

116TH CONGRESS  
1ST SESSION

# H. R. 2874

To strengthen parity in mental health and substance use disorder benefits.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2019

Mr. KENNEDY (for himself, Mr. TONKO, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. CLARKE of New York, Mr. ENGEL, Mr. SOTO, Mr. CÁRDENAS, Mrs. DINGELL, Ms. CASTOR of Florida, Mr. DEUTCH, Mr. CROW, Ms. SCHAKOWSKY, and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To strengthen parity in mental health and substance use disorder benefits.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Behavioral Health Cov-  
5 erage Transparency Act”.

1 **SEC. 2. STRENGTHENING PARITY IN MENTAL HEALTH AND**  
2 **SUBSTANCE USE DISORDER BENEFITS.**

3 (a) PUBLIC HEALTH SERVICE ACT.—Section  
4 2726(a) of the Public Health Service Act (42 U.S.C.  
5 300gg-26(a)) is amended by adding at the end the fol-  
6 lowing new paragraph:

7 “(8) DISCLOSURE AND ENFORCEMENT RE-  
8 QUIREMENTS.—

9 “(A) DISCLOSURE REQUIREMENTS.—

10 “(i) REGULATIONS.—Not later than 6  
11 months after the date of enactment of this  
12 paragraph, the Secretary, in cooperation  
13 with the Secretaries of Labor and the  
14 Treasury, shall issue regulations for car-  
15 rying out this section, including an expla-  
16 nation of documents that group health  
17 plans and health insurance issuers offering  
18 group or individual health insurance cov-  
19 erage shall disclose in accordance with  
20 clause (ii), the process governing the dis-  
21 closure of such documents, and analyses  
22 that such plans and issuers shall conduct  
23 in order to demonstrate compliance with  
24 this section.

25 “(ii) DISCLOSURE REQUIREMENTS.—

26 The documents required to be disclosed by

1 a group health plan or a health insurance  
2 issuer offering group or individual health  
3 insurance coverage under clause (i) shall  
4 include an annual report that details the  
5 specific analyses performed to ensure com-  
6 pliance of such plan or issuer with this sec-  
7 tion, including any regulation promulgated  
8 pursuant to this section. At a minimum,  
9 with respect to the application of non-  
10 quantitative treatment limitations (in this  
11 paragraph referred to as ‘NQTLs’) to ben-  
12 efits under the plan or coverage, such re-  
13 port shall—

14 “(I) identify the specific factors  
15 the plan or issuer used in performing  
16 its NQTLs analysis;

17 “(II) identify and define the spe-  
18 cific evidentiary standards relied on to  
19 evaluate such factors;

20 “(III) describe how the evi-  
21 dentiary standards are applied to each  
22 service category for mental health  
23 benefits, substance use disorder bene-  
24 fits, medical benefits, and surgical  
25 benefits;

1                   “(IV) disclose the results of the  
2 analyses of the specific evidentiary  
3 standards in each service category;  
4 and

5                   “(V) disclose the specific findings  
6 of the plan or issuer in each service  
7 category and the conclusions reached  
8 with respect to whether the processes,  
9 strategies, evidentiary standards, or  
10 other factors used in applying the  
11 NQTLs to mental health or substance  
12 use disorder benefits are comparable  
13 to, and applied no more stringently  
14 than, the processes, strategies, evi-  
15 dentiary standards, or other factors  
16 used in applying the NQTLs to med-  
17 ical and surgical benefits in the same  
18 classification.

19                   “(iii) GUIDANCE.—Not later than 6  
20 months after the date of enactment of this  
21 paragraph, the Secretary, in cooperation  
22 with the Secretaries of Labor and the  
23 Treasury, shall issue guidance to group  
24 health plans and health insurance issuers  
25 offering group or individual health insur-

1           ance coverage on how to satisfy the re-  
2           quirements of this section, with respect to  
3           making information available to current  
4           and potential participants and bene-  
5           ficiaries. Such information shall include—

6                   “(I) certificate of coverage docu-  
7                   ments and instruments under which  
8                   the plan or coverage involved is ad-  
9                   ministered and operated that specify,  
10                  include, or refer to procedures, for-  
11                  mulas, and methodologies applied to  
12                  determine a participant’s or bene-  
13                  ficiary’s benefit under the plan or cov-  
14                  erage, regardless of whether such in-  
15                  formation is contained in a document  
16                  designated as the ‘plan document’;  
17                  and

18                  “(II) a disclosure of how the plan  
19                  or issuer involved has provided that  
20                  processes, strategies, evidentiary stan-  
21                  dards, and other factors used in ap-  
22                  plying the NQTLs to mental health or  
23                  substance use disorder benefits are  
24                  comparable to, and applied no more  
25                  stringently than, the processes, strate-

1                   gies, evidentiary standards, or other  
2                   factors used in applying the NQTLs  
3                   to medical and surgical benefits in the  
4                   same classification.

