

105TH CONGRESS  
1ST SESSION

# H. R. 621

To provide for parity in the treatment of mental illness.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1997

Mr. STARK (for himself, Mr. McDERMOTT, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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 provide for parity in the treatment of mental illness.

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 “National Mental  
5       Health Parity Act of 1997”.

1 **TITLE I—PARITY FOR TREAT-**  
 2 **MENT OF MENTAL ILLNESS**

3 **SEC. 101. PARITY FOR TREATMENT OF MENTAL ILLNESS.**

4 (a) IN GENERAL.—The Internal Revenue Code of  
 5 1986, as amended by section 401 of the Health Care Port-  
 6 ability and Accountability Act of 1996 (Public Law 104–  
 7 191), is amended by adding at the end the following:

8 **“Subtitle L—Parity For Treatment**  
 9 **Of Mental Illness**

10 **“SEC. 9901. PARITY FOR TREATMENT OF MENTAL ILLNESS.**

11 “(a) IMPOSITION OF TAX.—

12 “(1) HEALTH INSURANCE COVERAGE.—

13 “(A) IN GENERAL.—In the case of any  
 14 health insurance coverage offered by a health  
 15 insurance issuer that fails to meet the standard  
 16 under subsection (c) at any time during a cal-  
 17 endar year, there is hereby imposed a tax equal  
 18 to 25 percent of the premiums received under  
 19 such plan during the calendar year.

20 “(B) LIABILITY FOR TAX.—The tax im-  
 21 posed under subparagraph (A) shall be paid by  
 22 the health insurance issuer.

23 “(2) GROUP HEALTH PLAN.—

24 “(A) IN GENERAL.—In the case of a group  
 25 health plan that fails to meet the standard

1 under subsection (c) at any time during a cal-  
2 endar year, there is hereby imposed a tax equal  
3 to 25 percent of the health coverage expendi-  
4 tures for such calendar year under such plan.

5 “(B) LIABILITY FOR TAX.—The tax im-  
6 posed under subparagraph (A) shall be paid by  
7 the group health plan.

8 “(C) HEALTH COVERAGE EXPENDI-  
9 TURES.—For purposes of this paragraph, the  
10 health coverage expenditures of any group  
11 health plan for any calendar year are the aggre-  
12 gate expenditures for such year for health cov-  
13 erage provided under such plan.

14 “(b) LIMITATION ON IMPOSITION OF TAX.—

15 “(1) FAILURE NOT DISCOVERED EXERCISING  
16 REASONABLE DILIGENCE.—No tax shall be imposed  
17 under this section on any failure to meet the stand-  
18 ard under subsection (c) for which it is established  
19 to the satisfaction of the Secretary that none of the  
20 persons liable for the tax knew, or exercising reason-  
21 able diligence would have known, that such failure  
22 existed.

23 “(2) CERTAIN FAILURES CORRECTED WITHIN  
24 30 DAYS.—No tax shall be imposed under subsection

1 (a) on any failure to meet the standard under sub-  
2 section (c) if—

3 “(A) such failure was due to reasonable  
4 cause and not to willful neglect, and

5 “(B) such failure is corrected during the  
6 30-day period beginning on the first date any  
7 person liable for the tax knew, or exercising  
8 reasonable diligence would have known, that  
9 such failure existed.

10 “(3) WAIVER BY SECRETARY.—In the case of a  
11 failure to meet the standard under subsection (c)  
12 that is due to reasonable cause and not to willful ne-  
13 glect, the Secretary may waive part or all of the tax  
14 imposed by this section to the extent that the pay-  
15 ment of such tax would be excessive relative to the  
16 failure involved.

17 “(c) STANDARD FOR PARITY FOR TREATMENT OF  
18 MENTAL ILLNESS.—

19 “(1) IN GENERAL.—A health insurance issuer  
20 with respect to health insurance coverage that it of-  
21 fers or a group health plan may not impose limita-  
22 tions or financial requirements on the coverage of  
23 benefits provided with respect to mental illness if  
24 similar limitations or requirements are not imposed

1 on coverage for benefits with respect to other condi-  
2 tions.

3 “(2) RULE OF CONSTRUCTION.—Nothing in  
4 paragraph (1) shall be construed as prohibiting a  
5 health insurance issuer with respect to health insur-  
6 ance coverage that it offers or a group health plan  
7 from requiring preadmission screening prior to the  
8 authorization of services covered under the plan or  
9 from applying other limitations that restrict cov-  
10 erage for mental illness to those services that are  
11 medically necessary.

