

117TH CONGRESS
2D SESSION

H. R. 8512

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to strengthen parity in mental health and substance use disorder benefits.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2022

Ms. PORTER (for herself, Mr. CÁRDENAS, Mr. FITZPATRICK, Mr. TRONE, Mr. DOGGETT, Mr. RASKIN, Ms. BARRAGÁN, Mr. BUTTERFIELD, Mr. MCEACHIN, Mrs. NAPOLITANO, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. DEUTCH, and Ms. KUSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, Ways and Means, and Oversight and Reform, 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

A BILL

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Behavioral Health Cov-
3 erage Transparency Act of 2022”.

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

6 (a) PUBLIC HEALTH SERVICE ACT.—Section
7 2726(a)(8) of the Public Health Service Act (42 U.S.C.
8 300gg–26(a)(8)) is amended—

9 (1) in subparagraph (A), in the matter pre-
10 ceding clause (i)—

11 (A) by inserting “(including entities that
12 provide administrative services in connection
13 with a group health plan, such as third party
14 administrators)” after “insurance coverage”;
15 and

16 (B) by striking “and, beginning 45 days
17 after” and all that follows through “upon re-
18 quest,” and inserting “and submit to the Sec-
19 retary (or the Secretary of Labor or the Sec-
20 retary of the Treasury, as applicable), on an
21 annual basis (and at any other time upon re-
22 quest of the Secretary), and to the applicable
23 State authority upon request,”;

24 (2) in subparagraph (B)—

25 (A) in the heading, by striking “REQUEST”
26 and inserting “REVIEW”;

1 (B) in clause (i)—

2 (i) in the heading, by striking “SUB-
3 MISSION UPON REQUEST” and inserting
4 “IN GENERAL”;

5 (ii) by striking “shall request” and all
6 that follows through “coverage submit”
7 and insert “shall conduct a review of”; and

8 (iii) by striking “shall request not
9 fewer than 20” and inserting “shall con-
10 duct a review of not fewer than 60”;

11 (C) in clause (ii)—

12 (i) in the first sentence, by striking
13 “as requested under clause (i)” and insert-
14 ing “as submitted under such subpara-
15 graph”;

16 (ii) in the first sentence, by striking
17 “to be responsive to the request under
18 clause (i) for” and inserting “to enable”;
19 and

20 (iii) in the second sentence, by strik-
21 ing “, as requested under clause (i)”;

22 (D) in clause (iii)—

23 (i) in subclause (I), by striking “, as
24 requested under clause (i),”; and

- 1 (ii) by adding at the end of subclause
2 (II) the following new sentence: “The pre-
3 ceding sentence shall not apply with re-
4 spect to disclosures made on or after the
5 date of the enactment of this sentence.”;
6 and
7 (E) in clause (iv)—
8 (i) in subclause (I)—
9 (I) by striking “requested under
10 clause (i)” and inserting “reviewed
11 under clause (i)”;
12 (II) by striking “after the final
13 determination by the Secretary de-
14 scribed in clause (iii)(I)(bb)” and in-
15 serting “by the Secretary as described
16 in clause (iii)(I)”;
17 (ii) in subclause (II), by striking “the
18 comparative analyses requested under
19 clause (i)” and inserting “such compara-
20 tive analyses”;
21 (iii) in subclause (III), by striking
22 “the comparative analyses requested under
23 clause (i)” and inserting “such compara-
24 tive analyses”;
25 (iv) in subclause (IV)—

1 (I) by striking “the comparative
2 analyses requested under clause (i)”
3 and inserting “such comparative anal-
4 yses”; and

5 (II) by striking “and” at the end;

6 (v) in subclause (V), by striking the
7 period and inserting a semicolon; and

8 (vi) by adding at the end the fol-
9 lowing:

10 “(VI) the name of each group
11 health plan or health insurance issuer
12 found not to have submitted compara-
13 tive analyses in accordance with sub-
14 paragraph (A);

15 “(VII) the name of each group
16 health plan or health insurance issuer
17 whose comparative analyses were re-
18 viewed under clause (i) and found not
19 to have submitted sufficient informa-
20 tion for the Secretary to review; and

21 “(VIII) the name of any plan or
22 coverage with respect to which a com-
23 plaint has been submitted under sub-
24 paragraph (C) and for which a final
25 review finding has been issued.

1 The requirements of this clause with re-
2 spect to plans or issuers shall also apply to
3 entities that provide administrative services
4 in connection with a group health plan,
5 such as third party administrators, if ap-
6 plicable.”;

7 (3) in subparagraph (C)(i), by striking “re-
8 quested”; and

9 (4) by adding at the end the following new sub-
10 paragraphs:

11 “(D) AUDIT PROCESS.—Beginning 1 year
12 after the date of enactment of this subpara-
13 graph, the Secretary, in cooperation with the
14 Secretaries of Labor and the Treasury, as ap-
15 plicable, shall, in addition to conducting reviews
16 in accordance with subparagraph (B), conduct
17 randomized audits of group health plans, health
18 insurance issuers offering group or individual
19 health insurance coverage, and entities that
20 provide administrative services in connection
21 with a group health plan, such as third party
22 administrators, to determine compliance with
23 this section. Such audits shall be conducted on
24 no fewer than 40 plans or coverages per cal-
25 endar year (not including any reviews con-

1 ducted under such subparagraph). In addition,
2 the Secretary may, in cooperation with the Sec-
3 retaries of Labor and the Treasury, as applica-
4 ble, and in consultation with the Inspector Gen-
5 eral of the Department of Health and Human
6 Services, the Inspector General of the Depart-
7 ment of Labor, and the Inspector General of
8 the Department of the Treasury, as applicable,
9 conduct audits on any such plan or coverage
10 with respect to which a complaint has been sub-
11 mitted under subparagraph (E) to determine
12 compliance with this section.