5                   “(iv) DEFINITIONS.—In this para-  
6                   graph and paragraph (7), the terms ‘non-  
7                   quantitative treatment limitations’, ‘com-  
8                   parable to’, and ‘applied no more strin-  
9                   gently than’ have the meanings given such  
10                  terms in sections 146.136 and 147.160 of  
11                  title 45, Code of Federal Regulations (or  
12                  any successor regulation).

13                  “(B) ENFORCEMENT.—

14                  “(i) PROCESS FOR COMPLAINTS.—Not  
15                  later than 6 months after the date of en-  
16                  actment of this paragraph, the Secretary,  
17                  in cooperation with the Secretaries of  
18                  Labor and the Treasury, shall, with re-  
19                  spect to group health plans and health in-  
20                  surance issuers offering group or indi-  
21                  vidual health insurance coverage, issue  
22                  guidance to clarify the process and  
23                  timeline for current and potential partici-  
24                  pants and beneficiaries (and authorized  
25                  representatives and health care providers

1 of such participants and beneficiaries) with  
2 respect to such plans and coverage to file  
3 formal complaints of such plans or issuers  
4 being in violation of this section, including  
5 guidance, by plan type, on the relevant  
6 State, regional, and national offices with  
7 which such complaints should be filed.

8 “(ii) AUDITS.—

9 “(I) RANDOMIZED AUDITS.—Be-  
10 ginning 1 year after the date of enact-  
11 ment of this paragraph, the Secretary,  
12 in cooperation with the Secretaries of  
13 Labor and the Treasury, as applica-  
14 ble, shall conduct randomized audits  
15 of group health plans and health in-  
16 surance issuers offering group or indi-  
17 vidual health insurance coverage to  
18 determine compliance with this sec-  
19 tion. Such audits shall be conducted  
20 on no fewer than 12 plans or cov-  
21 erages per plan year.

22 “(II) ADDITIONAL AUDITS.—Be-  
23 ginning 1 year after the date of enact-  
24 ment of this paragraph, in the case of  
25 a group health plan or health insur-

1           ance issuer offering group or indi-  
2           vidual health insurance coverage with  
3           respect to which any claim has been  
4           filed during a plan year, the Sec-  
5           retary, in cooperation with the Secre-  
6           taries of Labor and the Treasury, as  
7           applicable, may audit the books and  
8           records of such plan or issuer to de-  
9           termine compliance with this section.

10           “(iii) DENIAL RATES.—The Secretary,  
11           in cooperation with the Secretaries of  
12           Labor and the Treasury, shall collect infor-  
13           mation on the rates of and reasons for de-  
14           nial by group health plans and health in-  
15           surance issuers offering group or indi-  
16           vidual health insurance coverage of claims  
17           for outpatient and inpatient mental health  
18           and substance use disorder benefits com-  
19           pared to the rates of and reasons for de-  
20           nial of claims for medical and surgical ben-  
21           efits. For the first plan year that begins on  
22           or after the date that is 2 years after the  
23           date of enactment of this paragraph, and  
24           each subsequent plan year, the Secretary,  
25           in such cooperation, shall submit to the



1           Committee on Energy and Commerce of  
2           the House of Representatives and the  
3           Committee on Health, Education, Labor,  
4           and Pensions of the Senate the informa-  
5           tion collected under the previous sentence  
6           with respect to the previous plan year.

7           “(C) EFFECTIVE DATE.—Any require-  
8           ments of group health plans and health insur-  
9           ance issuers offering group or individual health  
10          insurance coverage that are included in the reg-  
11          ulations issued under subparagraph (A)(i), in-  
12          cluding the requirement described in subpara-  
13          graph (A)(ii) to disclose documents, shall have  
14          an effective date of 1 year after the date of en-  
15          actment of this paragraph.”.