12 “(d) DEFINITIONS.—For purposes of this section:

13 “(1) MENTAL ILLNESS.—The term ‘mental ill-  
14 ness’ means any of the specific psychiatric conditions  
15 described in the American Psychiatric Association’s  
16 ‘Diagnostic and Statistical Manual—Mental Dis-  
17 orders.’

18 “(2) HEALTH INSURANCE COVERAGE.—The  
19 term ‘health insurance coverage’ has the meaning  
20 given such term by section 9805(b)(1).

21 “(3) HEALTH INSURANCE ISSUER.—The term  
22 ‘health insurance issuer’ has the meaning given such  
23 term by section 9805(b)(2).

1 “(4) GROUP HEALTH PLAN.—The term ‘group  
2 health plan’ has the meaning given such term by  
3 section 5000(b)(1).”.

4 (b) CLERICAL AMENDMENT.—The table of subtitles  
5 of such Code is amended by adding at the end the follow-  
6 ing new item:

“Subtitle L. Parity for treatment of mental illness.”

7 **SEC. 102. EFFECTIVE DATE.**

8 The amendment made by section 101 applies—

9 (1) with respect to health insurance coverage,  
10 to a contract, policy, or certificate initiated or re-  
11 newed after December 31, 1998; and

12 (2) with respect to group health plans, to plan  
13 years beginning after December 31, 1998.

14 **TITLE II—MEDICARE MENTAL**  
15 **HEALTH IMPROVEMENT**

16 **SEC. 201. REFERENCES IN TITLE.**

17 Whenever in this title an amendment is expressed in  
18 terms of an amendment to or repeal of a section or other  
19 provision, the reference shall be considered to be made to  
20 that section or other provision of the Social Security Act.

21 **SEC. 202. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.**

22 (a) SERVICES COVERED.—Section 1812(a) (42  
23 U.S.C. 1395d(a)) is amended—

24 (1) by striking “and” at the end of paragraph  
25 (3);

1           (2) by striking the period at the end of para-  
2           graph (4) and inserting “; and”; and

3           (3) by adding at the end the following new  
4           paragraph:

5           “(5) inpatient hospital services furnished pri-  
6           marily for the diagnosis or treatment of mental ill-  
7           ness or substance abuse for up to 60 days during a  
8           year.”.

9           (b) LIMITATION ON COVERAGE.—Section 1812(b)(3)  
10          (42 U.S.C. 1395d(b)) is amended to read as follows:

11           “(3) inpatient hospital services furnished pri-  
12           marily for the diagnosis or treatment of mental ill-  
13           ness or substance abuse that are furnished to the in-  
14           dividual during a year after such services have been  
15           furnished to the individual for a total of 60 days  
16           during the year.”.

17          (c) CONFORMING AMENDMENTS.—(1) Section  
18          1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by insert-  
19          ing “(other than services described in paragraph (5))”  
20          after “inpatient hospital services” the first place it ap-  
21          pears.

22          (2) Section 1812(b)(1) (42 U.S.C. 1395d(b)(1)) is  
23          amended by inserting “(other than services described in  
24          paragraph (3))” after “inpatient hospital services” the  
25          first place it appears.

1       (3) Section 1812 (42 U.S.C. 1395d) is amended by  
2 striking subsection (c).

3       (4) Section 1814(a) (42 U.S.C. 1395f(a)) is amend-  
4 ed—

5           (A) in paragraph (2), by striking subparagraph  
6 (A);

7           (B) in paragraph (3), by striking “(other than  
8 inpatient psychiatric hospital services)”; and

9           (C) by striking paragraph (4).

10       (5) Section 1861 (42 U.S.C. 1395x) is amended by  
11 striking subsection (c).

12       (d) EFFECTIVE DATE; TRANSITION.—The amend-  
13 ments made by this section shall take effect January 1,  
14 1998, except that—

15           (1) an individual who at any time prior to such  
16 date has been furnished inpatient psychiatric hos-  
17 pital services (as defined for purposes of title XVIII  
18 of the Social Security Act as of the date of the en-  
19 actment of this Act) for 190 consecutive days is not  
20 entitled to any services under section 1812(a)(5) (as  
21 added by subsection (a)(3)); and

22           (2) in the case of an individual who is not de-  
23 scribed in paragraph (1) and is receiving inpatient  
24 psychiatric hospital services (as defined for purposes  
25 of title XVIII of the Social Security Act as of the

1 date of the enactment of this Act) on December 31,  
2 1997, for which payment may be made under section  
3 1812 of such Act, the number of days of services for  
4 which the individual is entitled under section  
5 1812(a)(5) (and the number of days applicable  
6 under section 1812(b)(3)) shall be equal to the  
7 greater of 60 or the difference between 190 days  
8 and the number of days of such inpatient psychiatric  
9 hospital services furnished to the individual prior to  
10 January 1, 1998.

