



Rep. Sue Scherer

**Filed: 3/21/2019**

10100HB0466ham001

LRB101 03397 RAB 56512 a

1 AMENDMENT TO HOUSE BILL 466

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 466 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 changing Section 370c.1 as follows:

6 (215 ILCS 5/370c.1)

7 Sec. 370c.1. Mental, emotional, nervous, or substance use  
8 disorder or condition parity.

9 (a) On and after the effective date of this amendatory Act  
10 of the 99th General Assembly, every insurer that amends,  
11 delivers, issues, or renews a group or individual policy of  
12 accident and health insurance or a qualified health plan  
13 offered through the Health Insurance Marketplace in this State  
14 providing coverage for hospital or medical treatment and for  
15 the treatment of mental, emotional, nervous, or substance use  
16 disorders or conditions shall ensure that:

1           (1) the financial requirements applicable to such  
2 mental, emotional, nervous, or substance use disorder or  
3 condition benefits are no more restrictive than the  
4 predominant financial requirements applied to  
5 substantially all hospital and medical benefits covered by  
6 the policy and that there are no separate cost-sharing  
7 requirements that are applicable only with respect to  
8 mental, emotional, nervous, or substance use disorder or  
9 condition benefits; and

10           (2) the treatment limitations applicable to such  
11 mental, emotional, nervous, or substance use disorder or  
12 condition benefits are no more restrictive than the  
13 predominant treatment limitations applied to substantially  
14 all hospital and medical benefits covered by the policy and  
15 that there are no separate treatment limitations that are  
16 applicable only with respect to mental, emotional,  
17 nervous, or substance use disorder or condition benefits.

18           (b) The following provisions shall apply concerning  
19 aggregate lifetime limits:

20           (1) In the case of a group or individual policy of  
21 accident and health insurance or a qualified health plan  
22 offered through the Health Insurance Marketplace amended,  
23 delivered, issued, or renewed in this State on or after the  
24 effective date of this amendatory Act of the 99th General  
25 Assembly that provides coverage for hospital or medical  
26 treatment and for the treatment of mental, emotional,

1 nervous, or substance use disorders or conditions the  
2 following provisions shall apply:

3 (A) if the policy does not include an aggregate  
4 lifetime limit on substantially all hospital and  
5 medical benefits, then the policy may not impose any  
6 aggregate lifetime limit on mental, emotional,  
7 nervous, or substance use disorder or condition  
8 benefits; or

9 (B) if the policy includes an aggregate lifetime  
10 limit on substantially all hospital and medical  
11 benefits (in this subsection referred to as the  
12 "applicable lifetime limit"), then the policy shall  
13 either:

14 (i) apply the applicable lifetime limit both  
15 to the hospital and medical benefits to which it  
16 otherwise would apply and to mental, emotional,  
17 nervous, or substance use disorder or condition  
18 benefits and not distinguish in the application of  
19 the limit between the hospital and medical  
20 benefits and mental, emotional, nervous, or  
21 substance use disorder or condition benefits; or

22 (ii) not include any aggregate lifetime limit  
23 on mental, emotional, nervous, or substance use  
24 disorder or condition benefits that is less than  
25 the applicable lifetime limit.

26 (2) In the case of a policy that is not described in

1 paragraph (1) of subsection (b) of this Section and that  
2 includes no or different aggregate lifetime limits on  
3 different categories of hospital and medical benefits, the  
4 Director shall establish rules under which subparagraph  
5 (B) of paragraph (1) of subsection (b) of this Section is  
6 applied to such policy with respect to mental, emotional,  
7 nervous, or substance use disorder or condition benefits by  
8 substituting for the applicable lifetime limit an average  
9 aggregate lifetime limit that is computed taking into  
10 account the weighted average of the aggregate lifetime  
11 limits applicable to such categories.

12 (c) The following provisions shall apply concerning annual  
13 limits:

14 (1) In the case of a group or individual policy of  
15 accident and health insurance or a qualified health plan  
16 offered through the Health Insurance Marketplace amended,  
17 delivered, issued, or renewed in this State on or after the  
18 effective date of this amendatory Act of the 99th General  
19 Assembly that provides coverage for hospital or medical  
20 treatment and for the treatment of mental, emotional,  
21 nervous, or substance use disorders or conditions the  
22 following provisions shall apply:

23 (A) if the policy does not include an annual limit  
24 on substantially all hospital and medical benefits,  
25 then the policy may not impose any annual limits on  
26 mental, emotional, nervous, or substance use disorder

1 or condition benefits; or

2 (B) if the policy includes an annual limit on  
3 substantially all hospital and medical benefits (in  
4 this subsection referred to as the "applicable annual  
5 limit"), then the policy shall either:

6 (i) apply the applicable annual limit both to  
7 the hospital and medical benefits to which it  
8 otherwise would apply and to mental, emotional,  
9 nervous, or substance use disorder or condition  
10 benefits and not distinguish in the application of  
11 the limit between the hospital and medical  
12 benefits and mental, emotional, nervous, or  
13 substance use disorder or condition benefits; or

14 (ii) not include any annual limit on mental,  
15 emotional, nervous, or substance use disorder or  
16 condition benefits that is less than the  
17 applicable annual limit.