16          (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
17          OF 1974.—Section 712(a) of the Employee Retirement In-  
18          come Security Act of 1974 (29 U.S.C. 1185a(a)) is  
19          amended by adding at the end the following new para-  
20          graph:

21                  “(6) DISCLOSURE AND ENFORCEMENT RE-  
22          QUIREMENTS.—

23                          “(A) DISCLOSURE REQUIREMENTS.—

24                                  “(i) REGULATIONS.—Not later than 6  
25                                  months after the date of enactment of this

1 paragraph, the Secretary, in cooperation  
2 with the Secretaries of Health and Human  
3 Services and the Treasury, shall issue reg-  
4 ulations for carrying out this section, in-  
5 cluding an explanation of documents that a  
6 group health plan (or health insurance  
7 issuer offering health insurance coverage in  
8 connection with such a plan) shall disclose  
9 in accordance with clause (ii), the process  
10 governing the disclosure of such docu-  
11 ments, and analyses that such plans and  
12 issuers shall conduct in order to dem-  
13 onstrate compliance with this section.

14 “(ii) DISCLOSURE REQUIREMENTS.—

15 The documents required to be disclosed by  
16 a group health plan (or a health insurance  
17 issuer offering health insurance coverage in  
18 connection with such a plan) under clause  
19 (i) shall include an annual report that de-  
20 tails the specific analyses performed to en-  
21 sure compliance of such plan or issuer with  
22 this section, including any regulation pro-  
23 mulgated pursuant to this section. At a  
24 minimum, with respect to the application  
25 of nonquantitative treatment limitations

1 (in this paragraph referred to as ‘NQTLs’)  
2 to benefits under the plan or coverage,  
3 such report shall—

4 “(I) identify the specific factors  
5 the plan or issuer used in performing  
6 its NQTLs analysis;

7 “(II) identify and define the spe-  
8 cific evidentiary standards relied on to  
9 evaluate such factors;

10 “(III) describe how the evi-  
11 dentiary standards are applied to each  
12 service category for mental health  
13 benefits, substance use disorder bene-  
14 fits, medical benefits, and surgical  
15 benefits;

16 “(IV) disclose the results of the  
17 analyses of the specific evidentiary  
18 standards in each service category;  
19 and

20 “(V) disclose the specific findings  
21 of the plan or issuer in each service  
22 category and the conclusions reached  
23 with respect to whether the processes,  
24 strategies, evidentiary standards, or  
25 other factors used in applying the

1 NQTLs to mental health or substance  
2 use disorder benefits are comparable  
3 to, and applied no more stringently  
4 than, the processes, strategies, evi-  
5 dentiary standards, or other factors  
6 used in applying the NQTLs to med-  
7 ical and surgical benefits in the same  
8 classification.

9 “(iii) GUIDANCE.—Not later than 6  
10 months after the date of enactment of this  
11 paragraph, the Secretary, in cooperation  
12 with the Secretaries of Health and Human  
13 Services and the Treasury, shall issue  
14 guidance to group health plans (and health  
15 insurance issuers offering health insurance  
16 coverage in connection with such plans) on  
17 how to satisfy the requirements of this sec-  
18 tion, with respect to making information  
19 available to current and potential partici-  
20 pants and beneficiaries. Such information  
21 shall include—

22 “(I) certificate of coverage docu-  
23 ments and instruments under which  
24 the plan or coverage involved is ad-  
25 ministered and operated that specify,

1 include, or refer to procedures, for-  
2 mulas, and methodologies applied to  
3 determine a participant’s or bene-  
4 ficiary’s benefit under the plan or cov-  
5 erage, regardless of whether such in-  
6 formation is contained in a document  
7 designated as the ‘plan document’;  
8 and

9 “(II) a disclosure of how the plan  
10 or issuer involved has provided that  
11 processes, strategies, evidentiary stan-  
12 dards, and other factors used in ap-  
13 plying the NQTLs to mental health or  
14 substance use disorder benefits are  
15 comparable to, and applied no more  
16 stringently than, the processes, strate-  
17 gies, evidentiary standards, or other  
18 factors used in applying the NQTLs  
19 to medical and surgical benefits in the  
20 same classification.