13 “(E) COMPLAINT PROCESS.—Not later
14 than 6 months after the date of enactment of
15 this subparagraph, the Secretary, in coopera-
16 tion with the Secretary of Labor and the Sec-
17 retary of the Treasury, shall, with respect to
18 group health plans and health insurance issuers
19 offering group or individual health insurance
20 coverage (including entities that provide admin-
21 istrative services in connection with a group
22 health plan, such as third party administra-
23 tors), issue guidance to clarify the process and
24 timeline for current and potential participants
25 and beneficiaries (and authorized representa-

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

8 “(F) COVERAGE DISPARITY INFORMA-
9 TION.—For the first calendar year that begins
10 on or after the date that is 2 years after the
11 date of the enactment of this subparagraph,
12 and for each subsequent calendar year, the Sec-
13 retary, in cooperation with the Secretaries of
14 Labor and the Treasury, shall submit to the
15 Committee on Energy and Commerce of the
16 House of Representatives and the Committee
17 on Health, Education, Labor, and Pensions of
18 the Senate the following information with re-
19 spect to the preceding calendar year:

20 “(i) DENIAL RATES.—Data comparing
21 the rates of and reasons for denial by
22 group health plans and health insurance
23 issuers offering group or individual health
24 insurance coverage (including entities that
25 provide administrative services in connec-

1 tion with a group health plan, such as
2 third party administrators) of claims for
3 mental health benefits, substance use dis-
4 order benefits, and medical and surgical
5 benefits, disaggregated by the following
6 categories:

7 “(I) Inpatient, in-network claims.

8 “(II) Inpatient, out-of-network
9 claims.

10 “(III) Outpatient, in-network
11 claims.

12 “(IV) Outpatient, out-of-network
13 claims.

14 “(V) Emergency services.

15 “(VI) Prescription drug claims.

16 “(ii) NETWORK ADEQUACY DATA.—

17 Data comparing the network adequacy of
18 group health plans and health insurance
19 issuers offering group or individual health
20 insurance coverage (including entities that
21 provide administrative services in connec-
22 tion with a group health plan, such as
23 third party administrators) based on
24 claims for outpatient and inpatient mental
25 health benefits, substance use disorder

1 benefits, and medical and surgical benefits,
2 including out-of-network utilization rates,
3 the number and percentage of in-network
4 providers accepting new patients, and aver-
5 age wait times between receiving initial
6 treatment and diagnosis and follow-up
7 treatment.

8 “(iii) REIMBURSEMENT RATES.—Data
9 comparing the reimbursement rates of
10 group health plans and health insurance
11 issuers offering group or individual health
12 insurance coverage (including entities that
13 provide administrative services in connec-
14 tion with a group health plan, such as
15 third party administrators) for the 10
16 most commonly billed mental health serv-
17 ices, substance use services, and medical
18 and surgical services, each as a percentage
19 of rates payable for such services under
20 title XVIII of the Social Security Act,
21 disaggregated by the following categories:

22 “(I) Inpatient, in-network claims.

23 “(II) Inpatient, out-of-network
24 claims.

1 “(III) Outpatient, in-network
2 claims.

3 “(IV) Outpatient, out-of-network
4 claims.

5 “(V) Emergency services.

6 “(VI) Prescription drug claims.”.

7 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
8 OF 1974.—Section 712(a)(8) of the Employee Retirement
9 Income Security Act of 1974 (29 U.S.C. 1185a(a)(8)) is
10 amended—

11 (1) in subparagraph (A), in the matter pre-
12 ceding clause (i)—

13 (A) by inserting “(including entities that
14 provide administrative services in connection
15 with a group health plan, such as third party
16 administrators)” after “insurance coverage”;
17 and

18 (B) by striking “and, beginning 45 days
19 after” and all that follows through “upon re-
20 quest,” and inserting “and submit to the Sec-
21 retary (or the Secretary of Health and Human
22 Services or the Secretary of the Treasury, as
23 applicable), on an annual basis (and at any
24 other time upon request of the Secretary),”;

25 (2) in subparagraph (B)—

1 (A) in the heading, by striking “REQUEST”
2 and inserting “REVIEW”;

3 (B) in clause (i)—

4 (i) in the heading, by striking “SUB-
5 MISSION UPON REQUEST” and inserting
6 “IN GENERAL”;

7 (ii) by striking “shall request” and all
8 that follows through “coverage submit”
9 and insert “shall conduct a review of”; and

10 (iii) by striking “shall request not
11 fewer than 20” and inserting “shall con-
12 duct a review of not fewer than 60”;

