

106TH CONGRESS
1ST SESSION

H. R. 2593

To provide for parity in the treatment of mental illness.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1999

Mr. STARK (for himself, Mr. HINCHEY, Mr. GREEN of Texas, Mr. FROST, Mr. McDERMOTT, Mr. FRANK of Massachusetts, Mr. LANTOS, Mr. WYNN, Ms. PELOSI, Ms. KILPATRICK, Mr. CLYBURN, Mr. SANDERS, Mrs. MORELLA, Ms. DEGETTE, Mr. RODRIGUEZ, Ms. LOFGREN, and Ms. SCHAKOWSKY) 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

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 1999”.

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 is amended by adding at the end the following:

6 **“Subtitle L—Parity for Treatment**
 7 **of Mental Illness**

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

9 “(a) IMPOSITION OF TAX.—

10 “(1) HEALTH INSURANCE COVERAGE.—

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

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

21 “(2) GROUP HEALTH PLAN.—

22 “(A) IN GENERAL.—In the case of a group
 23 health plan that fails to meet the standard
 24 under subsection (c) at any time during a cal-
 25 endar year, there is hereby imposed a tax equal

1 to 25 percent of the health coverage expendi-
2 tures for such calendar year under such plan.

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

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

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

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

21 “(2) CERTAIN FAILURES CORRECTED WITHIN
22 30 DAYS.—No tax shall be imposed under subsection
23 (a) on any failure to meet the standard under sub-
24 section (c) if—

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

3 “(B) such failure is corrected during the
4 30-day period beginning on the first date any
5 person liable for the tax knew, or exercising
6 reasonable diligence would have known, that
7 such failure existed.

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

15 “(c) STANDARD FOR PARITY FOR TREATMENT OF
16 MENTAL ILLNESS.—

17 “(1) IN GENERAL.—A health insurance issuer
18 with respect to health insurance coverage that it of-
19 fers or a group health plan may not impose addi-
20 tional applications, preadmission screenings, or other
21 procedural restrictions for services, nor impose treat-
22 ment limitations or financial requirements on the
23 coverage of benefits provided with respect to mental
24 illness if similar limitations or requirements are not

1 imposed on coverage for benefits with respect to
2 other conditions.

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 to the extent that such
12 preadmission screening and authorization are re-
13 quired for access to other services covered by the
14 issuer or plan.

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

16 “(1) MENTAL ILLNESS.—The term ‘mental ill-
17 ness’ means all of the clinical disorders and person-
18 ality disorders, except for mental retardation, diag-
19 nosed on Axis I or Axis II of the most recent edition
20 of the American Psychiatric Association’s ‘Diag-
21 nostic and Statistical Manual of Mental Disorders’.

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

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

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

7 (b) CLERICAL AMENDMENT.—The table of subtitles
 8 of such Code is amended by adding at the end the fol-
 9 lowing new item:

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

10 **SEC. 102. EFFECTIVE DATE.**

11 The amendment made by section 101 applies—

12 (1) with respect to health insurance coverage,
 13 to a contract, policy, or certificate initiated or re-
 14 newed after December 31, 1999; and

15 (2) with respect to group health plans, to plan
 16 years beginning after December 31, 1999.

17 **TITLE II—MEDICARE MENTAL** 18 **HEALTH IMPROVEMENT**

19 **SEC. 201. REFERENCES IN TITLE.**

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

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

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

4 (1) by striking “and” at the end of paragraph
5 (3);

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

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

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

14 (b) LIMITATION ON COVERAGE.—Section 1812(b)(3)
15 (42 U.S.C. 1395d(b)) is amended to read as follows:

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

22 (c) CONFORMING AMENDMENTS.—(1) Section
23 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by insert-
24 ing “(other than services described in paragraph (5))”
25 after “inpatient hospital services” the first place it ap-
26 pears.

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

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

7 (4) Section 1814(a) (42 U.S.C. 1395f(a)) is
 8 amended—

9 (A) in paragraph (2), by striking subparagraph
 10 (A);

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

13 (C) by striking paragraph (4).