21 “(iv) DEFINITIONS.—In this para-  
22 graph, the terms ‘nonquantitative treat-  
23 ment limitations’, ‘comparable to’, and ‘ap-  
24 plied no more stringently than’ have the  
25 meanings given such terms in sections

1 146.136 and 147.160 of title 45, Code of  
2 Federal Regulations (or any successor reg-  
3 ulation).

4 “(B) ENFORCEMENT.—

5 “(i) PROCESS FOR COMPLAINTS.—Not  
6 later than 6 months after the date of en-  
7 actment of this paragraph, the Secretary,  
8 in cooperation with the Secretaries of  
9 Health and Human Services and the  
10 Treasury, shall, with respect to group  
11 health plans (and health insurance issuers  
12 offering health insurance coverage in con-  
13 nection with such plans), issue guidance to  
14 clarify the process and timeline for current  
15 and potential participants and beneficiaries  
16 (and authorized representatives and health  
17 care providers of such participants and  
18 beneficiaries) with respect to such plans  
19 and coverage to file formal complaints of  
20 such plans or issuers being in violation of  
21 this section, including guidance, by plan  
22 type, on the relevant State, regional, and  
23 national offices with which such complaints  
24 should be filed.

25 “(ii) AUDITS.—

1           “(I) RANDOMIZED AUDITS.—Be-  
2           ginning 1 year after the date of enact-  
3           ment of this paragraph, the Secretary,  
4           in cooperation with the Secretaries of  
5           Health and Human Services and the  
6           Treasury, as applicable, shall conduct  
7           randomized audits of group health  
8           plans (and health insurance issuers  
9           offering health insurance coverage in  
10          connection with such plans) to deter-  
11          mine compliance with this section.  
12          Such audits shall be conducted on no  
13          fewer than 12 plans or coverages per  
14          plan year.

15           “(II) ADDITIONAL AUDITS.—Be-  
16          ginning 1 year after the date of enact-  
17          ment of this paragraph, in the case of  
18          a group health plan (or health insur-  
19          ance issuer offering health insurance  
20          coverage in connection with such a  
21          plan) with respect to which any claim  
22          has been filed during a plan year, the  
23          Secretary, in cooperation with the  
24          Secretaries of Health and Human  
25          Services and the Treasury, as applica-

1                   ble, may audit the books and records  
2                   of such plan or issuer to determine  
3                   compliance with this section.

4                   “(iii) DENIAL RATES.—The Secretary,  
5                   in cooperation with the Secretaries of  
6                   Health and Human Services and the  
7                   Treasury, shall collect information on the  
8                   rates of and reasons for denial by group  
9                   health plans (and health insurance issuers  
10                  offering health insurance coverage in con-  
11                  nection with such plans) of claims for out-  
12                  patient and inpatient mental health and  
13                  substance use disorder benefits compared  
14                  to the rates of and reasons for denial of  
15                  claims for medical and surgical benefits.  
16                  For the first plan year that begins on or  
17                  after the date that is 2 years after the date  
18                  of enactment of this paragraph, and each  
19                  subsequent plan year, the Secretary, in  
20                  such cooperation, shall submit to the Com-  
21                  mittee on Energy and Commerce of the  
22                  House of Representatives and the Com-  
23                  mittee on Health, Education, Labor, and  
24                  Pensions of the Senate the information col-



1           lected under the previous sentence with re-  
2           spect to the previous plan year.

3           “(C) EFFECTIVE DATE.—Any require-  
4           ments of group health plans (or health insur-  
5           ance issuers offering health insurance coverage  
6           in connection with such plans) that are included  
7           in the regulations issued under subparagraph  
8           (A)(i), including the requirement described in  
9           subparagraph (A)(ii) to disclose documents,  
10          shall have an effective date of 1 year after the  
11          date of enactment of this paragraph.”.

