



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4475

Introduced 1/17/2024, by Rep. Lindsey LaPointe

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.55 new
215 ILCS 5/370c.3 new

Amends the Illinois Insurance Code. Provides that the amendatory Act may be referred to as the Strengthening Mental Health and Substance Use Parity Act. Provides that a group or individual policy of accident and health insurance or managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2025, or any third-party administrator administering the behavioral health benefits for the insurer, shall cover all out-of-network medically necessary mental health and substance use benefits and services (inpatient and outpatient) as if they were in-network for purposes of cost sharing for the insured. Provides that the insured has the right to select the provider or facility of their choice and the modality, whether the care is provided via in-person visit or telehealth, for medically necessary care. Sets forth minimum reimbursement rates for certain behavioral health benefits. Sets forth provisions concerning responsibility for compliance with parity requirements; coverage and payment for multiple covered mental health and substance use services, mental health or substance use services provided under the supervision of a licensed mental health or substance treatment provider, and 60-minute individual psychotherapy; timely credentialing of mental health and substance use providers; Department of Insurance enforcement and rulemaking; civil penalties; and other matters. Amends the Illinois Administrative Procedure Act to authorize emergency rulemaking. Effective immediately.

LRB103 36234 RPS 66329 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the
5 Strengthening Mental Health and Substance Use Parity Act.

6 Section 2. Purpose. The purpose of this Act is to improve
7 mental health and substance use parity, specifically
8 addressing network adequacy and nonquantitative treatment
9 limitations that restrict access to care.

10 Section 3. Findings. The General Assembly finds that:

11 (1) A 2021 U.S. Surgeon General Advisory, Protecting Youth
12 Mental Health, reported the COVID-19 pandemic's devastating
13 impact on youth and family mental health:

14 (A) One in 3 high school students reported persistent
15 feelings of hopelessness and sadness in 2019.

16 (B) Rates of depression and anxiety for youth doubled
17 during the pandemic.

18 (C) Black children under 13 are nearly twice as likely
19 to die by suicide than white children.

20 (2) According to a bipartisan U.S. Senate Finance
21 Committee report on Mental Health Care in the United States,
22 symptoms for depression and anxiety in adults increased nearly

1 four-fold during the pandemic.

2 (3) In 2020, 2,944 Illinoisans lost their lives to an
3 opioid overdose according to the Illinois Department of Public
4 Health.

5 (4) Discriminatory commercial insurance practices that do
6 not live up to the federal Mental Health Parity and Addiction
7 Equity Act (MHPAEA) and Illinois' parity laws, specifically
8 regarding insurance network adequacy, severely limit access to
9 care.

10 (5) Commercial insurance practices disincentivize mental
11 health and substance use treatment providers from
12 participating in insurance networks by erecting significant
13 administrative barriers and by reimbursing providers far below
14 the reimbursement of other health care providers despite a
15 behavioral health workforce crisis.

16 (A) Such practices lead to restrictive, narrow
17 insurance networks that restrict access care.

18 (B) 26% of psychiatrists do not participate in
19 insurance networks, according to a report in JAMA
20 Psychiatry.

21 (C) 21% of psychologists do not participate in
22 insurance networks, according to a 2015 American
23 Psychological Association Survey.

24 (D) A significant percentage of behavioral health
25 providers do not contract with insurers, leaving patients
26 to see out-of-network providers.

1 (E) Out-of-network treatment is far more expensive for
2 the patient than in-network care.

3 (F) Mental health and substance use treatment is
4 inaccessible and unaffordable for millions of Illinoisans
5 for these reasons.

6 (6) A recent Milliman report analyzing insurance claims
7 for 37,000,000 Americans, including Illinois residents, found
8 major disparities in out-of-network utilization for behavioral
9 health compared to other health care. The report's findings
10 include:

11 (A) Illinois out-of-network behavioral health
12 utilization was 18.2% for outpatient services in 2017
13 compared to just 3.9% for medical/surgical services.

14 (B) Illinois out-of-network behavioral health
15 utilization was 12.1% in 2017 for inpatient care compared
16 to just 2.8% for medical/surgical.

