



Legislative
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Nonpartisan Services for Colorado's Legislature

HB 19-1269

**FINAL
FISCAL NOTE**

Drafting Number: LLS 19-0981 **Date:** August 1, 2019
Prime Sponsors: Rep. Cutter; Sullivan **Bill Status:** Signed into Law
 Sen. Ginal; Gardner **Fiscal Analyst:** Erin Reynolds | 303-866-4146
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Bill Topic: MENTAL HEALTH PARITY INSURANCE MEDICAID

Summary of Fiscal Impact:

| | |
|---|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input checked="" type="checkbox"/> State Diversion | <input type="checkbox"/> Statutory Public Entity |

This bill requires coverage of behavioral, mental health, and substance use disorder services in parity with physical health services provided through private health insurance and Medicaid. It will increase state expenditures and create a diversion from the General Fund on an ongoing basis. It may also increase state and local expenditures related to employee health insurance.

Appropriation Summary: For FY 2019-20, the bill requires and includes an appropriation of \$422,249 to multiple state agencies.

Fiscal Note Status: This fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 19-1269**

| | | FY 2019-20 | FY 2020-21 |
|---------------------|------------------------|-------------------|-------------------|
| Revenue | | - | - |
| Expenditures | General Fund | \$113,560 | \$49,603 |
| | Cash Funds | \$141,688 | \$98,718 |
| | Federal Funds | \$167,001 | \$72,946 |
| | Centrally Appropriated | \$56,207 | \$46,215 |
| | Total | \$478,456 | \$267,482 |
| | Total FTE | 4.1 FTE | 3.0 FTE |
| Diversions | General Fund | (\$105,805) | (\$91,283) |
| | Cash Funds | \$105,805 | \$91,283 |
| | Total | \$0 | \$0 |
| TABOR Refund | | - | - |

Summary of Legislation

This bill requires private health insurers and the state's Medicaid plan to provide medically necessary coverage for behavioral, mental health, and substance use disorder services on par with the coverage for physical health services and to demonstrate compliance through new reporting requirements.

Health insurers — Department of Regulatory Agencies. All health plans issued and renewed in the state must provide parity coverage as detailed in the bill. By March 1, 2020, health insurers must submit a report demonstrating compliance with coverage requirements to the DOI, in accordance with rules the DOI is required to adopt related to this process. The DOI must provide reporting on parity coverage to the health committees of the General Assembly by June 1, 2020, and each year thereafter. By December 1, 2022, the DOI must report to these committees on the effect parity coverage has had on health insurance premiums.

Managed care entities — Department of Health Care Policy and Financing. The state's managed care entities (MCEs) under the Department of Health Care Policy and Financing (HCPF) must provide parity coverage as detailed in the bill. HCPF is required to create reimbursement procedures for specified circumstances by January 1, 2020, and utilization management guidelines for MCEs by July 1, 2020. MCEs must disclose all necessary information to HCPF in order for the department to report by June 1, 2020, and each year thereafter, to the health committees of the General Assembly on parity coverage through Medicaid. HCPF is also required to seek input from stakeholders by October 1, 2019, in conducting the analyses and developing the annual parity report. Finally, HCPF must contract with an external quality review organization at least annually to monitor MCE's utilization management programs and policies; this review must be made publicly available.

Behavioral health-related complaints. Both the DOI and HCPF are required to examine any complaints received from the Office of the Ombudsman for Behavioral Health Access to Care relating to mental health parity and must report on the actions taken by the agency in response.

Background and Assumptions

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) is a federal law that generally prevents group health plans and 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. The Affordable Care Act (ACA) extended the MHPAEA to apply to the individual health insurance market and redesignated the MHPAEA as it would apply to health insurers and group health plans. Federal mental health parity does not require plan sponsors to cover mental health or substance abuse benefits; however, the ACA does include mental health and substance use treatment as part of the ten essential health benefits which constitute credible coverage. Work required under the bill will be in addition to any existing work ensuring compliance with federal law.