13 (C) in clause (ii)—

14 (i) in the first sentence, by striking
15 “as requested under clause (i)” and insert-
16 ing “as submitted under such subpara-
17 graph”;

18 (ii) in the first sentence, by striking
19 “to be responsive to the request under
20 clause (i) for” and inserting “to enable”;
21 and

22 (iii) in the second sentence, by strik-
23 ing “, as requested under clause (i)”;

24 (D) in clause (iii)—

1 (i) in subclause (I), by striking “, as
2 requested under clause (i),”; and

3 (ii) by adding at the end of subclause
4 (II) the following new sentence: “The pre-
5 ceding sentence shall not apply with re-
6 spect to disclosures made on or after the
7 date of the enactment of this sentence.”;
8 and

9 (E) in clause (iv)—

10 (i) in subclause (I)—

11 (I) by striking “requested under
12 clause (i)” and inserting “reviewed
13 under clause (i)”; and

14 (II) by striking “after the final
15 determination by the Secretary de-
16 scribed in clause (iii)(I)(bb)” and in-
17 serting “by the Secretary as described
18 in clause (iii)(I)”;

19 (ii) in subclause (II), by striking “the
20 comparative analyses requested under
21 clause (i)” and inserting “such compara-
22 tive analyses”;

23 (iii) in subclause (III), by striking
24 “the comparative analyses requested under

1 clause (i)” and inserting “such compara-
2 tive analyses”;

3 (iv) in subclause (IV)—

4 (I) by striking “the comparative
5 analyses requested under clause (i)”
6 and inserting “such comparative anal-
7 yses”; and

8 (II) by striking “and” at the end;

9 (v) in subclause (V), by striking the
10 period and inserting a semicolon; and

11 (vi) by adding at the end the fol-
12 lowing:

13 “(VI) the name of each group
14 health plan or health insurance issuer
15 found not to have submitted compara-
16 tive analyses in accordance with sub-
17 paragraph (A);

18 “(VII) the name of each group
19 health plan or health insurance issuer
20 whose comparative analyses were re-
21 viewed under clause (i) and found not
22 to have submitted sufficient informa-
23 tion for the Secretary to review; and

24 “(VIII) the name of any plan or
25 coverage with respect to which a com-

1 plaint has been submitted under sub-
2 paragraph (C) and for which a final
3 review finding has been issued.

4 The requirements of this clause with re-
5 spect to plans or issuers shall also apply to
6 entities that provide administrative services
7 in connection with a group health plan,
8 such as third party administrators, if ap-
9 plicable.”;

10 (3) in subparagraph (C)(i), by striking “re-
11 quested”; and

12 (4) by adding at the end the following new sub-
13 paragraphs:

14 “(D) AUDIT PROCESS.—Beginning 1 year
15 after the date of enactment of this subpara-
16 graph, the Secretary, in cooperation with the
17 Secretaries of Health and Human Services and
18 the Treasury, as applicable, shall, in addition to
19 conducting reviews in accordance with subpara-
20 graph (B), conduct randomized audits of group
21 health plans, health insurance issuers offering
22 group health insurance coverage, and entities
23 that provide administrative services in connec-
24 tion with a group health plan, such as third
25 party administrators, to determine compliance

1 with this section. Such audits shall be con-
2 ducted on no fewer than 40 plans or coverages
3 per calendar year (not including any reviews
4 conducted under such subparagraph). In addi-
5 tion, the Secretary may, in cooperation with the
6 Secretaries of Health and Human Services and
7 the Treasury, as applicable, and in consultation
8 with the Inspector General of the Department
9 of Health and Human Services, the Inspector
10 General of the Department of Labor, and the
11 Inspector General of the Department of the
12 Treasury, as applicable, conduct audits on any
13 such plan or coverage with respect to which a
14 complaint has been submitted under subpara-
15 graph (E) to determine compliance with this
16 section.

17 “(E) COMPLAINT PROCESS.—Not later
18 than 6 months after the date of enactment of
19 this subparagraph, the Secretary, in coopera-
20 tion with the Secretary of Health and Human
21 Services and the Secretary of the Treasury,
22 shall, with respect to group health plans and
23 health insurance issuers offering group health
24 insurance coverage (including entities that pro-
25 vide administrative services in connection with a

1 group health plan, such as third party adminis-
2 trators), issue guidance to clarify the process
3 and timeline for current and potential partici-
4 pants and beneficiaries (and authorized rep-
5 resentatives and health care providers of such
6 participants and beneficiaries) with respect to
7 such plans and coverage to file formal com-
8 plaints of such plans or issuers being in viola-
9 tion of this section, including guidance, by plan
10 type, on the relevant State, regional, and na-
11 tional offices with which such complaints should
12 be filed.

