

SENATE BILL 205

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(PRE-FILED)

6lr0035

CF HB 280

By: Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)

Requested: September 16, 2025

Introduced and read first time: January 14, 2026

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Mental Health and Substance Use Disorders – Codification**
3 **of Federal Requirements**

4 FOR the purpose of codifying in State law certain provisions of the Code of Federal
5 Regulations related to mental health parity and clarifying the authority of the
6 Maryland Insurance Administration to enforce certain laws; requiring health
7 insurance carriers to collect and report on data related to access to benefits in a
8 certain manner; requiring health insurance carriers to provide benefits for certain
9 mental health conditions or substance use disorders under certain circumstances;
10 requiring health insurance carriers to explain differences in access to care under
11 certain circumstances; requiring the Maryland Insurance Commissioner to review
12 reports from carriers and provide notice to health insurance carriers of
13 noncompliance with State law and regulations; and generally relating to
14 requirements for health insurance related to mental health and substance use
15 disorders.

16 BY repealing and reenacting, with amendments,

17 Article – Insurance

18 Section 15–144(a), (c)(1) and (3)(ii), (d), (e), (i)(1), (k), and (l)(1)

19 Annotated Code of Maryland

20 (2017 Replacement Volume and 2025 Supplement)

21 BY adding to

22 Article – Insurance

23 Section 15–144(c)(7)

24 Annotated Code of Maryland

25 (2017 Replacement Volume and 2025 Supplement)

26 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Insurance
Section 15–144(o)
Annotated Code of Maryland
(2017 Replacement Volume and 2025 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

Article – Insurance

8 15-144.

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

10 (2) "Carrier" means:

13 (ii) a health maintenance organization that is licensed to operate in
14 the State;

15 (iii) a nonprofit health service plan that is licensed to operate in the
16 State; or

(iv) any other person or organization that provides health benefit plans subject to State insurance regulation.

23 [(3)] (4) “Health benefit plan” means:

24 (i) for a large group or blanket plan, a health benefit plan as defined
25 in § 15–1401 of this title:

(ii) for a small group plan, a health benefit plan as defined in § 15–1201 of this title;

28 (iii) for an individual plan;

- 1 2. an individual health benefit plan as defined in §
2 15–1301(o) of this title;
- 3 (iv) short–term limited duration insurance as defined in § 15–1301(s)
4 of this title; or
- 5 (v) a student health plan as defined in § 15–1318(a) of this title.

6 **[(4)] (5)** “Medical/surgical benefits” has the meaning stated in 45 C.F.R.
7 § 146.136(a) and 29 C.F.R. § 2590.712(a).

8 **[(5)] (6) (I)** “Mental health benefits” [has the meaning stated in 45
9 C.F.R. § 146.136(a) and 29 C.F.R. § 2590.712(a)] MEANS BENEFITS WITH RESPECT TO
10 ITEMS OR SERVICES FOR MENTAL HEALTH CONDITIONS THAT ARE DEFINED UNDER
11 THE TERMS OF A HEALTH BENEFIT PLAN AND IN ACCORDANCE WITH APPLICABLE
12 FEDERAL AND STATE LAW, INCLUDING REQUIREMENTS THAT:

13 1. ANY CONDITION DEFINED UNDER THE TERMS OF THE
14 HEALTH BENEFIT PLAN AS BEING OR AS NOT BEING A MENTAL HEALTH CONDITION
15 BE DEFINED CONSISTENT WITH GENERALLY RECOGNIZED INDEPENDENT
16 STANDARDS OF CURRENT MEDICAL PRACTICE AND INCLUDE ALL CONDITIONS,
17 EXCEPT FOR SUBSTANCE USE DISORDERS, COVERED UNDER THE HEALTH BENEFIT
18 PLAN THAT:

19 A. FALL UNDER ANY OF THE DIAGNOSTIC CATEGORIES
20 LISTED IN THE MENTAL, BEHAVIORAL, AND NEURODEVELOPMENTAL DISORDERS
21 CHAPTER, OR EQUIVALENT CHAPTER, OF THE MOST RECENT VERSION OF THE
22 WORLD HEALTH ORGANIZATION’S INTERNATIONAL CLASSIFICATION OF DISEASES
23 ADOPTED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES; OR