11 **SEC. 203. INTENSIVE RESIDENTIAL SERVICES.**

12 (a) COVERAGE UNDER PART A.—Section 1812(a)  
13 (42 U.S.C. 1395d(a)), as amended by section 202(a), is  
14 amended—

15 (1) by striking “and” at the end of paragraph  
16 (4);

17 (2) by striking the period at the end of para-  
18 graph (5) and inserting “; and”; and

19 (3) by adding at the end the following new  
20 paragraph:

21 “(6) intensive residential services (as described  
22 in section 1861(qq)) furnished to an individual for  
23 up to 120 days during any calendar year, except  
24 that such services may be furnished to the individual  
25 for additional days during the year if necessary for

1 the individual to complete a course of treatment to  
2 the extent that the number of days of inpatient hos-  
3 pital services described in paragraph (5) that may be  
4 furnished to the individual during the year (as re-  
5 duced under such paragraph) is not less than 15.”.

6 (b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C.  
7 1395x), as amended by section 146(a) of the Social Secu-  
8 rity Act Amendments of 1994, is amended by adding at  
9 the end the following new subsection:

10 “Intensive Residential Services

11 “(mm)(1) Subject to paragraph (2), the term ‘inten-  
12 sive residential services’ means inpatient services provided  
13 in any of the following facilities:

14 “(A) Residential detoxification centers.

15 “(B) Crisis residential programs or mental ill-  
16 ness residential treatment programs.

17 “(C) Therapeutic family or group treatment  
18 homes.

19 “(D) Residential centers for substance abuse  
20 treatment.

21 “(2) No service may be treated as an intensive resi-  
22 dential service under paragraph (1) unless the facility at  
23 which the service is provided—

1           “(A) is legally authorized to provide such serv-  
2           ice under the law of the State (or under a State reg-  
3           ulatory mechanism provided by State law) in which  
4           the facility is located or is certified to provide such  
5           service by an appropriate accreditation entity ap-  
6           proved by the State in consultation with the Sec-  
7           retary; and

8           “(B) meets such other requirements as the Sec-  
9           retary may impose to assure the quality of the inten-  
10          sive residential services provided.

11          “(3) No service may be treated as an intensive resi-  
12          dential service under paragraph (1) unless the service is  
13          furnished in accordance with standards established by the  
14          Secretary for the management of such services.”.

15               (3) REDUCTION IN DAYS OF COVERAGE FOR IN-  
16          PATIENT SERVICES.—Section 1812(a)(5) and section  
17          1812(b)(3), as amended by section 202, are each  
18          amended by striking the period at the end and in-  
19          serting the following: “, reduced by a number of  
20          days determined by the Secretary so that the actuar-  
21          ial value of providing such number of days of serv-  
22          ices under this paragraph to the individual is equal  
23          to the actuarial value of the days of inpatient resi-  
24          dential services furnished to the individual under  
25          paragraph (6) during the year after such services

1 have been furnished to the individual for 120 days  
2 during the year (rounded to the nearest day).”.

3 (4) AMOUNT OF PAYMENT.—Section 1814 (42  
4 U.S.C. 1395f) is amended—

5 (A) in subsection (b) in the matter preced-  
6 ing paragraph (1), by inserting “other than in-  
7 tensive residential services,” after “hospice  
8 care,”; and

9 (B) by adding at the end the following new  
10 subsection:

11 “Payment for Intensive Residential Services

12 “(m) The amount of payment under this part for in-  
13 tensive residential services under section 1812(a)(6) shall  
14 be equal to—

15 “(1) the lesser of—

16 “(A) the reasonable cost of such services,  
17 as determined under section 1861(v), or

18 “(B) the customary charges with respect to  
19 such services,

20 less the amount a provider may charge as described  
21 in clause (ii) of section 1866(a)(2)(A):

22 “(2) if such services are furnished by a public  
23 provider of services or by another provider which  
24 demonstrates to the satisfaction of the Secretary

1       that a significant portion of its patients are low-in-  
 2       come (and requests that payment be made under  
 3       this clause), free of charge or at nominal charges to  
 4       the public, the amount determined in accordance  
 5       with subsection (b)(2); and

6               “(3) if (and for so long as) the conditions de-  
 7       scribed in subsection (b)(3) are met, the amounts  
 8       determined under the reimbursement system de-  
 9       scribed in such section.”.