13 “(F) COVERAGE DISPARITY INFORMA-
14 TION.—For the first calendar year that begins
15 on or after the date that is 2 years after the
16 date of the enactment of this subparagraph,
17 and for each subsequent calendar year, the Sec-
18 retary, in cooperation with the Secretaries of
19 Health and Human Services and the Treasury,
20 shall submit to the Committee on Energy and
21 Commerce of the House of Representatives and
22 the Committee on Health, Education, Labor,
23 and Pensions of the Senate the following infor-
24 mation with respect to the preceding calendar
25 year:

1 “(i) DENIAL RATES.—Data comparing
2 the rates of and reasons for denial by
3 group health plans and health insurance
4 issuers offering group health insurance
5 coverage (including entities that provide
6 administrative services in connection with
7 a group health plan, such as third party
8 administrators) of claims for mental health
9 benefits, substance use disorder benefits,
10 and medical and surgical benefits,
11 disaggregated by the following categories:

12 “(I) Inpatient, in-network claims.

13 “(II) Inpatient, out-of-network
14 claims.

15 “(III) Outpatient, in-network
16 claims.

17 “(IV) Outpatient, out-of-network
18 claims.

19 “(V) Emergency services.

20 “(VI) Prescription drug claims.

21 “(ii) NETWORK ADEQUACY DATA.—
22 Data comparing the network adequacy of
23 group health plans and health insurance
24 issuers offering group health insurance
25 coverage (including entities that provide

1 administrative services in connection with
2 a group health plan, such as third party
3 administrators) based on claims for out-
4 patient and inpatient mental health bene-
5 fits, substance use disorder benefits, and
6 medical and surgical benefits, including
7 out-of-network utilization rates, the num-
8 ber and percentage of in-network providers
9 accepting new patients, and average wait
10 times between receiving initial treatment
11 and diagnosis and follow-up treatment.

12 “(iii) REIMBURSEMENT RATES.—Data
13 comparing the reimbursement rates of
14 group health plans and health insurance
15 issuers offering group health insurance
16 coverage (including entities that provide
17 administrative services in connection with
18 a group health plan, such as third party
19 administrators) for the 10 most commonly
20 billed mental health services, substance use
21 services, and medical and surgical services,
22 each as a percentage of rates payable for
23 such services under title XVIII of the So-
24 cial Security Act, disaggregated by the fol-
25 lowing categories:

1 “(I) Inpatient, in-network claims.

2 “(II) Inpatient, out-of-network
3 claims.

4 “(III) Outpatient, in-network
5 claims.

6 “(IV) Outpatient, out-of-network
7 claims.

8 “(V) Emergency services.

9 “(VI) Prescription drug claims.”.

10 (c) INTERNAL REVENUE CODE OF 1986.—Section
11 9812(a)(8) of the Internal Revenue Code of 1986 is
12 amended—

13 (1) in subparagraph (A), in the matter pre-
14 ceding clause (i)—

15 (A) by inserting “(including entities that
16 provide administrative services in connection
17 with a group health plan, such as third party
18 administrators)” after “In the case of a group
19 health plan”; and

20 (B) by striking “and, beginning 45 days
21 after” and all that follows through “upon re-
22 quest,” and inserting “and submit to the Sec-
23 retary (or the Secretary of Health and Human
24 Services or the Secretary of Labor, as applica-

1 ble), on an annual basis (and at any other time
2 upon request of the Secretary),”;

3 (2) in subparagraph (B)—

4 (A) in the heading, by striking “REQUEST”
5 and inserting “REVIEW”;

6 (B) in clause (i)—

7 (i) in the heading, by striking “SUB-
8 MISSION UPON REQUEST” and inserting
9 “IN GENERAL”;

10 (ii) by striking “shall request” and all
11 that follows through “plan submit” and in-
12 sert “shall conduct a review of”; and

13 (iii) by striking “shall request not
14 fewer than 20” and inserting “shall con-
15 duct a review of not fewer than 60”;

16 (C) in clause (ii)—

17 (i) in the first sentence, by striking
18 “as requested under clause (i)” and insert-
19 ing “as submitted under such subpara-
20 graph”;

21 (ii) in the first sentence, by striking
22 “to be responsive to the request under
23 clause (i) for” and inserting “to enable”;
24 and

1 (iii) in the second sentence, by strik-
2 ing “, as requested under clause (i)”;

3 (D) in clause (iii)—

4 (i) in subclause (I), by striking “, as
5 requested under clause (i),”; and

6 (ii) by adding at the end of subclause
7 (II) the following new sentence: “The pre-
8 ceding sentence shall not apply with re-
9 spect to disclosures made on or after the
10 date of the enactment of this sentence.”;
11 and

12 (E) in clause (iv)—

13 (i) in subclause (I)—

14 (I) by striking “requested under
15 clause (i)” and inserting “reviewed
16 under clause (i)”; and

17 (II) by striking “after the final
18 determination by the Secretary de-
19 scribed in clause (iii)(I)(bb)” and in-
20 sserting “by the Secretary as described
21 in clause (iii)(I)”;

22 (ii) in subclause (II), by striking “the
23 comparative analyses requested under
24 clause (i)” and inserting “such compara-
25 tive analyses”;

1 (iii) in subclause (III), by striking
2 “the comparative analyses requested under
3 clause (i)” and inserting “such compara-
4 tive analyses”;

5 (iv) in subclause (IV)—

6 (I) by striking “the comparative
7 analyses requested under clause (i)”
8 and inserting “such comparative anal-
9 yses”; and

10 (II) by striking “and” at the end;

11 (v) in subclause (V), by striking the
12 period and inserting a semicolon; and

13 (vi) by adding at the end the fol-
14 lowing:

15 “(VI) the name of each group
16 health plan found not to have sub-
17 mitted comparative analyses in ac-
18 cordance with subparagraph (A);

19 “(VII) the name of each group
20 health plan whose comparative anal-
21 yses were reviewed under clause (i)
22 and found not to have submitted suf-
23 ficient information for the Secretary
24 to review; and

1 “(VIII) the name of any plan
2 with respect to which a complaint has
3 been submitted under subparagraph
4 (C) and for which a final review find-
5 ing has been issued.