24 B. ARE LISTED IN THE MOST RECENT VERSION OF THE
25 AMERICAN PSYCHIATRIC ASSOCIATION’S DIAGNOSTIC AND STATISTICAL MANUAL
26 OF MENTAL DISORDERS; AND

27 2. TO THE EXTENT GENERALLY RECOGNIZED
28 INDEPENDENT STANDARDS OF CURRENT MEDICAL PRACTICE DO NOT ADDRESS
29 WHETHER A CONDITION IS A MENTAL HEALTH CONDITION, THE CONDITION BE
30 DEFINED IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAW.

31 **(II)** “MENTAL HEALTH BENEFITS” DOES NOT INCLUDE
32 MEDICAL/SURGICAL BENEFITS OR SUBSTANCE USE DISORDER BENEFITS.

33 **[(6)] (7)** “Nonquantitative treatment limitation” means treatment
34 limitations as defined in 45 C.F.R. § 146.136(a) and 29 C.F.R. § 2590.712(a).

1 **[(7)] (8)** (i) “Parity Act” means the Paul Wellstone and Pete Domenici
2 Mental Health Parity and Addiction Equity Act of 2008, as amended.

3 (ii) “Parity Act” includes 45 C.F.R. § 146.136, 29 C.F.R. § 2590.712,
4 and any other related federal regulations found in the Code of Federal Regulations to
5 implement or enforce the Paul Wellstone and Pete Domenici Mental Health Parity and
6 Addiction Equity Act of 2008.

7 **[(8)] (9)** “Parity Act classification” means:

- 8 (i) inpatient in–network benefits;
9 (ii) inpatient out–of–network benefits;
10 (iii) outpatient in–network benefits;
11 (iv) outpatient out–of–network benefits;
12 (v) prescription drug benefits; and
13 (vi) emergency care benefits.

14 **[(9)] (10)** “Product” has the meaning stated in § 15–1309(a)(3) of this title.

15 **[(10)] (11) (I)** “Substance use disorder benefits” [has the meaning stated
16 in 45 C.F.R. § 146.136(a) and 29 C.F.R. § 2590.712(a)] MEANS BENEFITS WITH RESPECT
17 TO ITEMS OR SERVICES FOR SUBSTANCE USE DISORDERS THAT ARE DEFINED UNDER
18 THE TERMS OF A HEALTH BENEFIT PLAN AND IN ACCORDANCE WITH APPLICABLE
19 FEDERAL AND STATE LAW, INCLUDING REQUIREMENTS THAT:

20 1. ANY DISORDER DEFINED UNDER THE TERMS OF THE
21 HEALTH BENEFIT PLAN AS BEING OR AS NOT BEING A SUBSTANCE USE DISORDER BE
22 DEFINED CONSISTENT WITH GENERALLY RECOGNIZED INDEPENDENT STANDARDS
23 OF CURRENT MEDICAL PRACTICE AND INCLUDE ALL DISORDERS COVERED UNDER
24 THE HEALTH BENEFIT PLAN THAT:

25 A. FALL UNDER ANY OF THE DIAGNOSTIC CATEGORIES
26 LISTED AS A MENTAL OR BEHAVIORAL DISORDER DUE TO PSYCHOACTIVE
27 SUBSTANCE USE, OR EQUIVALENT CATEGORY, IN THE MENTAL, BEHAVIORAL, AND
28 NEURODEVELOPMENTAL DISORDERS CHAPTER, OR EQUIVALENT CHAPTER, OF THE
29 MOST RECENT VERSION OF THE WORLD HEALTH ORGANIZATION’S INTERNATIONAL
30 CLASSIFICATION OF DISEASES ADOPTED BY THE FEDERAL DEPARTMENT OF
31 HEALTH AND HUMAN SERVICES; OR

10 (II) "SUBSTANCE USE DISORDER BENEFITS" DOES NOT
11 INCLUDE MEDICAL/SURGICAL BENEFITS OR MENTAL HEALTH BENEFITS.