18 (2) In the case of a policy that is not described in  
19 paragraph (1) of subsection (c) of this Section and that  
20 includes no or different annual limits on different  
21 categories of hospital and medical benefits, the Director  
22 shall establish rules under which subparagraph (B) of  
23 paragraph (1) of subsection (c) of this Section is applied  
24 to such policy with respect to mental, emotional, nervous,  
25 or substance use disorder or condition benefits by  
26 substituting for the applicable annual limit an average

1 annual limit that is computed taking into account the  
2 weighted average of the annual limits applicable to such  
3 categories.

4 (d) With respect to mental, emotional, nervous, or  
5 substance use disorders or conditions, an insurer shall use  
6 policies and procedures for the election and placement of  
7 mental, emotional, nervous, or substance use disorder or  
8 condition treatment drugs on their formulary that are no less  
9 favorable to the insured as those policies and procedures the  
10 insurer uses for the selection and placement of drugs for  
11 medical or surgical conditions and shall follow the expedited  
12 coverage determination requirements for substance abuse  
13 treatment drugs set forth in Section 45.2 of the Managed Care  
14 Reform and Patient Rights Act.

15 (e) This Section shall be interpreted in a manner  
16 consistent with all applicable federal parity regulations  
17 including, but not limited to, the Paul Wellstone and Pete  
18 Domenici Mental Health Parity and Addiction Equity Act of 2008,  
19 final regulations issued under the Paul Wellstone and Pete  
20 Domenici Mental Health Parity and Addiction Equity Act of 2008  
21 and final regulations applying the Paul Wellstone and Pete  
22 Domenici Mental Health Parity and Addiction Equity Act of 2008  
23 to Medicaid managed care organizations, the Children's Health  
24 Insurance Program, and alternative benefit plans.

25 (f) The provisions of subsections (b) and (c) of this  
26 Section shall not be interpreted to allow the use of lifetime

1 or annual limits otherwise prohibited by State or federal law.

2 (g) As used in this Section:

3 "Financial requirement" includes deductibles, copayments,  
4 coinsurance, and out-of-pocket maximums, but does not include  
5 an aggregate lifetime limit or an annual limit subject to  
6 subsections (b) and (c).

7 "Mental, emotional, nervous, or substance use disorder or  
8 condition" means a condition or disorder that involves a mental  
9 health condition or substance use disorder that falls under any  
10 of the diagnostic categories listed in the mental and  
11 behavioral disorders chapter of the current edition of the  
12 International Classification of Disease or that is listed in  
13 the most recent version of the Diagnostic and Statistical  
14 Manual of Mental Disorders.

15 "Treatment limitation" includes limits on benefits based  
16 on the frequency of treatment, number of visits, days of  
17 coverage, days in a waiting period, or other similar limits on  
18 the scope or duration of treatment. "Treatment limitation"  
19 includes both quantitative treatment limitations, which are  
20 expressed numerically (such as 50 outpatient visits per year),  
21 and nonquantitative treatment limitations, which otherwise  
22 limit the scope or duration of treatment. A permanent exclusion  
23 of all benefits for a particular condition or disorder shall  
24 not be considered a treatment limitation. "Nonquantitative  
25 treatment" means those limitations as described under federal  
26 regulations (26 CFR 54.9812-1). "Nonquantitative treatment

1 limitations" include, but are not limited to, those limitations  
2 described under federal regulations 26 CFR 54.9812-1, 29 CFR  
3 2590.712, and 45 CFR 146.136.