State Diversion

This bill diverts \$105,805 from the General Fund in FY 2019-20 and \$91,283 in FY 2020-21. This revenue diversion occurs because the bill increases costs in the DOI, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

In total, the bill will increase state expenditures by \$478,456 and 4.1 FTE in FY 2019-20 and \$267,482 and 3.0 FTE in FY 2020-21, including costs for the DOI and HCPF. Costs for the DOI are paid from the Division of Insurance Cash Fund, and costs for HCPF are paid with federal funds (50 percent), General Fund (34 percent), and the Healthcare Affordability and Sustainability Fee Fund (16 percent). These impacts are shown in Table 2 and discussed below.

**Table 2
Expenditures Under HB 19-1269**

| Cost Components | FY 2019-20 | FY 2020-21 |
|---|-------------------|-------------------|
| Department of Regulatory Agencies | | |
| Personal Services | \$82,500 | \$74,425 |
| Operating Expenses and Capital Outlay Costs | \$5,748 | \$950 |
| Centrally Appropriated Costs* | \$17,557 | \$15,908 |
| FTE – Personal Services | 1.1 FTE | 1.0 FTE |
| DORA (Subtotal) | \$105,805 | \$91,283 |
| Department of Health Care Policy & Financing | | |
| Personal Services | \$169,542 | \$143,992 |
| Operating Expenses and Capital Outlay Costs | \$16,959 | \$1,900 |
| Contractor Costs | \$147,500 | - |
| Centrally Appropriated Costs* | \$38,650 | \$30,307 |
| FTE – Personal Services | 3.0 FTE | 2.0 FTE |
| HCPF (Subtotal and Fund Split) | \$372,651 | \$176,199 |
| <i>General Fund (34%)</i> | \$113,560 | \$49,603 |
| <i>Cash Funds (16%)</i> | \$53,440 | \$23,343 |
| <i>Federal Funds (50%)</i> | \$167,001 | \$72,946 |
| <i>Centrally Appropriated Costs</i> | \$38,650 | \$30,307 |
| Total | \$478,456 | \$267,482 |
| Total FTE | 4.1 FTE | 3.0 FTE |

* Centrally appropriated costs are not included in the bill's appropriation.

Division of Insurance — DORA. Beginning in FY 2019-20, the DOI is required to compile and review parity reporting from approximately 500 health insurers, conduct an analysis of the reporting, and formulate an annual report, as well as to respond to mental health coverage complaints. This effort will require 1.0 FTE Rate and Financial Analyst III. In addition, in FY 2019-20 only, the DOI requires 0.1 FTE Rate and Financial Analyst IV to assist with rulemaking.

Department of Health Care Policy and Financing. HCPF is required to manage a stakeholder process and create new reimbursement and utilization procedures; compile and review parity reporting from MCEs; conduct an analysis and formulate an annual report; and respond to mental health coverage complaints. This will require 1.0 FTE Project Manager and 1.0 FTE Administrator on an ongoing basis. In the initial fiscal year, 1.0 FTE Data Specialist and 500 hours of contractor support at the hourly rate of \$295 are required to create the reporting system and perform the stakeholder outreach required by the bill. All department costs are eligible for a 50 percent federal match rate.

State employee insurance. The bill's parity requirements may increase health insurance costs, which may increase health insurance premiums paid by state agencies for state employee group health insurance. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this bill is not expected to affect the state's share of employee health insurance premiums until FY 2020-21. Because insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any increase caused by the bill will be addressed through the total compensation analysis included in the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$56,207 in FY 2019-20 and \$46,215 in FY 2020-21.

Local Government

Similar to the state, the bill's parity requirements may contribute to higher premiums paid by local governments that offer health insurance to their employees.

Effective Date

The bill was signed into law by the Governor and took effect on May 16, 2019.

State Appropriations

For FY 2019-20, the bill requires and includes the following appropriations:

- \$88,248 to the Department of Regulatory Agencies and an allocation of 1.1 FTE from the Division of Insurance Cash Fund; and
- \$334,001 to the Department of Health Care Policy and Financing, of which \$113,560 is from the General Fund, \$53,440 is from the Healthcare Affordability and Sustainability Fee Fund, and \$167,001 is from federal funds, and an allocation of 3.0 FTE.

State and Local Government Contacts

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|-------------------------------|----------------------------------|
| Counties | Health Care Policy and Financing |
| Human Services | Information Technology |
| Law | Personnel |
| Public Health and Environment | Regulatory Agencies |