17 (C) The disparity between out-of-network usage for
18 behavioral health compared to medical/surgical services
19 grew significantly between 2013 and 2017: Out-of-network
20 behavioral health utilization for outpatient visits grew
21 by 44%, while out-of-network utilization for
22 medical/surgical services decreased by 42% over the same
23 period in Illinois.

24 (D) Nearly 14% of behavioral health office visits for
25 individuals with a preferred provider organization plan
26 were out-of-network in Illinois.

1 (7) Mental health and substance use care, which represents
2 just 5.2% of all health care spending, does not drive up
3 premiums.

4 (8) Improved access to behavioral health care is expected
5 to reduce overall health care spending because:

6 (A) spending on physical health care is 2 to 3 times
7 higher for patients with ongoing mental health and
8 substance use diagnoses, according to a 2018 Milliman
9 research report; and

10 (B) improved utilization of mental health services has
11 been demonstrated empirically to reduce overall health
12 care spending (Biu, Yoon, & Hines, 2021).

13 (9) Illinois must strengthen its parity laws to prevent
14 insurance practices that restrict access to mental health and
15 substance use care.

16 Section 5. The Illinois Administrative Procedure Act is
17 amended by adding Section 5-45.55 as follows:

18 (5 ILCS 100/5-45.55 new)

19 Sec. 5-45.55. Emergency rulemaking; this amendatory Act of
20 the 103rd General Assembly. To provide for the expeditious and
21 timely implementation of this amendatory Act of the 103rd
22 General Assembly, emergency rules implementing Section 370c.3
23 of the Illinois Insurance Code may be adopted in accordance
24 with Section 5-45 by the Department of Insurance. The adoption

1 of emergency rules authorized by Section 5-45 and this Section
2 is deemed to be necessary for the public interest, safety, and
3 welfare.

4 This Section is repealed one year after the effective date
5 of this amendatory Act of the 103rd General Assembly.

6 Section 10. The Illinois Insurance Code is amended by
7 adding Section 370c.3 as follows:

8 (215 ILCS 5/370c.3 new)

9 Sec. 370c.3. Mental health and substance use parity.

10 (a) Definitions. In this Section:

11 "Applicant" means a psychiatrist licensed to practice
12 medicine in all its branches, licensed clinical psychologist,
13 licensed clinical social worker, licensed clinical
14 professional counselor, licensed marriage and family
15 therapist, licensed speech-language pathologist, or other
16 licensed or certified professional at a program licensed
17 pursuant to the Substance Use Disorder Act who is engaged in
18 treating mental, emotional, nervous, or substance use
19 disorders or conditions and who submits an application to
20 become a participating provider in the insurer's network.

21 "Applicant" includes a person who is provisionally licensed.

22 "Application" means an applicant's application to become
23 credentialed by an insurer as a participating provider in at
24 least one of the insurer's provider networks.

1 "Credentialing" or "credential" means the process by which
2 an insurer, a third-party administrator administering the
3 behavioral health benefits for the insurer, or a designee
4 collects information concerning an applicant; assesses whether
5 the applicant satisfies the relevant licensing, education, and
6 training requirements to become a participating provider;
7 verifies the assessment; approves or disapproves the
8 applicant's application; and, for purposes of a group
9 practice, rosters providers.

10 "Designee" means a third party to which an insurer, or a
11 third-party administrator administering the behavioral health
12 benefits for the insurer, delegates or contracts for
13 activities for responsibilities pertaining to credentialing.

14 "Participating provider" means a psychiatrist licensed to
15 practice medicine in all its branches, licensed clinical
16 psychologist, licensed clinical social worker, licensed
17 clinical professional counselor, licensed marriage and family
18 therapist, licensed speech-language pathologist, other
19 licensed or certified professional at a program licensed
20 pursuant to the Substance Use Disorder Act engaged in treating
21 mental, emotional, nervous, or substance use disorders or
22 conditions, or is provisionally licensed as such, and who is
23 credentialed by an insurer, or any third-party administrator
24 administering the behavioral health benefits for the insurer
25 or a designee to provide health care services to covered
26 persons in at least one of the insurer's provider networks.

