “(ii)” in line 29; and in line 29, after “Commissioner” insert “ON EACH PRODUCT OFFERED BY THE CARRIER IN THE INDIVIDUAL, SMALL, AND LARGE GROUP MARKETS”.

On page 10, after line 13, insert:

“15–1309.

(a) (1) In this section the following words have the meanings indicated.

(3) (i) “Product” means a discrete package of health benefits that are offered using a particular product network type within a geographic service area.

(ii) “Product” comprises all plans offered within the product.”.

AMENDMENT NO. 3

On page 4, in line 1, strike “(2)” and substitute “(3)”; in the same line, strike “(1)” and substitute “(2)”; in line 2, strike the opening bracket; in the same line, strike the closing bracket and substitute “:

(1)”;

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in line 3, strike “**COMPARATIVE ANALYSIS**”; in lines 4 and 5, strike “health benefit plans identified” and substitute “**PRODUCTS IDENTIFIED**”; in line 5, strike “(1)(i)” and substitute “**(2)**”; in the same line, after “subsection” insert a semicolon; strike beginning with “, **INCLUDING**” in line 5 down through “(iv)” in line 16 and substitute “**(II)**”; in line 16, strike the second “the” and substitute “**A**”; strike beginning with “as” in line 16 down through “section.” in line 17 and substitute “**CONDUCTED BY THE CARRIER ON NOT FEWER THAN FIVE NONQUANTITATIVE TREATMENT LIMITATIONS SELECTED BY THE COMMISSIONER IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION; AND**

**(III) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A STATEMENT, SIGNED BY A CORPORATE OFFICER, ATTESTING THAT, FOR EACH PRODUCT IDENTIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE SELECTED NONQUANTITATIVE TREATMENT LIMITATIONS AND THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED IN DESIGNING AND APPLYING THE SELECTED NONQUANTITATIVE TREATMENT LIMITATIONS TO MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, AND MEDICAL/SURGICAL BENEFITS ARE THE SAME FOR ALL PLANS WITHIN THE PRODUCT, AS WRITTEN AND IN OPERATION.**

**(4) IF, FOR ANY PLAN WITHIN A PRODUCT IDENTIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED IN DESIGNING AND APPLYING THE SELECTED NONQUANTITATIVE TREATMENT LIMITATIONS TO MENTAL HEALTH BENEFITS, SUBSTANCE USE DISORDER BENEFITS, OR MEDICAL/SURGICAL BENEFITS ARE DIFFERENT, AS WRITTEN OR IN OPERATION, FROM THE OTHER PLANS WITHIN THE PRODUCT:**

(I) THE STATEMENT REQUIRED UNDER PARAGRAPH (3)(III) OF THIS SUBSECTION SHALL NOTE THE EXCEPTION AND IDENTIFY THE PLAN; AND

(II) THE CARRIER SHALL SUBMIT A SEPARATE COMPARATIVE ANALYSIS FOR THE SELECTED NONQUANTITATIVE TREATMENT LIMITATIONS FOR THE PLAN.

(5) (I) IN SELECTING THE NONQUANTITATIVE TREATMENT LIMITATIONS REQUIRED TO BE INCLUDED FOR EACH REPORTING PERIOD, THE COMMISSIONER:

1. SHALL PRIORITIZE THE NONQUANTITATIVE TREATMENT LIMITATIONS IDENTIFIED BY THE COMMISSIONER AS HAVING THE GREATEST IMPACT ON MEMBER ACCESS TO CARE;

2. SHALL REVIEW THE SAME SUBSET OF NONQUANTITATIVE TREATMENT LIMITATIONS FOR EACH CARRIER REPORT; AND

3. MAY TAKE INTO CONSIDERATION OTHER FACTORS DETERMINED RELEVANT BY THE COMMISSIONER, INCLUDING COMPLAINT TRENDS, FEDERAL PARITY ACT GUIDANCE, AND WHETHER THE NONQUANTITATIVE TREATMENT LIMITATION WAS SELECTED FOR A PREVIOUS REPORTING YEAR.

(II) OF THE FIVE SELECTED NONQUANTITATIVE TREATMENT LIMITATIONS:

1. NOT MORE THAN TWO MAY BE FOR UTILIZATION REVIEW; AND

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**2. AT LEAST ONE MUST BE FOR NETWORK COMPOSITION, INCLUDING REIMBURSEMENT RATE SETTING.**

**(6) A FINDING OF NONCOMPLIANCE FOR A PRODUCT SHALL APPLY TO ALL PLANS WITHIN THE PRODUCT.**”;

in lines 19 and 24, in each instance, strike “identified” and substitute “**SELECTED**”; in the same lines, in each instance, strike “(c)(2)(ii)” and substitute “**(C)(5)**”; in lines 26 and 29, in each instance, after “in” insert “**DESIGNING AND**”; in lines 26 and 30, in each instance, strike “the medical necessity criteria and”; in the same lines, in each instance, after “each” insert “**SELECTED**”; in line 31, strike “medical and surgical” and substitute “**MEDICAL/SURGICAL**”; and after line 33, insert:

**“(3) REGARDLESS OF WHETHER IT WAS USED BEFORE THE PARITY ACT WAS ENACTED AND AS REQUESTED BY THE COMMISSION, A CARRIER SHALL PERFORM AND PROVIDE A COMPARATIVE ANALYSIS FOR EACH PROCESS, STRATEGY, EVIDENTIARY STANDARD, OR OTHER FACTOR USED IN DESIGNING AND APPLYING A SELECTED NONQUANTITATIVE TREATMENT LIMITATION USED DURING A REPORTING PERIOD.”**

**AMENDMENT NO. 4**

On page 5, strike beginning with “, INCLUDING” in line 3 down through “ACT” in line 4; in lines 5, 9, 19, 23, 27, and 31, in each instance, strike the brackets; strike in their entirety lines 6 through 8, inclusive; in line 9, strike “(IV)”; strike beginning with “, INCLUDING” in line 13 down through “ACT” in line 18; in lines 19, 23, 27, and 31, strike “(4)”, “(5)”, “(6)”, and “(7)”, respectively; in lines 21 and 25, in each instance, strike “(c)(2)(ii)” and substitute “**(C)(5)**”; and in lines 22 and 26, in each instance, after “plans” insert “**AND PRODUCTS**”.

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On page 6, in line 3, strike the brackets; in the same line, strike “(8)”; in line 8, after “for” insert “INDIVIDUAL OR”; strike in their entirety lines 12 through 28, inclusive, and substitute:

**“(F) THE COMMISSIONER SHALL:**

**(1) DEVELOP ADDITIONAL STANDARDIZED DATA TEMPLATES:**

**(I) TO EVALUATE THE COMPARATIVE ANALYSIS OF NONQUANTITATIVE TREATMENT LIMITATIONS IN OPERATION; AND**

**(II) THAT MEET OR EXCEED ANY MINIMUM REQUIREMENTS FOR DATA REPORTING SPECIFIED IN FEDERAL REGULATIONS;**

**(2) REQUIRE EACH CARRIER SUBJECT TO THIS SECTION TO SUBMIT:**

**(I) FOR EACH PRODUCT IDENTIFIED UNDER SUBSECTION (C)(2) OF THIS SECTION, THE DATA TEMPLATES DESCRIBED IN ITEM (1) OF THIS SUBSECTION FOR THE NONQUANTITATIVE TREATMENT LIMITATIONS SELECTED BY THE COMMISSIONER FOR THE REPORTING YEAR IN ACCORDANCE WITH SUBSECTION (C)(5) OF THIS SECTION; AND**

**(II) A SEPARATE DATA TEMPLATE FOR ANY PLANS DESCRIBED IN SUBSECTION (C)(4) OF THIS SECTION; AND**

**(3) POST THE DATA TEMPLATES ON THE ADMINISTRATION’S WEBSITE FOR A COMMENT PERIOD OF NOT LESS THAN 30 DAYS BEFORE ADOPTION.”;**

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in line 29, strike “subsections (c) and (f) of”; in line 31, strike “CONFORMS TO” and substitute “MEETS OR EXCEEDS ANY MINIMUM REQUIREMENTS SPECIFIED IN”; in the same line, after “REGULATIONS” insert “AND SUB-REGULATORY GUIDANCE”; in line 32, strike “COMPARATIVE ANALYSIS”; and in lines 33 and 34, strike “health benefit plan” and substitute “PRODUCT”.

On page 7, in line 9, strike “subsections (c) and (f) of”; in line 27, after “(c)” insert “, (D),”; and in line 28, after “Act” insert “FOR EACH PARITY ACT CLASSIFICATION”.

AMENDMENT NO. 5

On page 8, strike in their entirety lines 5 through 24, inclusive, and substitute:

**“(2) THE COMMISSIONER MAY REQUIRE CARRIERS TO COMPLETE DATA TEMPLATES FOR A NONQUANTITATIVE TREATMENT LIMITATION MORE FREQUENTLY THAN EVERY 2 YEARS.”;**

in line 25, after “(j)” insert “(1)”; in line 26, strike “subsection (c) or (f) of”; in the same line, after “may” insert “:

**(I) TAKE ACTION AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION;**

**(II) IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE, CHARGE THE CARRIER FOR ANY ADDITIONAL EXPENSES INCURRED BY THE COMMISSIONER TO REVIEW ADDITIONAL REPORTS;**

**(III) IMPOSE A PENALTY FOR EACH DAY THAT THE CARRIER FAILS TO SUBMIT INFORMATION REQUIRED BY THE COMMISSIONER TO EVALUATE COMPLIANCE; OR**



(IV)”;

in lines 28 and 30, strike “(1)” and “(2)”, respectively, and substitute “1.” and “2.”, respectively; and after line 31, insert:

“(2) IF THE COMMISSIONER CANNOT MAKE A DETERMINATION THAT A SPECIFIC CONDUCT OR PRACTICE IS COMPLIANT WITH THE PARITY ACT BECAUSE THE CARRIER FAILED TO PROVIDE A SUFFICIENT COMPARATIVE ANALYSIS FOR A NONQUANTITATIVE TREATMENT LIMITATION, THE COMMISSIONER MAY:

(I) ISSUE AN ADMINISTRATIVE ORDER REQUIRING THE CARRIER OR AN ENTITY DELEGATED BY THE CARRIER TO TAKE THE FOLLOWING ACTION UNTIL THE COMMISSIONER CAN MAKE A DETERMINATION OF COMPLIANCE WITH THE PARITY ACT:

1. MODIFY THE CONDUCT OR PRACTICE AS SPECIFIED BY THE COMMISSIONER;

2. CEASE THE CONDUCT OR PRACTICE; OR

3. SUBMIT PERIODIC DATA RELATED TO THE CONDUCT OR PRACTICE; OR

(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, REQUIRE THE CARRIER TO PERFORM A NEW COMPARATIVE ANALYSIS.

(3) THE COMMISSIONER MAY REQUIRE THE CARRIER TO ESTABLISH SPECIFIC QUANTITATIVE THRESHOLDS FOR EVIDENTIARY STANDARDS AND CONDUCT A NEW COMPARATIVE ANALYSIS FOR A

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NONQUANTITATIVE TREATMENT LIMITATION IF THE COMMISSIONER DETERMINES A CARRIER FAILED TO PROVIDE A SUFFICIENT COMPARATIVE ANALYSIS BECAUSE THE CARRIER DID NOT:

(I) USE APPLICABLE QUANTITATIVE THRESHOLDS FOR THE EVIDENTIARY STANDARD; OR

(II) PROVIDE A SPECIFIC, DETAILED, AND REASONED EXPLANATION OF HOW THE CARRIER ENSURES THAT THE FACTORS FOR THE NONQUANTITATIVE TREATMENT LIMITATION ARE BEING APPLIED COMPARABLY AND NO MORE STRINGENTLY TO MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES.

(4) SUBSECTION (I)(1)(III) OF THIS SECTION DOES NOT APPLY TO THE FAILURE OF A CARRIER TO SUBMIT A COMPLETE REPORT.”.

AMENDMENT NO. 6

On page 9, in lines 3, 8, 12, 14, and 18, in each instance, strike the brackets; strike beginning with “, OR” in line 4 down through “ACT” in line 5; strike in their entirety lines 9 through 11, inclusive; in line 12, strike “(III)”; strike beginning with “, INCLUDING” in line 13 down through “COMPLIANCE” in line 14; strike in their entirety lines 15 through 17, inclusive; in line 18, strike “(3)”; in line 24, strike “HEALTH PLAN” and substitute “DESIGN AND APPLICATION OF A NONQUANTITATIVE TREATMENT LIMITATION”; in line 27, strike “MATTER FILED WITH” and substitute “COMPLAINT INVESTIGATION OR MARKET CONDUCT ACTION UNDERTAKEN BY”; in line 29, after “(2)” insert “(I)”; in line 31, strike “A MATTER FILED WITH” and substitute “AN INVESTIGATION OR EXAMINATION BY”; and after line 32, insert:

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“(II) SUBSECTION (I)(1)(III) OF THIS SECTION DOES NOT APPLY TO A CARRIER THAT FAILS TO SUBMIT COMPLETE PARITY ACT COMPLIANCE INFORMATION.”.

On page 10, in line 5, strike “On or before December 31, 2021, the” and substitute “**THE**”; in line 10, strike beginning with “On” through “the” and substitute “**THE**”; after line 14, insert:

“[SECTION 2. AND BE IT FURTHER ENACTED, That the standard form the Maryland Insurance Commissioner is required to develop under § 15–144(m)(1) of the Insurance Article, as enacted by Section 1 of this Act, for the report required under § 15–144(c) of the Insurance Article, as enacted by Section 1 of this Act, shall be the National Association of Insurance Commissioners’ Data Collection Tool for Mental Health Parity Analysis, Nonquantitative Treatment Limitations and any amendments by the Commissioner to the tool necessary to incorporate the requirements of § 15–144(c), (d), and (e) of the Insurance Article, as enacted by Section 1 of this Act.]”;

after line 19, insert:

“[SECTION 2. AND BE IT FURTHER ENACTED, That the standard form the Maryland Insurance Commissioner is required to develop under § 15–144(m)(1) of the Insurance Article, as enacted by Section 1 of this Act, for the report required under § 15–144(c) of the Insurance Article, as enacted by Section 1 of this Act, shall be the National Association of Insurance Commissioners’ Data Collection Tool for Mental Health Parity Analysis, Nonquantitative Treatment Limitations and any amendments by the Commissioner to the tool necessary to incorporate the requirements of § 15–144(c), (d), and (e) of the Insurance Article, as enacted by Section 1 of this Act.]”;

and strike beginning with “shall” in line 24 down through “2024” in line 25 and substitute “is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths”

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of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted”.