12          (c) INTERNAL REVENUE CODE OF 1986.—Section  
13          9812(a) of the Internal Revenue Code of 1986 is amended  
14          by adding at the end the following new paragraph:

15                 “(6) DISCLOSURE AND ENFORCEMENT RE-  
16                 QUIREMENTS.—

17                         “(A) DISCLOSURE REQUIREMENTS.—

18                                 “(i) REGULATIONS.—Not later than 6  
19                                 months after the date of enactment of this  
20                                 paragraph, the Secretary, in cooperation  
21                                 with the Secretaries of Health and Human  
22                                 Services and Labor, shall issue regulations  
23                                 for carrying out this section, including an  
24                                 explanation of documents that group  
25                                 health plans shall disclose in accordance

1 with clause (ii), the process governing the  
2 disclosure of such documents, and analyses  
3 that such plans shall conduct in order to  
4 demonstrate compliance with this section.

5 “(ii) DISCLOSURE REQUIREMENTS.—

6 The documents required to be disclosed by  
7 a group health plan under clause (i) shall  
8 include an annual report that details the  
9 specific analyses performed to ensure com-  
10 pliance of such plan with this section, in-  
11 cluding any regulation promulgated pursu-  
12 ant to such section. At a minimum, with  
13 respect to the application of nonquantita-  
14 tive treatment limitations (in this para-  
15 graph referred to as ‘NQTLs’) to benefits  
16 under the plan, such report shall—

17 “(I) identify the specific factors  
18 the plan used in performing its  
19 NQTLs analysis;

20 “(II) identify and define the spe-  
21 cific evidentiary standards relied on to  
22 evaluate such factors;

23 “(III) describe how the evi-  
24 dentiary standards are applied to each  
25 service category for mental health

1 benefits, substance use disorder bene-  
2 fits, medical benefits, and surgical  
3 benefits;

4 “(IV) disclose the results of the  
5 analyses of the specific evidentiary  
6 standards in each service category;  
7 and

8 “(V) disclose the specific findings  
9 of the plan in each service category  
10 and the conclusions reached with re-  
11 spect to whether the processes, strate-  
12 gies, evidentiary standards, or other  
13 factors used in applying the NQTLs  
14 to mental health or substance use dis-  
15 order benefits are comparable to, and  
16 applied no more stringently than, the  
17 processes, strategies, evidentiary stan-  
18 dards, or other factors used in apply-  
19 ing the NQTLs to medical and sur-  
20 gical benefits in the same classifica-  
21 tion.

22 “(iii) GUIDANCE.—Not later than 6  
23 months after the date of enactment of this  
24 paragraph, the Secretary, in cooperation  
25 with the Secretaries of Health and Human

1 Services and Labor, shall issue guidance to  
2 group health plans on how to satisfy the  
3 requirements of this section, with respect  
4 to making information available to current  
5 and potential participants and bene-  
6 ficiaries. Such information shall include—

7 “(I) certificate of coverage docu-  
8 ments and instruments under which  
9 the plan involved is administered and  
10 operated that specify, include, or refer  
11 to procedures, formulas, and meth-  
12 odologies applied to determine a par-  
13 ticipant’s or beneficiary’s benefit  
14 under the plan, regardless of whether  
15 such information is contained in a  
16 document designated as the ‘plan doc-  
17 ument’; and

18 “(II) a disclosure of how the plan  
19 involved has provided that processes,  
20 strategies, evidentiary standards, and  
21 other factors used in applying the  
22 NQTLs to mental health or substance  
23 use disorder benefits are comparable  
24 to, and applied no more stringently  
25 than, the processes, strategies, evi-

1           dentiary standards, or other factors  
2           used in applying the NQTLs to med-  
3           ical and surgical benefits in the same  
4           classification.

5           “(iv) DEFINITIONS.—In this para-  
6           graph, the terms ‘nonquantitative treat-  
7           ment limitations’, ‘comparable to’, and ‘ap-  
8           plied no more stringently than’ have the  
9           meanings given such terms in sections  
10          146.136 and 147.160 of title 45, Code of  
11          Federal Regulations (or any successor reg-  
12          ulation).

13          “(B) ENFORCEMENT.—

14               “(i) PROCESS FOR COMPLAINTS.—Not  
15               later than 6 months after the date of en-  
16               actment of this paragraph, the Secretary,  
17               in cooperation with the Secretaries of  
18               Health and Human Services and Labor,  
19               shall, with respect to group health plans,  
20               issue guidance to clarify the process and  
21               timeline for current and potential partici-  
22               pants and beneficiaries (and authorized  
23               representatives and health care providers  
24               of such participants and beneficiaries) with  
25               respect to such plans to file formal com-

1            plaints of such plans being in violation of  
2            this section, including guidance, by plan  
3            type, on the relevant State, regional, and  
4            national offices with which such complaints  
5            should be filed.