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

16 (d) EFFECTIVE DATE; TRANSITION.—The amend-
 17 ments made by this section shall take effect January 1,
 18 2000, except that—

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

1 (2) in the case of an individual who is not de-
2 scribed in paragraph (1) and is receiving inpatient
3 psychiatric hospital services (as defined for purposes
4 of title XVIII of the Social Security Act as of the
5 date of the enactment of this Act) on December 31,
6 1999, for which payment may be made under section
7 1812 of such Act, the number of days of services
8 for which the individual is entitled under section
9 1812(a)(5) of such Act (and the number of days ap-
10 plicable under section 1812(b)(3) of such Act) shall
11 be equal to the greater of 60 or the difference be-
12 tween 190 days and the number of days of such in-
13 patient psychiatric hospital services furnished to the
14 individual prior to January 1, 2000.

15 **SEC. 203. INTENSIVE RESIDENTIAL SERVICES.**

16 (a) COVERAGE UNDER PART A.—Section 1812(a)
17 (42 U.S.C. 1395d(a)), as amended by section 202(a), is
18 amended—

19 (1) by striking “and” at the end of paragraph
20 (4);

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

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

1 “(6) intensive residential services (as described
2 in section 1861(uu)) furnished to an individual for
3 up to 120 days during any calendar year, except
4 that such services may be furnished to the individual
5 for additional days during the year if necessary for
6 the individual to complete a course of treatment to
7 the extent that the number of days of inpatient hos-
8 pital services described in paragraph (5) that may be
9 furnished to the individual during the year (as re-
10 duced under such paragraph) is not less than 15.”.

11 (b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C.
12 1395x) is amended by adding at the end the following new
13 subsection:

14 “Intensive Residential Services

15 “(uu)(1) Subject to paragraph (2), the term ‘inten-
16 sive residential services’ means inpatient services provided
17 in any of the following facilities:

18 “(A) Residential detoxification centers.

19 “(B) Crisis residential programs or mental ill-
20 ness residential treatment programs.

21 “(C) Therapeutic family or group treatment
22 homes.

23 “(D) Residential centers for substance abuse
24 treatment.

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

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

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

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

18 (3) REDUCTION IN DAYS OF COVERAGE FOR IN-
19 PATIENT SERVICES.—Section 1812(a)(5) and section
20 1812(b)(3), as amended by section 202, are each
21 amended by striking the period at the end and in-
22 serting the following: “, reduced by a number of
23 days determined by the Secretary so that the actu-
24 arial value of providing such number of days of serv-
25 ices under this paragraph to the individual is equal

1 to the actuarial value of the days of inpatient resi-
2 dential services furnished to the individual under
3 paragraph (6) during the year after such services
4 have been furnished to the individual for 120 days
5 during the year (rounded to the nearest day).”.

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

8 (A) in subsection (b) in the matter pre-
9 ceding paragraph (1), by inserting “other than
10 intensive residential services,” after “hospice
11 care,”; and

12 (B) by adding at the end the following new
13 subsection:

14 “Payment for Intensive Residential Services

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

18 “(1) the lesser of—

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

21 “(B) the customary charges with respect to
22 such services,

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

1 “(2) if such services are furnished by a public
 2 provider of services or by another provider which
 3 demonstrates to the satisfaction of the Secretary
 4 that a significant portion of its patients are low-in-
 5 come (and requests that payment be made under
 6 this clause), free of charge or at nominal charges to
 7 the public, the amount determined in accordance
 8 with subsection (b)(2); and

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

13 **SEC. 204. LOWERING COINSURANCE FOR CERTAIN OUT-**
 14 **PATIENT MENTAL HEALTH AND SUBSTANCE**
 15 **ABUSE SERVICES.**

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

1 (b) REQUIRING SERVICES TO BE FURNISHED IN AC-
2 CORDANCE WITH MANAGEMENT STANDARDS.—Section
3 1862(a) (42 U.S.C. 1395y(a)) is amended—

4 (1) by striking “or” at the end of paragraph
5 (20);

6 (2) by striking the period at the end of para-
7 graph (21) and inserting “; or”; and

8 (3) by inserting after paragraph (21) the fol-
9 lowing new paragraph:

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

16 **SEC. 205. EFFECTIVE DATE.**

17 Except as otherwise provided in this title, the amend-
18 ments made by this title shall apply to items and services
19 furnished on or after January 1, 2000.

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