1 "Provisionally licensed" means a person seeking to be a
2 psychiatrist licensed to practice medicine in all its
3 branches, licensed clinical psychologist, licensed clinical
4 social worker, licensed clinical professional counselor,
5 licensed marriage and family therapist, licensed
6 speech-language pathologist, or other licensed or certified
7 professional at a program licensed pursuant to the Substance
8 Use Disorder Act engaged in treating mental, emotional,
9 nervous, or substance use disorders or conditions, who has a
10 license to practice under the supervision of a licensed mental
11 health or substance use provider and is in the process of
12 meeting additional licensure requirements.

13 "Recredentialing" or "recredential" means the process by
14 which an insurer or its designee confirms that a participating
15 provider is in good standing and continues to satisfy the
16 insurer's requirements for participating providers.

17 "Supervisee" means an individual who is:

18 (1) a master's or doctoral level degree-seeking
19 student in an accredited medical, clinical mental health,
20 substance use, or counseling program working toward
21 graduation, or has completed a masters or doctoral degree
22 from such a program, and is seeking full licensure as a
23 psychiatrist licensed to practice medicine in all its
24 branches, licensed clinical psychologist, licensed
25 clinical social worker, licensed clinical professional
26 counselor, licensed marriage and family therapist,

1 licensed speech-language pathologist, or other licensed or
2 certified professional at a program licensed pursuant to
3 the Substance Use Disorder Act engaged in treating mental,
4 emotional, nervous, or substance use disorders or
5 conditions; or

6 (2) provisionally licensed as a psychiatrist licensed
7 to practice medicine in all its branches, licensed
8 clinical psychologist, licensed clinical social worker,
9 licensed clinical professional counselor, licensed
10 marriage and family therapist, licensed speech-language
11 pathologist, or other licensed or certified professional
12 at a program licensed pursuant to the Substance Use
13 Disorder Act engaged in treating mental, emotional,
14 nervous, or substance use disorders or conditions, and
15 such individual is under the supervision of a psychiatrist
16 licensed to practice medicine in all its branches,
17 licensed clinical psychologist, licensed clinical social
18 worker, licensed clinical professional counselor, licensed
19 marriage and family therapist, licensed speech-language
20 pathologist, or other licensed or certified professional
21 at a program licensed pursuant to the Substance Use
22 Disorder Act engaged in treating mental, emotional,
23 nervous, or substance use disorders.

24 "Supervisory billing" means the process of billing for
25 medically necessary mental health or substance use services
26 provided by a mental health or substance use provider that is a

1 supervisee under the supervision of a licensed behavioral
2 health (mental health or substance use) provider, including a
3 psychiatrist licensed to practice medicine in all its
4 branches, licensed clinical psychologist, licensed clinical
5 social worker, licensed clinical professional counselor,
6 licensed marriage and family therapist, licensed
7 speech-language pathologist, or other licensed or certified
8 professional at a program licensed pursuant to the Substance
9 Use Disorder Act.

10 "Third-party administrator" means an administrator, as
11 defined in subsection (a) of Section 511.101, that administers
12 any behavioral health (mental health or substance use)
13 benefits on behalf of a plan sponsor or insurer. "Third-party
14 administrator" includes any entity, subcontractor, or person
15 who performs administrative or operational functions related
16 to the insured's behavioral health benefits.

17 (b) Expanding mental health and substance use network
18 participation to improve access to care; third-party
19 administrators administering behavioral health benefits
20 subject to parity. Notwithstanding the provisions of the
21 Network Adequacy and Transparency Act, a group or individual
22 policy of accident and health insurance or managed care plan
23 that is amended, delivered, issued, or renewed on or after
24 January 1, 2025, or any third-party administrator
25 administering the behavioral health benefits for the insurer,
26 shall cover all out-of-network medically necessary mental

1 health and substance use benefits and services (inpatient and
2 outpatient) as if they were in-network for purposes of cost
3 sharing for the insured. The insured has the right to select
4 the provider or facility of the insured's choice and the
5 modality, including whether the care is provided via an
6 in-person visit or telehealth, for medically necessary care.
7 No action shall be required by the insured to treat an
8 out-of-network mental health or substance use service as an
9 in-network service pursuant to this Section.