6            “(ii) AUDITS.—

7                    “(I) RANDOMIZED AUDITS.—Be-  
8                    ginning 1 year after the date of enact-  
9                    ment of this paragraph, the Secretary,  
10                   in cooperation with the Secretaries of  
11                   Health and Human Services and  
12                   Labor, as applicable, shall conduct  
13                   randomized audits of group health  
14                   plans to determine compliance with  
15                   this section. Such audits shall be con-  
16                   ducted on no fewer than 12 plans per  
17                   plan year.

18                   “(II) ADDITIONAL AUDITS.—Be-  
19                   ginning 1 year after the date of enact-  
20                   ment of this paragraph, in the case of  
21                   a group health plan with respect to  
22                   which any claim has been filed during  
23                   a plan year, the Secretary, in coopera-  
24                   tion with the Secretaries of Health  
25                   and Human Services and Labor, as

1 applicable, may audit the books and  
2 records of such plan to determine  
3 compliance with this section.

4 “(iii) DENIAL RATES.—The Secretary,  
5 in cooperation with the Secretaries of  
6 Health and Human Services and Labor,  
7 shall collect information on the rates of  
8 and reasons for denial by group health  
9 plans of claims for outpatient and inpa-  
10 tient mental health and substance use dis-  
11 order benefits compared to the rates of  
12 and reasons for denial of claims for med-  
13 ical and surgical benefits. For the first  
14 plan year that begins on or after the date  
15 that is 2 years after the date of enactment  
16 of this paragraph, and each subsequent  
17 plan year, the Secretary, in such coopera-  
18 tion, shall submit to the Committee on En-  
19 ergy and Commerce of the House of Rep-  
20 resentatives and the Committee on Health,  
21 Education, Labor, and Pensions of the  
22 Senate the information collected under the  
23 previous sentence with respect to the pre-  
24 vious plan year.

1           “(C) EFFECTIVE DATE.—Any require-  
2           ments of group health plans that are included  
3           in the regulations issued under subparagraph  
4           (A)(i), including the requirement described in  
5           subparagraph (A)(ii) to disclose documents,  
6           shall have an effective date of 1 year after the  
7           date of enactment of this paragraph.”.

8 **SEC. 3. CONSUMER PARITY UNIT FOR MENTAL HEALTH**  
9                                   **AND SUBSTANCE USE DISORDER PARITY VIO-**  
10                                   **LATIONS.**

11           (a) DEFINITIONS.—In this section:

12                   (1) APPLICABLE STATE AUTHORITY.—The term  
13                   “applicable State authority” has the meaning given  
14                   the term in section 2791 of the Public Health Serv-  
15                   ice Act (42 U.S.C. 300gg–91).

16                   (2) COVERED PLAN.—The term “covered plan”  
17                   means any creditable coverage that is subject to any  
18                   of the mental health parity laws.

19                   (3) CREDITABLE COVERAGE.—The term “cred-  
20                   itable coverage” has the meaning given the term in  
21                   section 2704(c) of the Public Health Service Act (42  
22                   U.S.C. 300gg–3(c)).

23                   (4) MENTAL HEALTH PARITY LAWS.—The term  
24                   “mental health parity laws” means—



1 (A) section 2726 of the Public Health  
2 Service Act (42 U.S.C. 300gg-26);

3 (B) section 712 of the Employee Retirement  
4 Income Security Act of 1974 (29 U.S.C.  
5 1185a);

6 (C) section 9812 of the Internal Revenue  
7 Code of 1986; or

8 (D) any other law that applies the require-  
9 ments under any of the sections described in  
10 subparagraph (A), (B), or (C), or requirements  
11 that are substantially similar to those provided  
12 under any such section, as determined by the  
13 Secretary, to creditable coverage.

14 (5) SECRETARY.—The term “Secretary” means  
15 the Secretary of Health and Human Services.

