

SB86 First Reprint - Proposed Amendment
Submitted by Assemblywoman Sarah Peters
May 10, 2019

Intent: Existing law requires insurers or other organizations to comply with the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008. This amendment requires insurers and other organizations to submit reports demonstrating their compliance with MHPAEA and requires the Division of Insurance to submit a report to the legislature no later than December 31, 2020 regarding its activities and an overview of compliance with MHPAEA.

Amend NRS 687B.404 as follows:

687B.404 *1.* An insurer or other organization providing health coverage pursuant to chapter **689A**, 689B, **689C**, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.

2. Each insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C or 695F of NRS shall submit an annual report to the Commissioner on or before March 1 that contains the following information:

(a) A description of the process used to develop or select the medical necessity criteria for mental health or addiction benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits;

(b) Identification of all non-quantitative treatment limitations (NQTLS) that are applied to both mental health or addiction benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLS that apply to mental health or addiction benefits but do not apply to medical and surgical benefits within any classification of benefits;

(c) The results of an analysis that demonstrates that for the medical necessity criteria described in paragraph (a) and for each NQTL identified in paragraph (b), 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 health or addiction 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:

(1) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;

(2) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL;

(3) 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 health or addiction 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;

(4) 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 health or addiction 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; and

(5) Disclose the specific findings and conclusions reached by the insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C 695A, 695B, 695C or 695F of NRS that the results of the analyses above indicate that the insurer or other organization 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).

Add a new section to NRS 679B as follows:

1. 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:

(a) Evaluating all consumer or provider complaints regarding mental health or addiction coverage for possible parity violations;

(b) Requesting that insurers or other organizations providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C or 695F of NRS 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 health or addiction benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits; and

(c) The Commissioner may adopt rules, as authorized under NRS 679B.130, 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.

2. Not later than June 30, 2021, the Commissioner shall issue a report and educational presentation for transmittal to the Legislative Committee on Health Care which shall:

(a) 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;

(b) Cover the methodology the Commissioner is using to check for compliance with 689A.0455, 689A.046, 689C.166, 689C.167, and 689C.169 of NRS;

(c) Detail any educational or corrective actions the Commissioner has taken to ensure or other organization compliance with MHPAEA and 689A.0455, 689A.046, 689C.166, 689C.167, and 689C.169 of NRS; and

(d) 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 Internet website of the Division of Insurance.

This amendment becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and
2. On January 1, 2021 for all other purposes.