HB 19-1269

Legislative Council Staff
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FISCAL NOTE

Drafting Number:	LLS 19-0981	**Date:**	April 3, 2019
Prime Sponsors:	Rep. Cutter; Sullivan Sen. Ginal	**Bill Status:**	House Public Health Care
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Bill Topic: MENTAL HEALTH PARITY INSURANCE MEDICAID

Summary of Fiscal Impact:

- ☐ State Revenue
- ☒ State Expenditure
- ☒ State Diversion
- ☐ TABOR Refund
- ☒ Local Government
- ☐ 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 an appropriation of $451,749 to multiple state agencies.

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

Table 1
State Fiscal Impacts Under HB 19-1269

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditures	General Fund	$123,590	$49,603
	Cash Funds	$146,408	$98,718
	Federal Funds	$181,751	$72,946
	Centrally Appropriated	$56,207	$46,215
	Total	**$507,956**	**$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 coverage for behavioral, mental health, and substance use disorder services on par with the coverage for physical health services and outlines coverage requirements in detail.

Health insurers are required to demonstrate compliance with the bill's requirements to the Division of Insurance (DOI) in the Department of Regulatory Agencies and, similarly, managed care entities (MCEs) are required to report to the Department of Health Care Policy and Financing (HCPF). The DOI and HCPF must review this parity reporting, conduct an analysis, and formulate an annual report by June 1, 2020, and each year thereafter, to be presented to the health committees of the General Assembly regarding behavioral, mental health, and substance use disorder parity.

The DOI and HCPF are required to examine all complaints from the Office of the Ombudsman for Behavioral Health Access to Care (Ombudsman) relating to mental health parity and must report on the actions taken by the agency in response.

Finally, HCPF is required to convene a committee of stakeholders that includes members with competency in benefit and delivery systems, utilization management, managed care contracting, data and reporting, and compliance and audits, and to consider the committee's input in conducting the analyses and developing the annual parity report.

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 MHPAEA to apply to the individual health insurance market and redesignated 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 $507,956 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	$177,000	-
Centrally Appropriated Costs*	$38,650	$30,307
FTE – Personal Services	3.0 FTE	2.0 FTE
HCPF (Subtotal and Fund Split)	**$402,151**	**$176,199**
General Fund (34%)	$123,590	$49,603
Cash Funds (16%)	$58,160	$23,343
Federal Funds (50%)	$181,751	$72,946
Centrally Appropriated Costs	$38,650	$30,307
Total	**$507,956**	**$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 substantial parity reporting from approximately 500 health insurers, conduct an analysis of the reporting, and formulate an annual report, as well as to respond to complaints reported to the Ombudsman related to parity. 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. Similar to the DOI, HCPF is required to compile and review substantial parity reporting from MCEs, conduct an analysis of the reporting, and formulate an annual report, which requires 1.0 FTE Administrator III. HCPF will also require 1.0 FTE Project Manager II to respond to parity-related complaints reported to the Ombudsman. In the first year, 1.0 FTE Data Specialist and 600 hours of contractor support at the hourly rate of $295 are required to 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 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 takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2019-20, the bill requires 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
- $363,501 to the Department of Health Care Policy and Financing, of which $123,290 is from the General Fund, $58,160 is from the Healthcare Affordability and Sustainability Fee Fund, and $181,751 is from federal funds, and an allocation of 3.0 FTE.

State and Local Government Contacts

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