16 (b) ESTABLISHMENT.—Not later than 6 months after  
17 the date of enactment of this Act, the Secretary, in con-  
18 sultation with the Secretary of Labor, the Secretary of the  
19 Treasury, and the head of any other applicable agency,  
20 shall establish a consumer parity unit with functions that  
21 include—

22 (1) facilitating the centralized collection of,  
23 monitoring of, and response to consumer complaints  
24 regarding violations of mental health parity laws

1 through developing and administering, in accordance  
2 with subsection (d)—

3 (A) a single, toll-free telephone number;  
4 and

5 (B) a public website portal, which may in-  
6 clude enhancing a website portal in existence on  
7 the date of enactment of this Act; and

8 (2) providing information to health care con-  
9 sumers regarding the disclosure requirements and  
10 enforcement under section 2726(a)(8) of the Public  
11 Health Service Act, section 712(a)(6) of the Em-  
12 ployee Retirement Income Security Act of 1974, and  
13 section 9812(a)(6) of the Internal Revenue Code of  
14 1986, as added by section 2.

15 (c) WEBSITE PORTAL.—The Secretary, in consulta-  
16 tion with the Secretary of Labor, the Secretary of the  
17 Treasury, and the head of any other applicable agency,  
18 shall make available on the website portal established  
19 under subsection (b)(1)(B)—

20 (1) any guidance and any reports issued by the  
21 Secretary, the Secretary of Labor, or the Secretary  
22 of the Treasury, under section 2726 of the Public  
23 Health Service Act, section 712 of the Employee Re-  
24 tirement Income Security Act of 1974, or section  
25 9812 of the Internal Revenue Code of 1986, respec-

1 tively, including the amendments to such sections  
2 made by section 2;

3 (2) de-identified information on the results of,  
4 or progress on, any concluded or ongoing audits or  
5 investigations of the Secretary, the Secretary of  
6 Labor, or the Secretary of the Treasury, as applica-  
7 ble, under such section 2726, 712, or 9812, respec-  
8 tively; and

9 (3) any information on rates of or reasons for  
10 denial collected by the Secretary, the Secretary of  
11 Labor, or the Secretary of the Treasury, pursuant to  
12 subsection (a)(8)(B)(iii) of such section 2726, sub-  
13 section (a)(6)(B)(iii) of such section 712, or sub-  
14 section (a)(6)(B)(iii) of such section 9812, respec-  
15 tively.

16 (d) RESPONSE TO CONSUMER COMPLAINTS AND IN-  
17 QUIRIES.—

18 (1) TIMELY RESPONSE TO CONSUMERS.—The  
19 Secretary, in consultation with the Secretary of  
20 Labor, the Secretary of the Treasury, and the head  
21 of any other applicable agency, shall establish rea-  
22 sonable procedures for the consumer parity unit es-  
23 tablished under this section to provide a timely re-  
24 sponse (in writing if appropriate) to consumers re-

1        regarding complaints received by the unit against, or  
2        inquiries concerning, a covered plan, including—

3                (A) steps that have been taken by the ap-  
4                propriate State or Federal enforcement agency  
5                in response to the complaint or inquiry of the  
6                consumer;

7                (B) any responses received by the appro-  
8                priate State or Federal enforcement agency  
9                from the covered plan;

10              (C) any follow-up actions or planned fol-  
11              low-up actions by the appropriate State or Fed-  
12              eral enforcement agency in response to the com-  
13              plaint or inquiry of the consumer; and

14              (D) contact information of the appropriate  
15              enforcement agency for the consumer to follow  
16              up on the complaint or inquiry.

17              (2) **TIMELY RESPONSE TO REGULATORS.**—A  
18              covered plan shall provide a timely response (in writ-  
19              ing if appropriate) to the appropriate State or Fed-  
20              eral enforcement agency having jurisdiction over  
21              such plan concerning a consumer complaint or in-  
22              quiry submitted to the consumer parity unit estab-  
23              lished under this section including—

1 (A) steps that have been taken by the plan  
2 to respond to the complaint or inquiry of the  
3 consumer;

4 (B) any responses received by the plan  
5 from the consumer; and

6 (C) follow-up actions or planned follow-up  
7 actions by the plan in response to the complaint  
8 or inquiry of the consumer.

9 (3) PROVISION OF INFORMATION TO CON-  
10 SUMERS.—

11 (A) IN GENERAL.—A covered plan shall, in  
12 a timely manner, comply with a consumer re-  
13 quest for information in the control or posses-  
14 sion of such covered plan concerning the cov-  
15 erage the consumer obtained from such covered  
16 plan.