6 The requirements of this clause with re-
7 spect to plans shall also apply to entities
8 that provide administrative services in con-
9 nection with a group health plan, such as
10 third party administrators, if applicable.”;

11 (3) in subparagraph (C)(i), by striking “re-
12 quested”; and

13 (4) by adding at the end the following new sub-
14 paragraphs:

15 “(D) AUDIT PROCESS.—Beginning 1 year
16 after the date of enactment of this subpara-
17 graph, the Secretary, in cooperation with the
18 Secretaries of Health and Human Services and
19 Labor, as applicable, shall, in addition to con-
20 ducting reviews in accordance with subpara-
21 graph (B), conduct randomized audits of group
22 health plans and entities that provide adminis-
23 trative services in connection with a group
24 health plan, such as third party administrators,
25 to determine compliance with this section. Such

1 audits shall be conducted on no fewer than 40
2 plans per calendar year (not including any re-
3 views conducted under such subparagraph). In
4 addition, the Secretary may, in cooperation with
5 the Secretaries of Health and Human Services
6 and Labor, as applicable, and in consultation
7 with the Inspector General of the Department
8 of Health and Human Services, the Inspector
9 General of the Department of Labor, and the
10 Inspector General of the Department of the
11 Treasury, as applicable, conduct audits on any
12 such plan with respect to which a complaint has
13 been submitted under subparagraph (E) to de-
14 termine compliance with this section.

15 “(E) COMPLAINT PROCESS.—Not later
16 than 6 months after the date of enactment of
17 this subparagraph, the Secretary, in coopera-
18 tion with the Secretary of Health and Human
19 Services and the Secretary of Labor, shall, with
20 respect to group health plans (including entities
21 that provide administrative services in connec-
22 tion with a group health plan, such as third
23 party administrators), issue guidance to clarify
24 the process and timeline for current and poten-
25 tial participants and beneficiaries (and author-

1 ized representatives and health care providers
2 of such participants and beneficiaries) with re-
3 spect to such plans to file formal complaints of
4 such plans being in violation of this section, in-
5 cluding guidance, by plan type, on the relevant
6 State, regional, and national offices with which
7 such complaints should be filed.

8 “(F) COVERAGE DISPARITY INFORMA-
9 TION.—For the first calendar year that begins
10 on or after the date that is 2 years after the
11 date of the enactment of this subparagraph,
12 and for each subsequent calendar year, the Sec-
13 retary, in cooperation with the Secretaries of
14 Health and Human Services and Labor, shall
15 submit to the Committee on Energy and Com-
16 merce of the House of Representatives and the
17 Committee on Health, Education, Labor, and
18 Pensions of the Senate the following informa-
19 tion with respect to the preceding calendar
20 year:

21 “(i) DENIAL RATES.—Data comparing
22 the rates of and reasons for denial by
23 group health plans (including entities that
24 provide administrative services in connec-
25 tion with a group health plan, such as

1 third party administrators) of claims for
2 mental health benefits, substance use dis-
3 order benefits, and medical and surgical
4 benefits, disaggregated by the following
5 categories:

6 “(I) Inpatient, in-network claims.

7 “(II) Inpatient, out-of-network
8 claims.

9 “(III) Outpatient, in-network
10 claims.

11 “(IV) Outpatient, out-of-network
12 claims.

13 “(V) Emergency services.

14 “(VI) Prescription drug claims.

15 “(ii) NETWORK ADEQUACY DATA.—

16 Data comparing the network adequacy of
17 group health plans (including entities that
18 provide administrative services in connec-
19 tion with a group health plan, such as
20 third party administrators) based on
21 claims for outpatient and inpatient mental
22 health benefits, substance use disorder
23 benefits, and medical and surgical benefits,
24 including out-of-network utilization rates,
25 the number and percentage of in-network

1 providers accepting new patients, and aver-
2 age wait times between receiving initial
3 treatment and diagnosis and follow-up
4 treatment.

5 “(iii) REIMBURSEMENT RATES.—Data
6 comparing the reimbursement rates of
7 group health plans (including entities that
8 provide administrative services in connec-
9 tion with a group health plan, such as
10 third party administrators) for the 10
11 most commonly billed mental health serv-
12 ices, substance use services, and medical
13 and surgical services, each as a percentage
14 of rates payable for such services under
15 title XVIII of the Social Security Act,
16 disaggregated by the following categories:

17 “(I) Inpatient, in-network claims.

18 “(II) Inpatient, out-of-network
19 claims.

20 “(III) Outpatient, in-network
21 claims.

22 “(IV) Outpatient, out-of-network
23 claims.