10 (1) The insurer, or any third-party administrator
11 administering the behavioral health benefits for the
12 insurer, shall reimburse Illinois-based mental health or
13 substance use treatment providers and facilities for
14 out-of-network medically necessary services provided at a
15 reimbursement rate for such services at least equal to
16 116% of the most recently published Medicare Fee Schedule
17 published by the Centers for Medicare and Medicaid
18 Services for the specific service delivered, or at an
19 agreed upon rate that is no lower. For any mental health or
20 substance use service that is not covered by Medicare, the
21 reimbursement rate for such service shall be at least
22 equal to 119% of the standard in-network reimbursement
23 rate for such service, or at an agreed upon rate that is no
24 lower. This paragraph applies to all medically necessary
25 outpatient and inpatient mental health and substance use
26 services and includes all mental health and substance use

1 CPT Codes, add-ons, and modifiers.

2 (2) The insurer, or any third-party administrator
3 administering the behavioral health benefits for the
4 insurer, shall reimburse Illinois-based mental health or
5 substance use treatment providers and facilities for
6 in-network medically necessary services provided at a
7 reimbursement rate for such services at least equal to
8 141% of the most recently published Medicare Fee Schedule
9 published by the Centers for Medicare and Medicaid
10 Services for the specific service delivered, or at an
11 agreed upon rate that is no lower. For any mental health or
12 substance use service that is not covered by Medicare, the
13 reimbursement rate for such service shall be at least
14 equal to 144% of the standard in-network reimbursement
15 rate for such service, or at an agreed upon rate that is no
16 lower. This paragraph applies to medically necessary
17 outpatient and inpatient mental health and substance use
18 services and shall include all mental health and substance
19 use CPT Codes, add-ons, and modifiers.

20 (3) A health care plan that is created and operated
21 under the Health Maintenance Organization Act and is
22 administered by the health maintenance organization, as
23 defined in the Section 1-2 of the Health Maintenance
24 Organization Act, or any third-party administrator
25 administering the behavioral health benefits for the
26 health maintenance organization, shall reimburse

1 Illinois-based mental health or substance use treatment
2 providers and facilities that are contracted with the
3 health maintenance organization for medically necessary
4 services provided at a reimbursement rate for such
5 services at least equal to 141% of the most recently
6 published Medicare Fee Schedule published by the Centers
7 for Medicare and Medicaid Services for the specific
8 service delivered, or at an agreed upon rate that is no
9 lower. For any mental health or substance use service that
10 is not covered by Medicare, the reimbursement rate for
11 such service shall be at least equal to 144% of the
12 standard contracted reimbursement rate for such service,
13 or at an agreed upon rate that is no lower. This paragraph
14 applies to all medically necessary outpatient and
15 inpatient mental health and substance use services and
16 includes all mental health and substance use CPT Codes,
17 add-ons, and modifiers.

18 (4) A health care plan that is created and operated
19 under the Health Maintenance Organization Act and is
20 administered by the health maintenance organization, as
21 defined in Section 1-2 of the Health Maintenance
22 Organization Act, or any third-party administrator
23 administering the behavioral health benefits for the
24 health maintenance organization, shall reimburse
25 Illinois-based mental health or substance use treatment
26 providers and facilities that are not contracted with the

1 health maintenance organization, for medically necessary
2 services provided to the insured at a reimbursement rate
3 for such services at least equal to 116% of the most
4 recently published Medicare Fee Schedule published by the
5 Centers for Medicare and Medicaid Services for the
6 specific service delivered, or at an agreed upon rate that
7 is no lower. For any mental health or substance use
8 service that is not covered by Medicare, the reimbursement
9 rate for such service shall be at least equal to 119% of
10 the standard contracted reimbursement rate for such
11 service, or at an agreed upon rate that is no lower. This
12 paragraph applies to all medically necessary outpatient
13 and inpatient mental health and substance use services and
14 includes all mental health and substance use CPT Codes,
15 add-ons, and modifiers.

16 (c) Third-party administrators of behavioral health
17 benefits are responsible for mental health and substance use
18 services parity compliance. A group or individual policy of
19 accident and health insurance or managed care plan that is
20 amended, delivered, issued, or renewed on or after January 1,
21 2025, or any third-party administrator administering the
22 behavioral health (mental health or substance use) benefits
23 for the insurer shall be subject to Section 370c and the parity
24 requirements of Section 370c.1. The Department has the same
25 authority to enforce this Section as it has to enforce
26 compliance with Sections 370c and 370c.1.