17 (B) EXCEPTIONS.—Notwithstanding sub-  
18 paragraph (A), a covered plan, and any agency  
19 or entity having jurisdiction over a covered  
20 plan, may not be required by this paragraph to  
21 make available to the consumer any information  
22 required to be kept confidential by any other  
23 provision of law.

24 (e) REPORTS.—

1           (1) IN GENERAL.—Not later than March 31 of  
2 each year, the Secretary, in consultation with the  
3 Secretary of Labor, the Secretary of the Treasury,  
4 and the head of any other applicable agency, shall  
5 submit a report to Congress on the complaints re-  
6 ceived by the consumer parity unit established under  
7 this section in the prior year regarding covered  
8 plans.

9           (2) CONTENTS.—Each such report shall include  
10 information and analysis about complaint numbers,  
11 complaint types, and, where applicable, information  
12 about the resolution of complaints.

13           (3) CONSUMER PARITY UNIT POSTING.—The  
14 Secretary shall submit such reports to the consumer  
15 parity unit established under this section, and such  
16 unit shall post the reports on the website portal es-  
17 tablished under subsection (b)(1)(B).

18           (f) DATA SHARING.—Subject to any applicable stand-  
19 ards for Federal or State agencies with respect to pro-  
20 tecting personally identifiable information and data secu-  
21 rity and integrity—

22           (1) the consumer parity unit established under  
23 this section shall share consumer complaint informa-  
24 tion with the Secretary, and the head of any other  
25 applicable Federal or State agency; and

1           (2) the Secretary, and the head of any other  
2 applicable Federal or State agency, shall share data  
3 relating to consumer complaints regarding covered  
4 plans with such unit.

5 (g) PRIVACY CONSIDERATIONS.—

6           (1) IN GENERAL.—In carrying out this section,  
7 the consumer parity unit established under this sec-  
8 tion and the Secretary, in consultation with the Sec-  
9 retary of Labor, the Secretary of the Treasury, and  
10 the head of any other applicable agency, shall take  
11 measures to ensure that proprietary, personal, or  
12 confidential consumer information that is protected  
13 from public disclosure under section 552(b) or 552a  
14 of title 5, United States Code, or any other provision  
15 of law, is not made public under this section.

16           (2) EXCEPTIONS.—The consumer parity unit  
17 established under this section may not obtain from  
18 a covered plan any personally identifiable informa-  
19 tion about a consumer from the records of the cov-  
20 ered plan, except—

21           (A) if the records are reasonably described  
22 in a request by the consumer parity unit estab-  
23 lished under this section, and the consumer pro-  
24 vides appropriate permission for the disclosure

1 of such information by the covered plan to such  
2 unit; or

3 (B) as may be specifically permitted or re-  
4 quired under other applicable provisions of law,  
5 including HIPAA privacy and security law as  
6 defined in section 3009(a) of the Public Health  
7 Service Act (42 U.S.C. 300jj–19(a)).

8 (h) COLLABORATION.—

9 (1) AGREEMENTS WITH OTHER AGENCIES.—

10 The Secretary, the Secretary of Labor, the Secretary  
11 of the Treasury, and the head of any other applica-  
12 ble agency, shall enter into a memorandum of under-  
13 standing with any affected Federal regulatory agen-  
14 cy regarding procedures by which any covered plan,  
15 and any other agency having jurisdiction over a cov-  
16 ered plan, shall comply with this section.

17 (2) AGREEMENTS WITH STATES.—To the ex-  
18 tent practicable, an applicable State authority may  
19 receive appropriate complaints from the consumer  
20 parity unit established under this section, if—

21 (A) the applicable State authority has the  
22 functional capacity to receive calls or electronic  
23 reports routed by the unit;

24 (B) the applicable State authority has sat-  
25 isfied any conditions of participation that the



1 unit may establish, including treatment of per-  
2 sonally identifiable information and sharing of  
3 information on complaint resolution or related  
4 compliance procedures and resources; and  
5 (C) participation by the applicable State  
6 authority includes measures necessary to pro-  
7 tect personally identifiable information in ac-  
8 cordance with standards that apply to Federal  
9 agencies with respect to protecting personally  
10 identifiable information and data security and  
11 integrity.

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