24 “(V) Emergency services.

25 “(VI) Prescription drug claims.”.

1 **SEC. 3. CONSUMER PARITY UNIT FOR MENTAL HEALTH**
2 **AND SUBSTANCE USE DISORDER PARITY VIO-**
3 **LATIONS.**

4 (a) DEFINITIONS.—In this section:

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

9 (2) COVERED PLAN.—The term “covered plan”
10 means any creditable coverage that is subject to any
11 of the mental health parity laws described in para-
12 graph (4).

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

17 (4) MENTAL HEALTH PARITY LAW.—The term
18 “mental health parity law” means—

19 (A) section 2726 of the Public Health
20 Service Act (42 U.S.C. 300gg–26);

21 (B) section 712 of the Employee Retire-
22 ment Income Security Act of 1974 (29 U.S.C.
23 1185a);

24 (C) section 9812 of the Internal Revenue
25 Code of 1986; or

1 (D) any other Federal law that applies the
2 requirements under any of the sections de-
3 scribed in subparagraph (A), (B), or (C), or re-
4 quirements that are substantially similar to the
5 requirements under any such section, as deter-
6 mined by the Secretary, to creditable coverage.

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

9 (6) SPECIFIED COVERED PLAN.—The term
10 “specified covered plan” means a covered plan that
11 is any of the following:

12 (A) A group health plan or group or indi-
13 vidual health insurance coverage (as such terms
14 are defined in section 2791 of the Public
15 Health Service Act (42 U.S.C. 300gg–91)).

16 (B) A Medicare Advantage plan offered
17 under part C of title XVIII of the Social Secu-
18 rity Act (42 U.S.C. 1395w–21 et seq.).

19 (C) A State plan (or waiver of such plan)
20 under title XIX of the Social Security Act (42
21 U.S.C. 1396 et seq.).

22 (D) A plan offered under the program es-
23 tablished under chapter 89 of title 5, United
24 States Code.

1 (b) ESTABLISHMENT.—Not later than 6 months after
2 the date of enactment of this Act, the Secretary, in con-
3 sultation with the Secretary of Labor, the Secretary of the
4 Treasury, and the heads of any other applicable agencies,
5 shall establish a consumer parity unit with functions that
6 include—

7 (1) facilitating the centralized collection of,
8 monitoring of, and response to consumer complaints
9 (including provider complaints) regarding violations
10 of mental health parity laws through developing and
11 administering, in accordance with subsection (d)—

12 (A) a single, toll-free telephone number;

13 and

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

17 (2) providing information to health care con-
18 sumers regarding the disclosure requirements and
19 enforcement under section 2726(a)(8) of the Public
20 Health Service Act (42 U.S.C. 300gg–26(a)(8)), sec-
21 tion 712(a)(8) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1185a(a)(8)), and
23 section 9812(a)(8) of the Internal Revenue Code of
24 1986.

1 (c) WEBSITE PORTAL.—The Secretary, in consulta-
2 tion with the Secretary of Labor, the Secretary of the
3 Treasury, and the heads of any other applicable agencies,
4 shall make available on the website portal established
5 under subsection (b)(1)(B)—

6 (1) any guidance and any reports issued by the
7 Secretary, the Secretary of Labor, or the Secretary
8 of the Treasury, under section 2726 of the Public
9 Health Service Act (42 U.S.C. 300gg–26), section
10 712 of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1185a), or section 9812 of
12 the Internal Revenue Code of 1986, respectively;

13 (2) any information obtained under subsection
14 (b)(1) that it is in the public interest to disclose,
15 through aggregated reported or other appropriate
16 formats designed to protect confidential information
17 in accordance with subsection (g); and

18 (3) information on the results of, or progress
19 on, any concluded or ongoing audits or investiga-
20 tions of the Secretary, the Secretary of Labor, or the
21 Secretary of the Treasury, as applicable, under such
22 section 2726, 712, or 9812, respectively, including
23 the identity of each group health plan or health in-
24 surance issuer (including entities that provide ad-
25 ministrative services in connection with a group

1 health plan, such as third party administrators)
2 that—

3 (A) was the subject of a concluded audit or
4 investigation; or

5 (B) that is the subject of an ongoing audit
6 or investigation and which was found, pursuant
7 to such audit or investigation, not to have sub-
8 mitted NQTL analyses in accordance with such
9 sections (or to have submitted incomplete
10 NQTL analyses).

11 (d) RESPONSE TO CONSUMER COMPLAINTS AND IN-
12 QUIRIES.—

13 (1) TIMELY RESPONSE TO CONSUMERS.—The
14 Secretary, in consultation with the Secretary of
15 Labor, the Secretary of the Treasury, and the heads
16 of any other applicable agencies, shall establish rea-
17 sonable procedures for the consumer parity unit es-
18 tablished under this section to provide a response (in
19 writing if appropriate) within 90 days to consumers
20 regarding complaints received by the unit against, or
21 inquiries concerning, a covered plan, at the discre-
22 tion of the applicable agency, which shall at min-
23 imum include—

24 (A) steps that have been taken by the ap-
25 propriate State or Federal enforcement agency

1 in response to the complaint or inquiry of the
2 consumer;

3 (B) in the case such complaint relates to
4 a specified covered plan, any responses received
5 by the appropriate State or Federal enforce-
6 ment agency from the covered plan;

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

11 (D) contact information of the appropriate
12 enforcement agency for the consumer to obtain
13 additional information on the complaint or in-
14 quiry.

