

# HOUSE BILL NO. 5617

March 12, 2020, Introduced by Reps. Whiteford, Love, Calley and Brann and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
(MCL 400.1 to 400.119b) by adding section 109n.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 109n. (1) The department, in collaboration and  
2 coordination with contracted health plans and specialty prepaid  
3 health plans, shall submit an annual report to the legislature and  
4 this state's behavioral health advisory council, this state's  
5 medical care advisory council, and this state's developmental



1 disabilities council by March 1 of each year that contains the  
2 following information:

3 (a) For each classification of benefits, identification of all  
4 financial requirements and quantitative treatment limitations that  
5 are applied to mental health and substance use disorder benefits  
6 and medical and surgical benefits, and a description of the process  
7 of how the department, contracted health plan, or specialty prepaid  
8 health plan assesses that each financial requirement and  
9 quantitative treatment limitation is not more restrictive for  
10 mental health and substance use disorder benefits than for the  
11 predominant financial requirement or quantitative treatment  
12 limitation of that type that is applied to substantially all  
13 medical and surgical benefits.

14 (b) A description of the process used to develop or select the  
15 medical necessity criteria for mental health and substance use  
16 disorder benefits and the process used to develop or select the  
17 medical necessity criteria for medical and surgical benefits.

18 (c) Identification of all NQTLs that are applied to both  
19 mental health and substance use disorder benefits and medical and  
20 surgical benefits within each classification of benefits. There  
21 must not be separate NQTLs that apply to mental health and  
22 substance use disorder benefits that do not apply to medical and  
23 surgical benefits within any classification of benefits.

24 (d) The results of an analysis that demonstrates that for the  
25 medical necessity criteria described in subdivision (b) and for  
26 each NQTL identified in subdivision (c), as written and in  
27 operation, the processes, strategies, evidentiary standards, or  
28 other factors used in applying the medical necessity criteria and  
29 each NQTL to mental health and substance use disorder benefits

1 within each classification of benefits are comparable to, and are  
2 applied no more stringently than, the processes, strategies,  
3 evidentiary standards, or other factors used in applying the  
4 medical necessity criteria and each NQTL to medical and surgical  
5 benefits within the corresponding classification of benefits. At a  
6 minimum, the results of the analysis must do all of the following:

7 (i) Identify the factors used to determine that an NQTL will  
8 apply to a benefit, including factors that were considered but  
9 rejected.

10 (ii) Identify and define the specific evidentiary standards  
11 used to define the factors and any other evidence relied on in  
12 designing each NQTL.

13 (iii) Provide the comparative analyses, including the results of  
14 the analyses, performed to determine that the processes and  
15 strategies used to design each NQTL, as written, and the processes  
16 and strategies used to apply the NQTL, as written, for mental  
17 health and substance use disorder benefits are comparable to, and  
18 are applied no more stringently than, the processes and strategies  
19 used to design each NQTL, as written, and the processes and  
20 strategies used to apply the NQTL, as written, for medical and  
21 surgical benefits.

22 (iv) Provide the comparative analyses, including the results of  
23 the analyses, performed to determine that the processes and  
24 strategies used to apply each NQTL, in operation, for mental health  
25 and substance use disorder benefits are comparable to, and are  
26 applied no more stringently than, the processes and strategies used  
27 to apply each NQTL, in operation, for medical and surgical  
28 benefits.

29 (v) Disclose the specific findings and conclusions reached by

1 the department, in collaboration and coordination with contracted  
2 health plans and specialty prepaid health plans, that the results  
3 of the analyses in this section indicate that the department,  
4 contracted health plans, and specialty prepaid health plans are in  
5 compliance with this section, the Paul Wellstone and Pete Domenici  
6 mental health parity and addiction equity act of 2008, subtitle B  
7 of title V of division C of Public Law 110-343, and the regulations  
8 promulgated under that act, including 42 CFR 438.910 and 42 CFR  
9 440.395, and any state law pertaining to any state medical  
10 assistance program that governs access to medications for the  
11 treatment of mental health conditions and substance use disorders.

12 (2) As used in this section, "NQTL" means nonquantitative  
13 treatment limitation.

14 Enacting section 1. This amendatory act takes effect 90 days  
15 after the date it is enacted into law.