4 (h) The Department of Insurance shall implement the  
5 following education initiatives:

6 (1) By January 1, 2016, the Department shall develop a  
7 plan for a Consumer Education Campaign on parity. The  
8 Consumer Education Campaign shall focus its efforts  
9 throughout the State and include trainings in the northern,  
10 southern, and central regions of the State, as defined by  
11 the Department, as well as each of the 5 managed care  
12 regions of the State as identified by the Department of  
13 Healthcare and Family Services. Under this Consumer  
14 Education Campaign, the Department shall: (1) by January 1,  
15 2017, provide at least one live training in each region on  
16 parity for consumers and providers and one webinar training  
17 to be posted on the Department website and (2) establish a  
18 consumer hotline to assist consumers in navigating the  
19 parity process by March 1, 2017. By January 1, 2018 the  
20 Department shall issue a report to the General Assembly on  
21 the success of the Consumer Education Campaign, which shall  
22 indicate whether additional training is necessary or would  
23 be recommended.

24 (2) The Department, in coordination with the  
25 Department of Human Services and the Department of  
26 Healthcare and Family Services, shall convene a working



1 group of health care insurance carriers, mental health  
2 advocacy groups, substance abuse patient advocacy groups,  
3 and mental health physician groups for the purpose of  
4 discussing issues related to the treatment and coverage of  
5 mental, emotional, nervous, or substance use disorders or  
6 conditions and compliance with parity obligations under  
7 State and federal law. Compliance shall be measured,  
8 tracked, and shared during the meetings of the working  
9 group. The working group shall meet once before January 1,  
10 2016 and shall meet semiannually thereafter. The  
11 Department shall issue an annual report to the General  
12 Assembly that includes a list of the health care insurance  
13 carriers, mental health advocacy groups, substance abuse  
14 patient advocacy groups, and mental health physician  
15 groups that participated in the working group meetings,  
16 details on the issues and topics covered, and any  
17 legislative recommendations developed by the working  
18 group.

19 (3) Not later than August 1 of each year, the  
20 Department, in conjunction with the Department of  
21 Healthcare and Family Services, shall issue a joint report  
22 to the General Assembly and provide an educational  
23 presentation to the General Assembly. The report and  
24 presentation shall:

25 (A) Cover the methodology the Departments use to  
26 check for compliance with the federal Paul Wellstone

1 and Pete Domenici Mental Health Parity and Addiction  
2 Equity Act of 2008, 42 U.S.C. 18031(j), and any federal  
3 regulations or guidance relating to the compliance and  
4 oversight of the federal Paul Wellstone and Pete  
5 Domenici Mental Health Parity and Addiction Equity Act  
6 of 2008 and 42 U.S.C. 18031(j).

7 (B) Cover the methodology the Departments use to  
8 check for compliance with this Section and Sections  
9 356z.23 and 370c of this Code.

10 (C) Identify market conduct examinations or, in  
11 the case of the Department of Healthcare and Family  
12 Services, audits conducted or completed during the  
13 preceding 12-month period regarding compliance with  
14 parity in mental, emotional, nervous, and substance  
15 use disorder or condition benefits under State and  
16 federal laws and summarize the results of such market  
17 conduct examinations and audits. This shall include:

18 (i) the number of market conduct examinations  
19 and audits initiated and completed;

20 (ii) the benefit classifications examined by  
21 each market conduct examination and audit;

22 (iii) the subject matter of each market  
23 conduct examination and audit, including  
24 quantitative and nonquantitative treatment  
25 limitations; and

26 (iv) a summary of the basis for the final

1 decision rendered in each market conduct  
2 examination and audit.

3 Individually identifiable information shall be  
4 excluded from the reports consistent with federal  
5 privacy protections.

6 (D) Detail any educational or corrective actions  
7 the Departments have taken to ensure compliance with  
8 the federal Paul Wellstone and Pete Domenici Mental  
9 Health Parity and Addiction Equity Act of 2008, 42  
10 U.S.C. 18031(j), this Section, and Sections 356z.23  
11 and 370c of this Code.

12 (E) The report must be written in non-technical,  
13 readily understandable language and shall be made  
14 available to the public by, among such other means as  
15 the Departments find appropriate, posting the report  
16 on the Departments' websites.

17 (i) The Parity Advancement Fund is created as a special  
18 fund in the State treasury. Moneys from fines and penalties  
19 collected from insurers for violations of this Section shall be  
20 deposited into the Fund. Moneys deposited into the Fund for  
21 appropriation by the General Assembly to the Department shall  
22 be used for the purpose of providing financial support of the  
23 Consumer Education Campaign, parity compliance advocacy, and  
24 other initiatives that support parity implementation and  
25 enforcement on behalf of consumers.