15 (2) TIMELY RESPONSE TO REGULATORS.—A
16 specified covered plan shall provide a response (in
17 writing if appropriate) within 7 days to the appro-
18 priate State or Federal enforcement agency having
19 jurisdiction over such plan (or, in the case such plan
20 is a State plan (or waiver of such plan) under title
21 XIX of the Social Security Act (42 U.S.C. 1396 et
22 seq.), to the Secretary of Health and Human Serv-
23 ices) concerning a consumer complaint or inquiry
24 submitted to the consumer parity unit established
25 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
12 comply with a consumer request for information
13 in the control or possession of such covered
14 plan concerning the coverage the consumer ob-
15 tained from such covered plan within 7 days of
16 receipt of such request.

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 (4) ENFORCEMENT.—

1 (A) PRIVATE INSURANCE.—The provisions
2 of paragraphs (2) and (3) shall apply to group
3 health plans and group and individual health
4 insurance coverage (as such terms are defined
5 in section 2791 of the Public Health Service
6 Act (42 U.S.C. 300gg–91)) as if such provi-
7 sions were included in part D of title XXVII of
8 such Act (42 U.S.C. 300g–111 et seq.), part 7
9 of title I of the Employee Retirement Act of
10 1974 (29 U.S.C. 1181 et seq.), and chapter
11 100 of the Internal Revenue Code of 1986.

12 (B) OTHER SPECIFIED COVERED PLANS.—

13 (i) MEDICARE ADVANTAGE PLANS.—

14 Section 1852 of the Social Security Act
15 (42 U.S.C. 1395w–22) is amended by add-
16 ing at the end the following new section:

17 “(o) APPLICATION OF CERTAIN MENTAL HEALTH
18 PARITY COMPLAINT REQUIREMENTS.—An MA plan shall
19 comply with the requirements of paragraphs (2) and (3)
20 of section 3(d) of the Behavioral Health Coverage Trans-
21 parency Act of 2022.”.

22 (ii) MEDICAID.—Section 1902(a) of
23 the Social Security Act (42 U.S.C.
24 1396a(a)) is amended—

1 (I) in paragraph (86), by striking
2 “; and” at the end;

3 (II) in paragraph (87)(D), by
4 striking the period and inserting “;
5 and”; and

6 (III) by inserting after paragraph
7 (87) the following new paragraph:

8 “(88) provide for compliance with the provi-
9 sions of paragraphs (2) and (3) of section 3(d) of
10 the Behavioral Health Coverage Transparency Act
11 of 2022.”.

12 (C) OTHER COVERED PLANS.—In the case
13 of a covered plan that is not a specified covered
14 plan, the Federal agency charged with the ad-
15 ministration or supervision of such plan shall
16 ensure that such plan complies with the provi-
17 sions of paragraph (3).

18 (e) REPORTS.—

19 (1) IN GENERAL.—Not later than December 31
20 of each year, the Secretary, in consultation with the
21 Secretary of Labor, the Secretary of the Treasury,
22 and the heads of any other applicable agencies, shall
23 submit a report to Congress on the complaints re-
24 ceived by the consumer parity unit established under

1 this section in the prior year regarding covered
2 plans.

3 (2) CONTENTS.—Each such report shall include
4 information and analysis about complaint numbers,
5 complaint types, and, where applicable, information
6 about the resolution of complaints, including the
7 identity of the group health plan or health insurance
8 issuer that is the subject of such a complaint.

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

14 (f) DATA SHARING.—Subject to any applicable stand-
15 ards for Federal or State agencies with respect to pro-
16 tecting personally identifiable information and data secu-
17 rity and integrity, including the regulations under part 2
18 of title 42, Code of Federal Regulations—

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

23 (2) the Secretary, and the head of any other
24 applicable Federal or State agency, shall share data

1 relating to consumer complaints regarding covered
2 plans with such unit.

3 (g) PRIVACY CONSIDERATIONS.—

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

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

19 (A) if the records are reasonably described
20 in a request by the consumer parity unit estab-
21 lished under this section, and the consumer pro-
22 vides appropriate consent for the disclosure and
23 use of such information by the covered plan to
24 such unit; or

1 (B) as may be specifically permitted or re-
2 quired under other applicable provisions of law,
3 including the regulations under part 2 of title
4 42, Code of Federal Regulations.

5 (h) COLLABORATION.—

6 (1) AGREEMENTS WITH OTHER AGENCIES.—

7 The Secretary, the Secretary of Labor, the Secretary
8 of the Treasury, and the heads of any other applica-
9 ble agencies, shall enter into a memorandum of un-
10 derstanding with any affected Federal regulatory
11 agency regarding procedures by which any covered
12 plan, and any other agency having jurisdiction over
13 a covered plan, shall comply with this section.