10 **SEC. 204. LOWERING COINSURANCE FOR CERTAIN OUT-**  
 11 **PATIENT MENTAL HEALTH AND SUBSTANCE**  
 12 **ABUSE SERVICES.**

13       (a) IN GENERAL.—Section 1833(c) (42 U.S.C.  
 14 1395l(c)) is amended by striking “mental, psychoneurotic,  
 15 and personality disorders” and all that follows through  
 16 “are incurred” and inserting the following: “mental illness  
 17 or substance abuse of an individual who, at the time such  
 18 expenses are incurred, is over 18 years of age, is not an  
 19 inpatient of a hospital, and has received 5 or more sessions  
 20 of such treatment during the calendar year,”.

21       (b) REQUIRING SERVICES TO BE FURNISHED IN AC-  
 22 CORDANCE WITH MANAGEMENT STANDARDS.—Section  
 23 1862(a) (42 U.S.C. 1395y(a)), as amended by section  
 24 156(a)(2)(D) of the Social Security Act Amendments of  
 25 1994, is amended—

1 (1) by striking “or” at the end of paragraph  
2 (14);

3 (2) by striking the period at the end of para-  
4 graph (15) and inserting “; or”; and

5 (3) by inserting after paragraph (15) the fol-  
6 lowing new paragraph:

7 “(16) in the case of any items or services fur-  
8 nished under part B for the treatment of mental ill-  
9 ness or emotional disturbance (including substance  
10 abuse), if the services are not furnished in accord-  
11 ance with standards established by the Secretary for  
12 the management of such services.”.

13 **SEC. 205. INTENSIVE COMMUNITY-BASED SERVICES.**

14 (a) COVERAGE.—

15 (1) IN GENERAL.—Section 1832(a)(2)(J) (42  
16 U.S.C. 1395k(a)(2)(J)) is amended to read as fol-  
17 lows:

18 “(J) intensive community-based services  
19 (as described in section 1861(ff))—

20 “(i) for an unlimited number of days  
21 during any calendar year, in the case of  
22 services described in section 1861(ff)(2)(E)  
23 that are furnished to an individual who is  
24 a seriously mentally ill adult, a seriously  
25 emotionally disturbed child, or an adult or

1 child with serious substance abuse disorder  
2 (as determined in accordance with criteria  
3 established by the Secretary),

4 “(ii) in the case of services described  
5 in section 1861(ff)(2)(C), for up to 180  
6 days during any calendar year, except that  
7 such services may be furnished to the indi-  
8 vidual for a number of additional days dur-  
9 ing the year equal to the difference be-  
10 tween the total number of days of intensive  
11 residential services which the individual  
12 may receive during the year under part A  
13 (as determined under section 1812(a)(6))  
14 and the number of days of such services  
15 which the individual has received during  
16 the year, or

17 “(iii) in the case of any other such  
18 services, for up to 90 days during any cal-  
19 endar year, except that such services may  
20 be furnished to the individual for the num-  
21 ber of additional days during the year de-  
22 scribed in clause (ii).”.

23 (2) REDUCTION IN NUMBER OF DAYS OF IN-

24 TENSIVE RESIDENTIAL SERVICES.—Section

1       1812(a)(6) (42 U.S.C. 1395d(a)(6)), as added by  
2       section 203(a), is amended—

3               (A) by inserting “(A)” before “such serv-  
4       ices”; and

5               (B) by striking the period at the end and  
6       inserting the following: “, and (B) reduced by  
7       a number of days determined by the Secretary  
8       so that the actuarial value of providing such  
9       number of days of services under this para-  
10      graph to the individual is equal to the actuarial  
11      value of the days of intensive community-based  
12      services furnished to the individual under sec-  
13      tion 1832(a)(2)(J) during the year after such  
14      services have been furnished to the individual  
15      for 90 days (or, in the case of services described  
16      in section 1832(a)(2)(J)(ii), for 180 days) dur-  
17      ing the year (rounded to the nearest day).”.

18       (b) SERVICES DESCRIBED.—Section 1861(ff)(2) (42  
19      U.S.C. 1395x(ff)(2)) is amended—

20              (1) in the matter preceding subparagraph (A),  
21      by striking “are—” and inserting “are as follows.”;

22              (2) in subparagraph (C)—

23                      (A) by inserting “behavioral aide services,”  
24      after “nurses”, and

1 (B) by adding at the end the following:

2 “(to the extent authorized under State law)”;

3 (3) by adding “and” at the end of subpara-  
4 graph (G);

5 (4) in subparagraph (H), by striking “, and”  
6 and inserting a period;

7 (5) by redesignating subparagraphs (A) through  
8 (H) as clauses (i) through (viii) and moving such  
9 subparagraphs 2 ems to the right;

10 (6) by inserting before clause (i) (as so redesign-  
11 nated) the following:

12 “(A) Partial hospitalization services con-  
13 sisting of—”;

14 (7) by inserting after clause (viii) (as so redes-  
15 igned) the following new subparagraphs:

16 “(B) Psychiatric rehabilitation services.