26 (j) The Department of Insurance and the Department of

1 Healthcare and Family Services shall convene and provide  
2 technical support to a workgroup of 11 members that shall be  
3 comprised of 3 mental health parity experts recommended by an  
4 organization advocating on behalf of mental health parity  
5 appointed by the President of the Senate; 3 behavioral health  
6 providers recommended by an organization that represents  
7 behavioral health providers appointed by the Speaker of the  
8 House of Representatives; 2 representing Medicaid managed care  
9 organizations recommended by an organization that represents  
10 Medicaid managed care plans appointed by the Minority Leader of  
11 the House of Representatives; 2 representing commercial  
12 insurers recommended by an organization that represents  
13 insurers appointed by the Minority Leader of the Senate; and a  
14 representative of an organization that represents Medicaid  
15 managed care plans appointed by the Governor.

16 The workgroup shall provide recommendations to the General  
17 Assembly on health plan data reporting requirements that  
18 separately break out data on mental, emotional, nervous, or  
19 substance use disorder or condition benefits and data on other  
20 medical benefits, including physical health and related health  
21 services no later than December 31, 2019. The recommendations  
22 to the General Assembly shall be filed with the Clerk of the  
23 House of Representatives and the Secretary of the Senate in  
24 electronic form only, in the manner that the Clerk and the  
25 Secretary shall direct. This workgroup shall take into account  
26 federal requirements and recommendations on mental health

1 parity reporting for the Medicaid program. This workgroup shall  
2 also develop the format and provide any needed definitions for  
3 reporting requirements in subsection (k). The research and  
4 evaluation of the working group shall include, but not be  
5 limited to:

6 (1) claims denials due to benefit limits, if  
7 applicable;

8 (2) administrative denials for no prior authorization;

9 (3) denials due to not meeting medical necessity;

10 (4) denials that went to external review and whether  
11 they were upheld or overturned for medical necessity;

12 (5) out-of-network claims;

13 (6) emergency care claims;

14 (7) network directory providers in the outpatient  
15 benefits classification who filed no claims in the last 6  
16 months, if applicable;

17 (8) the impact of existing and pertinent limitations  
18 and restrictions related to approved services, licensed  
19 providers, reimbursement levels, and reimbursement  
20 methodologies within the Division of Mental Health, the  
21 Division of Substance Use Prevention and Recovery  
22 programs, the Department of Healthcare and Family  
23 Services, and, to the extent possible, federal regulations  
24 and law; and

25 (9) when reporting and publishing should begin.

26 Representatives from the Department of Healthcare and

1 Family Services, representatives from the Division of Mental  
2 Health, and representatives from the Division of Substance Use  
3 Prevention and Recovery shall provide technical advice to the  
4 workgroup.

5 (k) An insurer that amends, delivers, issues, or renews a  
6 group or individual policy of accident and health insurance or  
7 a qualified health plan offered through the health insurance  
8 marketplace in this State providing coverage for hospital or  
9 medical treatment and for the treatment of mental, emotional,  
10 nervous, or substance use disorders or conditions shall submit  
11 an annual report, the format and definitions for which will be  
12 developed by the workgroup in subsection (j), to the  
13 Department, or, with respect to medical assistance, the  
14 Department of Healthcare and Family Services starting on or  
15 before July 1, 2020 that contains the following information  
16 separately for inpatient in-network benefits, inpatient  
17 out-of-network benefits, outpatient in-network benefits,  
18 outpatient out-of-network benefits, emergency care benefits,  
19 and prescription drug benefits in the case of accident and  
20 health insurance or qualified health plans, or inpatient,  
21 outpatient, emergency care, and prescription drug benefits in  
22 the case of medical assistance:

23 (1) A summary of the plan's pharmacy management  
24 processes for mental, emotional, nervous, or substance use  
25 disorder or condition benefits compared to those for other  
26 medical benefits.

1           (2) A summary of the internal processes of review for  
2 experimental benefits and unproven technology for mental,  
3 emotional, nervous, or substance use disorder or condition  
4 benefits and those for other medical benefits.

5           (3) A summary of how the plan's policies and procedures  
6 for utilization management for mental, emotional, nervous,  
7 or substance use disorder or condition benefits compare to  
8 those for other medical benefits.

9           (4) A description of the process used to develop or  
10 select the medical necessity criteria for mental,  
11 emotional, nervous, or substance use disorder or condition  
12 benefits and the process used to develop or select the  
13 medical necessity criteria for medical and surgical  
14 benefits.

15           (5) Identification of all nonquantitative treatment  
16 limitations that are applied to both mental, emotional,  
17 nervous, or substance use disorder or condition benefits  
18 and medical and surgical benefits within each  
19 classification of benefits.