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

18 (A) the applicable State authority has the
19 functional capacity to receive calls or electronic
20 reports routed by the unit;

21 (B) the applicable State authority has sat-
22 isfied any conditions of participation that the
23 unit may establish, including treatment of per-
24 sonally identifiable information and sharing of

1 information on complaint resolution or related
2 compliance procedures and resources; and

3 (C) participation by the applicable State
4 authority includes measures necessary to pro-
5 tect personally identifiable information in ac-
6 cordance with standards that apply to Federal
7 agencies with respect to protecting personally
8 identifiable information and data security and
9 integrity.

10 (3) ASSISTANCE TO STATES.—The Secretary,
11 the Secretary of Labor, the Secretary of the Treas-
12 ury, and the heads of any other applicable agencies,
13 shall provide assistance to States to increase the ca-
14 pacity of State governments to work with the Fed-
15 eral parity unit under this section, including through
16 the provision of training and technical assistance,
17 and identification of violations of mental health and
18 substance use disorder parity protections.

19 (i) FUNDING.—

20 (1) INITIAL FUNDING.—There is hereby appro-
21 priated to the Secretary, out of any funds in the
22 Treasury not otherwise appropriated, \$30,000,000
23 for the first fiscal year for which this section applies
24 to carry out this section. Such amount shall remain
25 available until expended.

1 (2) AUTHORIZATION FOR SUBSEQUENT
2 YEARS.—There is authorized to be appropriated to
3 the Secretary for each fiscal year following the fiscal
4 year described in paragraph (1), such sums as may
5 be necessary to carry out this section.

6 **SEC. 4. GRANTS FOR HEALTH INSURANCE INFORMATION**
7 **CONCERNING MENTAL HEALTH AND SUB-**
8 **STANCE USE DISORDER BENEFITS.**

9 (a) IN GENERAL.—The Secretary of Health and
10 Human Services (referred to in this section as the “Sec-
11 retary”) shall award grants to States to enable such
12 States (or the Exchanges established under the Patient
13 Protection and Affordable Care Act (Public Law 111–
14 148) operating in such States) to establish, expand, or
15 provide support for—

16 (1) offices of health insurance consumer assist-
17 ance; or

18 (2) health insurance ombudsman programs,
19 in order to enable such offices and programs to carry out
20 the activities described in subsection (c).

21 (b) ELIGIBILITY.—

22 (1) IN GENERAL.—To be eligible to receive a
23 grant, a State shall designate an independent office
24 of health insurance consumer assistance, or an om-
25 budsman, that, directly or in coordination with State

1 private and public health insurance regulators and
2 consumer assistance organizations, receives and re-
3 sponds to inquiries and complaints concerning health
4 insurance coverage with respect to Federal health in-
5 surance requirements and under State law relating
6 to mental health or substance use disorder benefits.

7 (2) CRITERIA.—A State that receives a grant
8 under this section shall comply with criteria estab-
9 lished by the Secretary for carrying out activities
10 under such grant.

11 (c) USE OF FUNDS.—Funds received from a grant
12 awarded under this section shall be used by an office of
13 health insurance consumer assistance or health insurance
14 ombudsman described in subsection (a) to—

15 (1) assist with the filing of complaints and ap-
16 peals, including filing appeals with the internal ap-
17 peal or grievance process of the group health plan or
18 health insurance issuer, Medicaid program, and
19 Children’s Health Insurance Program involved, re-
20 lating to mental health or substance use disorder
21 benefits, and providing information about the exter-
22 nal appeal process;

23 (2) collect, track, and quantify problems and in-
24 quiries encountered by consumers;

1 (3) educate consumers on their rights and re-
2 responsibilities with respect to group health plans and
3 health insurance coverage, Medicaid, and Children’s
4 Health Insurance Program relating to mental health
5 or substance use disorder benefits;

6 (4) assist consumers with enrollment in a group
7 health plan or health insurance coverage, Medicaid,
8 and the Children’s Health Insurance Program by
9 providing information, referral, and assistance; and

10 (5) assist consumers in resolving problems with
11 obtaining premium tax credits under section 36B of
12 the Internal Revenue Code of 1986 by providing in-
13 formation, referral, and assistance.

14 (d) DATA COLLECTION.—As a condition of receiving
15 a grant under subsection (a), an office of health insurance
16 consumer assistance or ombudsman program shall be re-
17 quired to collect and report data to the Secretary and
18 State public and private health insurance regulators on
19 the types of problems and inquiries encountered by con-
20 sumers relating to mental health or substance use disorder
21 benefits. The Secretary shall utilize such data to identify
22 areas where more enforcement action is necessary and
23 shall share such information with State insurance regu-
24 lators, the Secretary of Labor, and the Secretary of the

1 Treasury for use in the enforcement activities of such
2 agencies.

3 (e) FUNDING.—

4 (1) INITIAL FUNDING.—There is hereby appro-
5 priated to the Secretary, out of any funds in the
6 Treasury not otherwise appropriated, \$25,000,000
7 for the first fiscal year for which this section applies
8 to carry out this section. Such amount shall remain
9 available until expended.

10 (2) AUTHORIZATION FOR SUBSEQUENT
11 YEARS.—There is authorized to be appropriated to
12 the Secretary for each fiscal year following the fiscal
13 year described in paragraph (1), such sums as may
14 be necessary to carry out this section.

○