1 (1) If an insured receives a medically necessary
2 mental health or substance use service from a mental
3 health or substance use treatment provider or facility
4 that is in-network with their insurer, or for purposes of
5 a health maintenance organization, from a contracted
6 mental health or substance use provider or facility, the
7 service shall be treated as an in-network, or as a service
8 with a contracted provider or facility with a health
9 maintenance organization, with any third-party
10 administrator for the insurer for purposes of cost
11 sharing. The mental health or substance use provider or
12 facility that renders such service that is treated as
13 in-network or as a contracted provider or facility under
14 this Section, shall be reimbursed by the third-party
15 administrator at the reimbursement rate that is no less
16 than the in-network or contracted rate for such service in
17 accordance with this Section.

18 (2) Insurers shall require contractual language with
19 any third-party administrator or entity administering the
20 behavioral health benefits for the insurer that expressly
21 obligates any third-party administrator that administers
22 such benefits to comply with this Section, Section 370c,
23 and the parity requirements of Section 370c.1 and shall be
24 required to assist the insurer with compliance with those
25 provisions.

26 (d) Coverage and payment for multiple covered mental

1 health and substance use services on the same day. Mental
2 health and substance use services received by an insured on
3 the same day shall be fully covered and fully reimbursed. A
4 group or individual policy of accident and health insurance or
5 managed care plan that is amended, delivered, issued, or
6 renewed on or after January 1, 2025, or any third-party
7 administrator administering the behavioral health benefits for
8 the insurer, shall cover all medically necessary mental health
9 or substance use services received by the same insured on the
10 same day from the same or different mental health or substance
11 use provider or facility for both outpatient and inpatient
12 care. The insurer, or any third-party administrator
13 administering the behavioral health benefits for the insurer,
14 shall fully reimburse a mental health or substance use
15 provider or facility for each medically necessary service,
16 whether inpatient or outpatient, delivered to the same insured
17 on the same day by the same or different provider or facility.

18 (e) Coverage of mental health or substance use services
19 provided under the supervision of a licensed mental health or
20 substance use treatment provider shall be covered and
21 reimbursed. A group or individual policy of accident and
22 health insurance or managed care plan that is amended,
23 delivered, issued, or renewed on or after January 1, 2025, or
24 any third-party administrator administering the behavioral
25 health benefits for the insurer, shall accept and reimburse
26 for supervisory billing for any medically necessary mental

1 health or substance use service delivered. An insurer or
2 third-party administrator administering the behavioral health
3 benefits for an insurer shall accept and reimburse claims
4 submitted for supervisory billing for medically necessary
5 mental health or substance use services when such claims are
6 submitted by the supervising licensed mental health or
7 substance use provider, as the rendering provider, using such
8 provider's National Provider Identifier. A modifier shall be
9 used to specify the supervisee's degree level.

10 (f) Coverage of and payment for 60-minute individual
11 psychotherapy. A group or individual policy of accident and
12 health insurance or managed care plan that is amended,
13 delivered, issued, or renewed on or after January 1, 2025, or
14 any third-party administrator administering the behavioral
15 health benefits for the insurer shall:

16 (1) accept and reimburse for a medically necessary
17 60-minute psychotherapy visit billed using the CPT Code
18 90837 for Individual Therapy;

19 (2) not impose more onerous documentation requirements
20 than is required for other psychotherapy CPT Codes; and

21 (3) not audit the use of CPT Code 90837 any more
22 frequently than audits for the use of other psychotherapy
23 CPT Codes.

24 (g) Timely credentialing of mental health and substance
25 use providers. A group or individual policy of accident and
26 health insurance or managed care plan that is amended,

1 delivered, issued, or renewed on or after January 1, 2025, or
2 any third-party administrator administering the behavioral
3 health benefits for the insurer, shall comply with this
4 subsection to ensure timely credentialing with the insurer or
5 third-party administrator. All notices required by this
6 subsection shall come directly from the insurer.

