

HB 1622-FN - AS INTRODUCED

2022 SESSION

22-2725

05/04

HOUSE BILL            ***1622-FN***

AN ACT                relative to mental health parity.

SPONSORS:            Rep. Luneau, Merr. 10; Rep. Bartlett, Merr. 19; Rep. Knirk, Carr. 3; Rep. Ladd,  
Graf. 4; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24

COMMITTEE:          Commerce and Consumer Affairs

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ANALYSIS

This bill requires the insurance department to investigate whether certain insurance carrier conduct violates the federal Mental Health Parity and Addiction Equity Act. The bill also requires that insurance reimbursement rates for behavioral health services be no less extensive than any other type of health care services provided to treat physical illness.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to mental health parity.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Mental Health Parity and Addiction Equity Enforcement. Amend RSA 400-  
2 A by inserting after section 67 the following new subdivision:

3 Mental Health Parity and Addiction Equity Enforcement

4 400-A:68 The Phil Spagnuolo Mental Health Parity and Addiction Equity Enforcement Law.

5 I. It is in the public interest of the citizens and the businesses of the state of New  
6 Hampshire, and to honor the memory of Phil Spagnuolo who helped untold citizens struggling with  
7 addiction through both courageous advocacy and the provision of recovery housing and sober living,  
8 to fully enforce the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and  
9 Addiction Equity Act of 2008, as amended, hereinafter "Wellstone-Domenici Parity Act," to ensure  
10 behavioral health reimbursement rates shall be no less extensive than provided for any other type of  
11 health care for physical illness, and to ensure meaningful access to justice through a full and  
12 adequate complaint process for both consumers and providers.

13 II. The commissioner shall investigate insurance carrier conduct which may violate the  
14 provisions Wellstone-Domenici Parity Act. The commissioner shall conduct an initial assessment of  
15 all complaints and alleged violations of the Wellstone-Domenici Parity Act, refer assessed complaints  
16 to the appropriate authority if the complaints arise under the ERISA plan, fully investigate all  
17 complaints under the Wellstone-Domenici Parity Act within the commissioner's jurisdiction, and  
18 hold hearings relative to such conduct. The commissioner may order restitution for a person or  
19 persons adversely affected by such insurance carrier conduct.

20 III. The commissioner may request the assistance and services of the department of justice  
21 and shall delegate to the department of justice the authority to investigate alleged violations of the  
22 Wellstone-Domenici Parity Act if the insurance department is unable to perform this function or  
23 lacks jurisdiction. The commissioner shall provide the department of justice information relevant to  
24 the number and type of complaints arising under the Wellstone-Domenici Parity Act and the  
25 investigation of such complaints, and shall cooperate with any such investigations or legal  
26 proceedings arising therefrom. The department of justice may request information from the  
27 commissioner regarding complaints, investigations, and referrals arising under the Wellstone-  
28 Domenici Parity Act.

29 IV. The commissioner shall require insurance carriers to submit, and the commissioner shall  
30 make public, annual reports specific to insurance carrier compliance with the Wellstone-Domenici  
31 Parity Act. Such annual reports shall include, at a minimum, insurance carrier processes for

1 determining provider reimbursement rates, determining reasonable access to care, evaluating  
2 benefit array to align with parity requirements, medical necessity criteria used for behavioral health  
3 disorders and determining quantitative treatment limitations, as required by the Wellstone-  
4 Domenici Parity Act.

5 V. Behavioral health reimbursement rates shall be no less extensive than provided for any  
6 other type of health care for physical illness.

7 VI. The commissioner shall establish a mental health parity and addiction equity specific  
8 complaint process for both consumers and providers of mental health and addiction services.

9 2 Coverage for Certain Biologically-Based Mental Illnesses. Amend RSA 417-E:1, II to read as  
10 follows:

11 II. Notwithstanding any other provision of law, each insurer that issues or renews any  
12 policy of accident or health insurance and each nonprofit health service corporation under RSA 420-  
13 A and health maintenance organization under RSA 420-B providing benefits for disease or sickness  
14 in the state of New Hampshire shall provide benefits for treatment and diagnosis of certain  
15 biologically-based mental illnesses under the same *rates*, terms and conditions and which are no  
16 less extensive than coverage provided for any other type of health care for physical illness.

17 3 New Hampshire Granite Advantage Health Care Program. Amend RSA 126-AA:2, I(e) to read  
18 as follows:

19 (e) In order to combat the opioid and heroin crisis facing New Hampshire, the  
20 department shall establish behavioral health rates sufficient to ensure access to, and provider  
21 capacity for, all behavioral health services including, as appropriate, establishing specific substance  
22 use disorder services rate cells for inclusion into capitated rates for managed care. *Such*  
23 *behavioral health rates shall be no less extensive than provided for any other type of health*  
24 *care for physical illness. Any person or provider claiming to be aggrieved by a violation of*  
25 *this subparagraph may initiate a civil action against the department in superior court for*  
26 *legal or equitable relief.*

27 4 Effective Date. This act shall take effect upon its passage.

**HB 1622-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to mental health parity.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Insurance Department: \$339,100; DHHS: Indeterminable	Insurance Department: \$344,300; DHHS: Indeterminable	Insurance Department: \$349,400; DHHS: Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Matching federal Medicaid funds.			

**METHODOLOGY:**

This bill requires the NH Insurance Department to fully investigate all complaints relative to the federal Mental Health Parity and Addiction Equity Act. In addition, the bill requires that reimbursement rates for behavioral health services, including those provided under the NH Granite Advantage Health Care Program, be no less extensive than those for health services used to treat physical illness.

The Insurance Department states that in order to meet the bill's requirements, it will need to hire three full-time positions, each starting on July 1, 2022. The estimated costs are as follows:

	FY 2023	FY 2024	FY 2025
Market Conduct Examiner, LG 32			
Salary	\$ 80,100	\$ 81,300	\$ 82,500
Benefits	\$ 37,600	\$ 38,200	\$ 38,800
Other	\$ 3,400	\$ 3,500	\$ 3,500
<i>Position Total</i>	<i>\$ 121,100</i>	<i>\$ 123,000</i>	<i>\$ 124,800</i>
Hearing Officer, LG 31			
Salary	\$ 76,500	\$ 77,600	\$ 78,800
Benefits	\$ 37,300	\$ 37,900	\$ 38,500
Other	\$ 3,400	\$ 3,500	\$ 3,500
<i>Position Total</i>	<i>\$ 117,200</i>	<i>\$ 119,000</i>	<i>\$ 120,800</i>

Consumer Services Representative, LG 26			
Salary	\$ 61,200	\$ 62,100	\$ 63,000
Benefits	\$ 36,200	\$ 36,700	\$ 37,300
Other	\$ 3,400	\$ 3,500	\$ 3,500
<i>Position Total</i>	<i>\$ 100,800</i>	<i>\$ 102,300</i>	<i>\$ 103,800</i>
<b><i>Grand Total</i></b>	<b><i>\$ 339,100</i></b>	<b><i>\$ 344,300</i></b>	<b><i>\$ 349,400</i></b>

The Department states that the bill's impact on insurance premium tax revenue, if any, is indeterminable.

In addition to the above, the bill creates a cause of action to those who claim to be aggrieved by a violation of the provision requiring parity of rates under the NH Granite Advantage Health Care Program. The Department of Health and Human Services states that it already includes parity compliance, analysis, and reporting provisions in its contracts with Medicaid managed care organizations. Despite this, to the extent that the bill results in the Department being court-ordered to increase rates or award monetary damages, the bill may result in an indeterminable increase in state and federal Medicaid expenditures.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Insurance Department