12 (c) (1) Each carrier subject to this section shall:

16 (ii) in accordance with the Parity Act AND ANY STATE
17 **REGULATIONS ADOPTED UNDER SUBSECTION (O) OF THIS SECTION**, perform and
18 document comparative analyses of the design and application of all nonquantitative
19 treatment limitations imposed on mental health benefits and substance use disorder
20 benefits;

32 [(iii)] (IV) provide the comparative analysis, **INCLUDING THE**
33 **EVALUATION OF RELEVANT DATA**, for each nonquantitative treatment limitation
34 requested by the Commissioner within:

35 1. 15 working days after a written request; or

10 (3) The report submitted under paragraph (2) of this subsection shall
11 include the following information:

12 (ii) the results of a comparative analysis, **INCLUDING THE**
13 **EVALUATION OF RELEVANT DATA**, conducted by the carrier on not fewer than five
14 nonquantitative treatment limitations selected by the Commissioner in accordance with
15 paragraph (5) of this subsection; and

30 (d) (1) A carrier subject to this section shall conduct a comparative analysis
31 for the nonquantitative treatment limitations selected under subsection (c)(5) of this section
32 as nonquantitative treatment limitations are:

33 (i) written; and

34 (ii) in operation.

(2) The comparative analysis of the nonquantitative treatment limitations selected under subsection (c)(5) of this section shall:

3 (i) demonstrate that the processes, strategies, evidentiary
4 standards, or other factors used in designing and applying each selected nonquantitative
5 treatment limitation to mental health benefits and substance use disorder benefits in each
6 Parity Act classification are comparable to, and are applied no more stringently than, the
7 processes, strategies, evidentiary standards, or other factors used in designing and
8 applying each selected nonquantitative treatment limitation to medical/surgical benefits
9 within the same Parity Act classification; [and]

10 (II) DEMONSTRATE THAT NONE OF THE INFORMATION,
11 EVIDENCE, SOURCES, OR STANDARDS ON WHICH A FACTOR OR EVIDENTIARY
12 STANDARD IS BASED ARE BIASED OR NOT OBJECTIVE IN A MANNER THAT
13 DISCRIMINATES AGAINST MENTAL HEALTH OR SUBSTANCE USE DISORDER
14 BENEFITS AS COMPARED TO MEDICAL/SURGICAL BENEFITS;

22 (3) (I) THE BENEFITS PROVIDED FOR THE MENTAL HEALTH
23 CONDITION OR SUBSTANCE USE DISORDER SHALL BE COMPARED TO THE BENEFITS
24 PROVIDED FOR MEDICAL CONDITIONS AND SURGICAL PROCEDURES IN EACH
25 PARITY ACT CLASSIFICATION TO DETERMINE WHETHER BENEFITS ARE
26 MEANINGFUL.

1 **1. IS NOT REQUIRED TO PROVIDE BENEFITS FOR A CORE**
2 **TREATMENT FOR THE COVERED MENTAL HEALTH CONDITION OR SUBSTANCE USE**
3 **DISORDER IN THAT PARITY ACT CLASSIFICATION; AND**

4 **2. IS REQUIRED TO PROVIDE BENEFITS FOR THE**
5 **COVERED MENTAL HEALTH CONDITION OR SUBSTANCE USE DISORDER IN EVERY**
6 **PARITY ACT CLASSIFICATION IN WHICH MEDICAL/SURGICAL BENEFITS ARE**
7 **PROVIDED.**

8 **[(3)] (4)** Regardless of whether it was used before the Parity Act was
9 enacted and as requested by the **[Commission] COMMISSIONER**, a carrier shall perform
10 and provide a comparative analysis for each process, strategy, evidentiary standard, or
11 other factor used in designing and applying a selected nonquantitative treatment limitation
12 used during a reporting period.

