

118TH CONGRESS
2D SESSION

S. 5524

To provide for civil monetary penalties for violations of mental health parity requirements.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2024

Mr. MURPHY (for himself, Ms. SMITH, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for civil monetary penalties for violations of mental health parity requirements.

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 “Parity Enforcement
5 Act of 2024”.

6 **SEC. 2. LIABILITY FOR, ENFORCEMENT OF, AND CIVIL MON-**
7 **ETARY PENALTIES FOR PARITY VIOLATIONS.**

8 (a) PHSA.—

1 (1) IN GENERAL.—Section 2726(a) of the Pub-
 2 lic Health Service Act (42 U.S.C. 300gg–26(a)) is
 3 amended by adding at the end the following:

4 “(9) SERVICE PROVIDER LIABILITY.—In the
 5 case of a violation of this section by a group health
 6 plan or a health insurance issuer offering group or
 7 individual health insurance coverage—

8 “(A) a plan sponsor or a service provider,
 9 including any third-party administrator, man-
 10 aged behavioral health organization, or entity
 11 providing pharmacy benefit management serv-
 12 ices, of such plan or coverage that causes or
 13 contributes to such violation shall also be liable
 14 for such violation; and

15 “(B) the Secretary shall have the discre-
 16 tion to determine the percentage of liability of
 17 between the plan, issuer, sponsor, and service
 18 provider, as applicable.”.

19 (2) ENFORCEMENT.—Section 2723 of the Pub-
 20 lic Health Service Act (42 U.S.C. 300gg–22) is
 21 amended—

22 (A) in subsection (a)—

23 (i) in paragraph (1), by adding at the
 24 end the following: “In the case of the re-
 25 quirements of subsection (a) of section

2726 with respect to parity in mental health and substance use disorder benefits, each State may require that plan sponsors or service providers, including any third-party administrator, managed behavioral health organization, or entity providing pharmacy benefit management services, of such coverage meet such requirements.”; and

(ii) in paragraph (2), by inserting “, plan sponsors, or service providers, including any third-party administrator, managed behavioral health organization, or entity providing pharmacy benefit management services,” after “health insurance issuers”; and

(B) in subsection (b)(3)—

(i) in the heading, by striking “GENETIC INFORMATION” and inserting “GENETIC INFORMATION AND PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS”; and

(ii) in subparagraph (A), by striking “any failure” and all that follows through “in connection with the plan.” and insert-

ing the following: “any failure of a health insurance issuer or a plan sponsor or any participation in such failure by a service provider, including any third-party administrator, managed behavioral health organization, or entity providing pharmacy benefit management services, in connection with a group health plan—

“(i) to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 2702 or section 2701 or 2702(b)(1) with respect to genetic information; or

“(ii) to meet the requirements of subsection (a) of section 2726 with respect to parity in mental health and substance use disorder benefits.”.

(b) ERISA.—

(1) IN GENERAL.—Section 712(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(a)) is amended by adding at the end the following:

“(9) SERVICE PROVIDER LIABILITY.—In the case of a violation of this section by a group health plan or a health insurance issuer offering group health insurance coverage—

“(A) a plan sponsor or a service provider, including any third-party administrator, managed behavioral health organization, or entity providing pharmacy benefit management services, of such plan or coverage that causes or contributes to such violation shall also be liable for such violation; and

“(B) the Secretary shall have the discretion to determine the percentage of liability of between the plan, issuer, sponsor, and service provider, as applicable.”.

(2) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(A) in subsection (a), by striking paragraph (6) and inserting the following:

“(6) by the Secretary to collect any civil penalty under this section”;

(B) in subsection (b)(3)—

(i) by striking “subsections (c)(9) and (a)(6)” and inserting “subsections (c)(9), (c)(10), and (a)(6)”;

(ii) by striking “under subsection (c)(9))” and inserting “under subsections (c)(9) and (c)(10)), and except with re-

1 spect to enforcement by the Secretary of
2 section 712”; and

3 (C) in subsection (c)(10)—

4 (i) in the heading, by striking “USE
5 OF GENETIC INFORMATION” and inserting
6 “USE OF GENETIC INFORMATION AND PAR-
7 ITY IN MENTAL HEALTH AND SUBSTANCE
8 USE DISORDER BENEFITS”; and

9 (ii) in subparagraph (A)—

10 (I) by striking “any plan sponsor
11 of a group health plan” and inserting
12 “any plan sponsor or service provider,
13 including any third-party adminis-
14 trator, managed behavioral health or-
15 ganization, or entity providing phar-
16 macy benefit management services, of
17 a group health plan”; and

18 (II) by striking “for any failure”
19 and all that follows through “in con-
20 nection with the plan.” and inserting
21 the following: “for any failure by such
22 sponsor or issuer, or by participation
23 in such failure by a service provider,
24 in connection with the plan— “

1 “(i) to meet the requirements of sub-
 2 section (a)(1)(F), (b)(3), (c), or (d) of sec-
 3 tion 702 or section 701 or 702(b)(1) with
 4 respect to genetic information; or

5 “(ii) to meet the requirements of sub-
 6 section (a) of section 712 with respect to
 7 parity in mental health and substance use
 8 disorder benefits.”.

9 (c) IRC.—

10 (1) IN GENERAL.—Section 9812(a) of the In-
 11 ternal Revenue Code of 1986 is amended by adding
 12 at the end the following:

13 “(9) SERVICE PROVIDER LIABILITY.—In the
 14 case of a violation of this section by a group health
 15 plan—

16 “(A) a plan sponsor or a service provider,
 17 including any third-party administrator, man-
 18 aged behavioral health organization, or entity
 19 providing pharmacy benefit management serv-
 20 ices, of such plan that causes or contributes to
 21 such violation shall also be liable for such viola-
 22 tion; and

23 “(B) the Secretary shall have the discre-
 24 tion to determine the percentage of liability of

1 between the plan, sponsor, and service provider,
2 as applicable.”.

3 (2) ENFORCEMENT.—Section 4980D of such
4 Code is amended by adding at the end the following
5 new subsection:

6 “(g) APPLICATION TO SERVICE PROVIDERS.—In the
7 case of a failure of a group health plan to meet the re-
8 quirements of section 9812, any reference in this section
9 to such group health plan (and the reference in subsection
10 (e)(1) to the employer) shall be treated as including a ref-
11 erence to any person made liable for such failure by sec-
12 tion 9812(a)(9).”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section (other than the amendments made by sub-
15 paragraphs (A) and (B) of subsection (b)(2)) shall apply
16 with respect to plan years beginning after the date that
17 is 1 year after the date of enactment of this Act.

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