20           (6) The results of an analysis that demonstrates that  
21 for the medical necessity criteria described in  
22 subparagraph (A) and for each nonquantitative treatment  
23 limitation identified in subparagraph (B), as written and  
24 in operation, the processes, strategies, evidentiary  
25 standards, or other factors used in applying the medical  
26 necessity criteria and each nonquantitative treatment

1 limitation to mental, emotional, nervous, or substance use  
2 disorder or condition benefits within each classification  
3 of benefits are comparable to, and are applied no more  
4 stringently than, the processes, strategies, evidentiary  
5 standards, or other factors used in applying the medical  
6 necessity criteria and each nonquantitative treatment  
7 limitation to medical and surgical benefits within the  
8 corresponding classification of benefits; at a minimum,  
9 the results of the analysis shall:

10 (A) identify the factors used to determine that a  
11 nonquantitative treatment limitation applies to a  
12 benefit, including factors that were considered but  
13 rejected;

14 (B) identify and define the specific evidentiary  
15 standards used to define the factors and any other  
16 evidence relied upon in designing each nonquantitative  
17 treatment limitation;

18 (C) provide the comparative analyses, including  
19 the results of the analyses, performed to determine  
20 that the processes and strategies used to design each  
21 nonquantitative treatment limitation, as written, for  
22 mental, emotional, nervous, or substance use disorder  
23 or condition benefits are comparable to, and are  
24 applied no more stringently than, the processes and  
25 strategies used to design each nonquantitative  
26 treatment limitation, as written, for medical and



1 surgical benefits;

2 (D) provide the comparative analyses, including  
3 the results of the analyses, performed to determine  
4 that the processes and strategies used to apply each  
5 nonquantitative treatment limitation, in operation,  
6 for mental, emotional, nervous, or substance use  
7 disorder or condition benefits are comparable to, and  
8 applied no more stringently than, the processes or  
9 strategies used to apply each nonquantitative  
10 treatment limitation, in operation, for medical and  
11 surgical benefits; and

12 (E) disclose the specific findings and conclusions  
13 reached by the insurer that the results of the analyses  
14 described in subparagraphs (C) and (D) indicate that  
15 the insurer is in compliance with this Section and the  
16 Mental Health Parity and Addiction Equity Act of 2008  
17 and its implementing regulations, which includes 42  
18 CFR Parts 438, 440, and 457 and 45 CFR 146.136 and any  
19 other related federal regulations found in the Code of  
20 Federal Regulations.

21 (7) Any other information necessary to clarify data  
22 provided in accordance with this Section requested by the  
23 Director, including information that may be proprietary or  
24 have commercial value, under the requirements of Section 30  
25 of the Viatical Settlements Act of 2009.

26 (1) An insurer that amends, delivers, issues, or renews a

1 group or individual policy of accident and health insurance or  
2 a qualified health plan offered through the health insurance  
3 marketplace in this State providing coverage for hospital or  
4 medical treatment and for the treatment of mental, emotional,  
5 nervous, or substance use disorders or conditions on or after  
6 the effective date of this amendatory Act of the 100th General  
7 Assembly shall, in advance of the plan year, make available to  
8 the Department or, with respect to medical assistance, the  
9 Department of Healthcare and Family Services and to all plan  
10 participants and beneficiaries the information required in  
11 subparagraphs (C) through (E) of paragraph (6) of subsection  
12 (k). For plan participants and medical assistance  
13 beneficiaries, the information required in subparagraphs (C)  
14 through (E) of paragraph (6) of subsection (k) shall be made  
15 available on a publicly-available website whose web address is  
16 prominently displayed in plan and managed care organization  
17 informational and marketing materials.

18 (m) In conjunction with its compliance examination program  
19 conducted in accordance with the Illinois State Auditing Act,  
20 the Auditor General shall undertake a review of compliance by  
21 the Department and the Department of Healthcare and Family  
22 Services with Section 370c and this Section. Any findings  
23 resulting from the review conducted under this Section shall be  
24 included in the applicable State agency's compliance  
25 examination report. Each compliance examination report shall  
26 be issued in accordance with Section 3-14 of the Illinois State

1 Auditing Act. A copy of each report shall also be delivered to  
2 the head of the applicable State agency and posted on the  
3 Auditor General's website.

4 (n) A policy of accident and health insurance amended,  
5 delivered, issued, or renewed on or after the effective date of  
6 this amendatory Act of the 101st General Assembly shall provide  
7 coverage for treatment of substance use disorders or conditions  
8 that is, at a minimum, equivalent to the coverage provided  
9 under Article V of the Illinois Public Aid Code.

10 (Source: P.A. 99-480, eff. 9-9-15; 100-1024, eff. 1-1-19.)".