13 (e) In providing the analysis required under subsection (d) of this section, a
14 carrier shall:

15 (1) identify the factors used to determine that a nonquantitative treatment
16 limitation will apply to a benefit, including:

17 (i) the sources for the factors; **AND**

18 (ii) the factors that were considered but rejected; **and**

19 **[(iii)] (II)** if a factor was given more weight than another, the reason
20 for the difference in weighting;

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

24 (3) include the results of the audits, reviews, and analyses performed on
25 the nonquantitative treatment limitations identified under subsection (c)(5) of this section
26 to conduct the analysis required under subsection (d)(2) of this section for the plans and
27 products as written;

28 (4) include the **RELEVANT DATA EVALUATED UNDER SUBSECTION**
29 **(C)(1)(III) OF THIS SECTION AND THE** results of the audits, reviews, and analyses
30 performed on the nonquantitative treatment limitations identified under subsection (c)(5)
31 of this section to conduct the analysis required under subsection (d)(2) of this section for
32 the plans and products as in operation;

33 **(5) IF THE RELEVANT DATA EVALUATED UNDER SUBSECTION**
34 **(C)(1)(III) OF THIS SECTION INDICATE THAT THE NONQUANTITATIVE TREATMENT**

1 LIMITATION CONTRIBUTES TO MATERIAL DIFFERENCES IN ACCESS TO MENTAL
2 HEALTH AND SUBSTANCE USE DISORDER BENEFITS AS COMPARED TO
3 MEDICAL/SURGICAL BENEFITS IN A PARITY ACT CLASSIFICATION, INCLUDE AN
4 EXPLANATION OF THE DIFFERENCES AND A DISCUSSION OF THE ACTIONS THAT
5 HAVE BEEN OR ARE BEING TAKEN BY THE CARRIER TO ADDRESS THE DIFFERENCES;

6 [5] (6) identify the measures used to ensure comparable design and
7 application of nonquantitative treatment limitations that are implemented by the carrier
8 and any entity delegated by the carrier to manage mental health benefits, substance use
9 disorder benefits, or medical/surgical benefits on behalf of the carrier;

10 [(6)] (7) disclose the specific findings and conclusions reached by the
11 carrier that indicate that the health benefit plan is in compliance with this section and the
12 Parity Act; and

13 [(7)] (8) identify the process used to comply with the Parity Act disclosure
14 requirements for mental health benefits, substance use disorder benefits, and
15 medical/surgical benefits, including:

16 (i) the criteria for a medical necessity determination;

17 (ii) reasons for a denial of benefits; and

18 (iii) in connection with a member's request for individual or group
19 plan information and for purposes of filing an internal coverage or grievance matter and
20 appeals, plan documents that contain information about processes, strategies, evidentiary
21 standards, and any other factors used to apply a nonquantitative treatment limitation.

22 (i) (1) The Commissioner shall:

23 (i) review each report submitted in accordance with subsections (c),
24 (d), and (f) of this section to assess each carrier's compliance with the Parity Act **AND ANY**
25 **STATE REGULATIONS ADOPTED UNDER SUBSECTION (O) OF THIS SECTION** for each
26 Parity Act classification;

27 (ii) notify a carrier in writing of any noncompliance with the Parity
28 Act **OR ANY STATE REGULATIONS ADOPTED UNDER SUBSECTION (O) OF THIS**
29 **SECTION** before issuing an administrative order; and

30 (iii) within 90 days after the notice of noncompliance is issued, allow
31 the carrier to:

32 1. submit a compliance plan to the Administration to comply
33 with the Parity Act **AND ANY STATE REGULATIONS ADOPTED UNDER SUBSECTION (O)**
34 **OF THIS SECTION**; and

2. reprocess any claims that were improperly denied, in
whole or in part, because of the noncompliance.

7 (1) issue an administrative order that requires:

12 (2) impose any other penalty or take any action as authorized:

13 (i) for an insurer, nonprofit health service plan, or any other person
14 subject to this section, under this article; or

15 (ii) for a health maintenance organization, under this article or the
16 Health – General Article.

17 (l) (1) A carrier shall have the burden of persuasion in demonstrating that its
18 design and application of a nonquantitative treatment limitation complies with the Parity
19 Act **AND ANY STATE REGULATIONS ADOPTED UNDER SUBSECTION (O) OF THIS**
20 **SECTION:**

23 (ii) in any complaint investigation or market conduct action
24 undertaken by the Commissioner that involves the application of the Parity Act.

25 (o) The Commissioner shall, in consultation with interested stakeholders, adopt
26 regulations to implement this section, including to ensure uniform definitions and
27 methodology for the reporting requirements established under this section.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2026.