

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2031
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: NOVEMBER 2, 2018

SUMMARY

- Synopsis:** Enhances enforcement and oversight of behavioral health parity laws.
- Type of Impact:** Indeterminate Annual State Expenditure Increase. Potential Annual Expenditure Increase to Local Units. Potential Annual Expenditure Increase to Rutgers University, The State University of New Jersey. Potential Annual Revenue Increase to University Hospital and Bergen Regional Medical Center.
- Agencies Affected:** Department of Banking and Insurance, health benefits plans offered by certain local units, and Rutgers Health and University Hospital and Bergen Regional Medical Center.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Potential Local Expenditure Increase	Indeterminate
Potential Rutgers University Expenditure Increase	Indeterminate
Potential University Hospital Revenue Increase	Indeterminate
Potential Bergen Regional Medical Center Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in an indeterminate increase in State administrative expenditures tied to the Department of Banking and Insurance’s (DOBI) implementation and enforcement of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addition Equity Act, including costs of preparing the required annual reports under the bill. Absent information from DOBI, however, the OLS cannot anticipate the resources the department will allocate to the implementation of the bill.

- The OLS notes that the State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) are in full compliance with federal and State mental health parity laws and behavioral health care services as defined under the bill. Thus, this bill will have no fiscal impact to the SHBP or the SEHBP. However, the OLS notes that the bill may potentially increase the expenditures of Rutgers University, The State University of New Jersey (Rutgers Health) expenditures, to the extent that Rutgers Health is a self-funded, nonfederal governmental health plan and applies for a mental health parity inpatient day limit exception under the "Affordable Care Act," the federal Patient Protection and Affordable Care Act, Pub.L.111-148, as amended by the federal "Health Care and Education Reconciliation Act of 2010" Pub.L.111-152 (ACA).
- The OLS also notes that enacting this bill may result in an indeterminate impact on annual employee health benefit expenditures by certain local units to the extent that the bill may cause insurance carriers and third-party administrators, which impose less favorable benefit limitations on behavioral and mental health benefits than on medical or surgical benefits, to alter the amounts they charge local units for their benefits plans and services due to the requirements under the bill.
- The OLS further notes that enactment of the bill may result in an indeterminate annual increase in revenues to: University Hospital, an independent non-profit legal entity that is an instrumentality of the State located in Newark; and Bergen Regional Medical Center, a county-owned entity located in Paramus, to the extent that they may see an increase in payments for claims to insurance carriers that currently do not fully comply with behavioral health and mental health parity laws.

BILL DESCRIPTION

This bill requires hospital, medical and health service corporations, commercial insurers, health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program, to provide coverage for behavioral health care services and to meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. That act prevents certain health insurers that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations on those benefits than on medical or surgical benefits, commonly referred to as mental health parity.

The bill amends several statutes, initially enacted in 1999, which require hospital, medical and health service corporations, individual and group health insurers and the State Health Benefits Program to provide coverage for biologically-based mental illness under the same terms and conditions as provided for any other sickness. The substitute expands that coverage to include coverage for behavioral health care services. Behavioral health care services are defined as procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, or drug or alcohol abuse.

The bill also removes certain provisions of the statutes that provide that nothing in those statutes shall be construed to change the manner in which the insurer determines:

(1) whether a mental health care service meets the medical necessity standard as established by the insurer; or

(2) which providers shall be entitled to reimbursement or to be participating providers, as appropriate, for mental health services under the policy or contract.

The bill also supplements the "Health Care Quality Act," to place certain restrictions and reporting requirements on carriers to ensure parity with respect to coverage for behavioral health care services.

The bill requires a carrier to approve a request for an in-plan exception if the carrier's network does not have any providers who are qualified, accessible and available to perform the specific medically necessary service.

The bill also requires carriers to submit an annual report to the Department of Banking and Insurance on or before March 1 that contains certain information concerning compliance with the bill's provisions, especially with respect to the use of non-quantitative treatment limitations.

The bill further requires the department to implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

Finally, the bill requires the department, not later than May 1 of each year, to issue a report to the Legislature. The report is to detail certain information relating to the department's oversight of the substitute's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this enactment of the bill may result in an indeterminate annual administrative expenditure increase to DOBI due to the bill's requirements to implement and enforce the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addition Equity Act, and to prepare required annual reports. Absent information from DOBI, however, the OLS cannot anticipate the resources the department will allocate to the implementation of the bill.

The OLS also notes that the bill may result in an indeterminate impact on annual employee health benefit expenditures by certain local units to the extent that the bill may cause insurance carriers and third-party administrators, which impose less favorable benefit limitations on behavioral and mental health than on medical or surgical benefits, to alter the amounts they charge local units for their benefits plans and services due to the requirements under the bill.

The OLS further notes that enactment of the bill may result in an indeterminate annual increase in revenues to: University Hospital, an independent non-profit legal entity that is an instrumentality of the State located in Newark; and Bergen Regional Medical Center, a county-owned entity located in Paramus, to the extent that they may see an increase in payments for claims to insurance carriers that currently do not fully comply with behavioral health and mental health parity laws.

The OLS also notes that SHBP and SEHBP are in full compliance with federal and State mental health parity laws and behavioral health care services as defined under the bill. Thus, this bill will have no fiscal impact to the SHBP or the SEHBP. However, the OLS notes that the bill may potentially increase the Rutgers Health system expenditures, to the extent that it does not fully comply with the federal and State requirements on behavioral and mental health parity laws.

Since 1999, the State has passed several mental health parity laws to require the SHBP and the SEHBP to provide coverage for all mental health, nervous, and substance abuse conditions under the same terms and conditions as any other sickness. In addition, mental health and behavioral health care coverage requirements under the ACA required the SHBP and the SEHBP to comply with federal standards and provide coverage for mental health and behavioral health conditions under the same terms and conditions as any other sickness. State laws requiring full coverage for mental health benefits include, but are not limited to: P.L.1999, c. 441, requiring the State Health Benefits Commission to provide coverage for biologically-based mental health illness under the same terms and conditions as any other sickness; P.L.2009, c.115, requiring the State Health Benefits Commission to provide coverage for autism or another developmental disability under the same terms and conditions as any other illness; and P.L.2018, c.341, providing expanded and enhanced substance abuse coverage requirements.

The ACA requires nonfederal governmental entities to provide coverage for mental health benefits and substance abuse under the same terms and conditions as any other sickness, with the exception of allowing nonfederal governmental entities to apply for an exemption from mental health parity inpatient day limits. Self-funded nonfederal governmental group plans may continue to apply for an exemption from parity in the application of certain limits to mental health benefits. The State Health Benefits Commission does not apply for such an exemption. Under these provisions, it is unlikely that Rutgers Health would not be in compliance with the mental health and behavioral health parity laws. However, to the extent that Rutgers Health is a self-funded nonfederal government health plan, it is possible that they may apply for a mental health parity inpatient day limit exemption under the ACA.

Section: Commerce, Labor and Industry

*Analyst: Juan C. Rodriguez
Associate Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).