7 (1) An insurer shall provide the applicant a written
8 or electronic receipt within 5 calendar days after the
9 insurer receives the applicant's credentialing
10 application.

11 (2) If an insurer determines an application is
12 incomplete, the insurer shall notify the applicant in
13 writing or electronically that the application is
14 incomplete within 10 calendar days from the date the
15 insurer received the application. The notice shall specify
16 what specific information is required to complete the
17 application.

18 (3) An insurer shall conclude the process of
19 credentialing an applicant within 30 calendar days
20 following receipt of an applicant's completed application
21 and shall provide each applicant written or electronic
22 notice of the outcome of the applicant's credentialing
23 application within such 30-day timeframe.

24 (4) If an insurer fails to provide the applicant
25 notice of a completed application or the outcome of the
26 applicant's completed application as required under this

1 Section, the insurer shall consider the applicant a
2 participating provider effective no later than 30 days
3 following the insurer's receipt of the applicant's
4 completed application. The applicant shall be reimbursed
5 for all medically necessary mental health or substance use
6 services delivered at the standard in-network rate for
7 services provided in compliance with this Section.

8 (5) An insurer, or the third-party administrator
9 administering the behavioral health benefits for the
10 insurer, shall post the following nonproprietary
11 information on its website and make it available to all
12 applicants:

13 (A) the insurer's and any third-party
14 administrator's credentialing policies and procedures,
15 consistent with this Section;

16 (B) a list of the information required to be
17 included in an application;

18 (C) a checklist of the materials that must be
19 submitted in the credentialing process;

20 (D) designated contact information, including a
21 designated point of contact, an email address, and a
22 telephone number, to which an applicant may address
23 any credentialing inquiries; and

24 (6) An insurer, third-party administrator, or a
25 designee may recredential a participating provider if the
26 recredentialing is required by federal or State law or by

1 the insurer's accreditation standards or is permitted by
2 the insurer's or third-party administrator's contract with
3 the participating provider. An insurer or third-party
4 administrator shall not require a participating provider
5 to submit an application or participate in a contracting
6 process in order to be recredentialed.

7 (7) Except as provided in paragraph (6) of subsection
8 (g), an insurer, or third-party administrator, shall allow
9 a participating provider to remain credentialed and
10 include the participating provider in the insurer's or
11 third-party administrator's provider network unless the
12 insurer or third-party administrator discovers information
13 indicating that the provider no longer satisfies the
14 insurer's guidelines for participation, in which case the
15 insurer, or the third-party administrator, shall notify
16 the participating provider in writing or electronically at
17 least 60 days before the termination of the participating
18 provider from the insurer's, or third-party
19 administrator's, network. The insurer, or third-party
20 administrator, shall provide written notice to all covered
21 persons seen by that provider within 15 business days
22 after issuance of a notice of termination to that provider
23 that such provider will no longer be a participating
24 provider in the insurer's, or third-party administrator's,
25 plan network by a certain specified date.

26 (8) Nothing in this Section affects the contract

1 termination rights of an insurer or a participating
2 provider.

3 (h) Enforcement. The Department has the same authority to
4 enforce this Section as it has to enforce compliance with
5 Sections 370c and 370c.1. Additionally, if the Department
6 determines that an insurer or any third-party administrator
7 administering the behavioral health benefits for the insurer
8 has violated this Section, including denying medically
9 necessary services, failing to reimburse in accordance with
10 this Section, failing to meet the specified timelines and
11 notice requirements, treating in-network or contracted
12 services as out-of-network or noncontracted services, or
13 failing to meet any other requirement pursuant to this
14 Section, the Department shall, after appropriate notice and
15 opportunity for hearing in accordance with Section 1016, by
16 order assess a civil penalty of \$20,000 for each violation.
17 The Department shall establish any processes or procedures
18 necessary to monitor compliance with this Section, including
19 the ability to receive complaints from mental health and
20 substance use providers impacted by an insurer's or
21 third-party administrator's failure to comply, while ensuring
22 adherence to all federal and State privacy and confidentiality
23 laws.

24 (i) Rulemaking. The Department shall adopt any rules,
25 including emergency rules, necessary to implement this Section
26 by no later than November 1, 2024.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.