House File XX

By, NameA, NameB, NameC, NameD, NameE, NameF, Name G, NameH, NameI

**A BILL FOR**

An act relating to carrier reporting requirements to demonstrate compliance with the Mental Health Parity and Addiction Equity Act (MHAPAEA) of 2008, specifications for the Commissioner to implement MHPAEA, and MHPAEA reporting requirements for the Commissioner.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 514C.32 Carrier parity reporting requirements – Commissioner parity enforcement and reporting requirements – Substance abuse medication requirements.

1. *a.* All carriers providing an individual or group policy, contract, or plan providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage shall submit an annual report to the Commissioner on or before January 31st, 2020 that contains the following information:

(1) A description of the process used to develop or select the medical necessity criteria for mental illness or substance abuse benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits.

(2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to both mental illness or substance abuse benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental illness or substance abuse benefits but do not apply to medical and surgical benefits within any classification of benefits.

(3) The results of an analysis that demonstrates that for the medical necessity criteria described in item (1) and for each NQTL identified in item (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental illness or substance abuse benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of benefits; at a minimum, the results of the analysis shall:

*a*. Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected.

*b*. Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL.

*c*. Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to mental illness or substance abuse benefits are comparable to, and are applied no more stringently than, the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to medical and surgical benefits.

*d*. Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to apply each NQTL, in operation, for mental illness or substance abuse benefits are comparable to, and applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits.

*e*. Disclose the specific findings and conclusions reached by the carrier that the results of the analyses above indicate that the carrier is in compliance with this section and the Mental Health Parity and Addiction Equity Act of 2008 and its implementing and related regulations, which includes 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).

2. *a*. The Commissioner shall implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and any amendments to, and any federal guidance or regulations relevant to, that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), which includes:

(2) Proactively ensuring compliance by carriers that issue individual and group policies, contracts, or plans providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage.

(3) Evaluating all consumer or provider complaints regarding mental illness or substance abuse coverage for possible parity violations.

(4) Performing parity compliance market conduct examinations of carriers that issue individual and group policies, contracts, or plans providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage, particularly market conduct examinations that focus on nonquantitative treatment limitations such as prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates, and geographic restrictions, among other nonquantitative treatment limitations.

(5) Requesting that carriers submit comparative analyses during the form review process demonstrating how they design and apply nonquantitative treatment limitations, both as written and in operation, for mental illness or substance abuse benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.

(6) The Commissioner may adopt rules as may be necessary to effectuate any provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 that relate to the business of insurance.

*b.* Not later than January 31st, 2020 the Commissioner shall issue a report and provide an educational presentation to the Legislature; such report and presentation shall:

(1) Cover the methodology the Commissioner is using to check for compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and any federal regulations or guidance relating to the compliance and oversight of MHPAEA.

(2) Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental illness and substance abuse benefits under state and federal laws and summarize the results of such market conduct examinations.

(3) Detail any educational or corrective actions the Commissioner has taken to ensure carrier compliance with MHPAEA and relevant section(s) of state law.

(4) The report must be written in non-technical, readily understandable language and shall be made available to the public by, among such other means as the Commissioner finds appropriate, posting the report on the website of Insurance Division.

3*. a.* All carriers providing an individual or group policy, contract, or plan providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of substance abuse.

*b.* All carriers providing an individual or group policy, contract, or plan providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage shall not impose any step therapy requirements before the carrier will authorize coverage for a prescription medication approved by the FDA for the treatment of substance abuse.

*c.* All carriers providing an individual or group policy, contract, or plan providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage shall place all prescription medications approved by the FDA for the treatment of substance abuse on the lowest tier of the drug formulary developed and maintained by the carrier.

*d.* All carriers providing an individual or group policy, contract, or plan providing for third-party payment or prepayment of health, medical, surgical, and mental illness or substance abuse coverage shall not exclude coverage for any prescription medication approved by the FDA for the treatment of substance abuse and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.