17 “(C) Day treatment services for substance  
18 abuse treatment for individuals of any age and for  
19 other mental health services for individuals under 19  
20 years of age.

21 “(D) In-home services.

22 “(E) Case management services, including col-  
23 lateral services designated as such case management  
24 services by the Secretary.

25 “(F) Ambulatory detoxification services.”; and

1 (8) in subparagraph (I)—

2 (A) by striking “such” and inserting  
3 “Such”, and

4 (B) by redesignating such subparagraph as  
5 subparagraph (G).

6 (c) PERMITTING NON-PHYSICIAN PROVIDERS TO SU-  
7 PERVISE INDIVIDUAL PROGRAM OF TREATMENT.—Sec-  
8 tion 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by  
9 inserting after “supervision of a physician” the following:  
10 “(or, to the extent permitted under the law of the State  
11 in which the services are furnished, a non-physician men-  
12 tal health or substance abuse treatment professional)”.

13 (d) REQUIRING SERVICES TO MEET MANAGEMENT  
14 STANDARDS.—Section 1861(ff)(1) (42 U.S.C.  
15 1395x(ff)(1)) is amended by striking the period at the end  
16 and inserting the following: “, but does not include any  
17 item or service that is not furnished in accordance with  
18 standards established by the Secretary for the manage-  
19 ment of such services.”.

20 (e) PROGRAMS ELIGIBLE TO PROVIDE SERVICES.—  
21 Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended  
22 to read as follows:

23 “(3) A program described in this paragraph is a pro-  
24 gram (whether facility-based or freestanding) which is fur-  
25 nished by an entity—

1           “(A) legally authorized to furnish such a pro-  
 2           gram under State law (or the State regulatory mech-  
 3           anism provided by State law) or certified to furnish  
 4           such a program by an appropriate accreditation en-  
 5           tity approved by the State in consultation with the  
 6           Secretary; and

7           “(B) meeting such other requirements as the  
 8           Secretary may impose to assure the quality of the  
 9           intensive community-based services provided.”.

10       (f) WAIVER OF COPAYMENT FOR CASE MANAGE-  
 11       MENT SERVICES FURNISHED TO CERTAIN INDIVID-  
 12       UALS.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as  
 13       amended by section 147(f)(6)(C) of the Social Security  
 14       Act Amendments of 1994, is amended—

15           (1) in subparagraph (B), by striking “or (E)”  
 16           and inserting “(E), or (F)”;

17           (2) by striking “and” at the end of subpara-  
 18           graph (E);

19           (3) by adding “and” at the end of subpara-  
 20           graph (F); and

21           (4) by adding at the end the following new sub-  
 22           paragraph:

23           “(G) with respect to services described in  
 24           section 1832(a)(2)(J)(i), the amount deter-  
 25           mined under subparagraph (B), except that

1           ‘100 percent’ shall be substituted for any ref-  
2           erence in such subparagraph to ‘80 percent’;”.

3           (g) CONFORMING AMENDMENTS.—(1) Section  
4 1835(a)(2)(F) (42 U.S.C. 1395n(a)(2)(F)) is amended—

5           (A) by striking “partial hospitalization” and in-  
6           serting “intensive community-based”; and

7           (B) in clause (ii), by striking “physician” and  
8           inserting “physician (or, to the extent permitted  
9           under the law of the State in which the services are  
10          furnished, a non-physician mental health profes-  
11          sional)”.

12          (2) Section 1861(s)(2)(B) (42 U.S.C.  
13 1395x(s)(2)(B)) is amended by striking “partial hos-  
14 pitalization” and inserting “intensive community-based”.

15          (3) Section 1861(ff) (42 U.S.C. 1395x(ff)) is amend-  
16 ed—

17           (A) in the heading, by striking “Partial Hos-  
18 pitalization” and inserting “Intensive Community-  
19 Based”; and

20           (B) in paragraph (1), by striking “partial hos-  
21 pitalization” and inserting “intensive community-  
22 based”.

23          (4) Section 1866(e)(2) (42 U.S.C. 1395cc(e)(2)) is  
24 amended by striking “partial hospitalization” and insert-  
25 ing “intensive community-based”.

1 **SEC. 206. EFFECTIVE DATE.**

2       The amendments made by this title shall apply to  
3 items and services furnished on or after January 1, 1999.

○