



H.R. 1424 – PAUL WELLSTONE MENTAL HEALTH AND ADDICTION EQUITY ACT OF 2007

EXECUTIVE SUMMARY

H.R. 1424 was introduced by Representative Patrick Kennedy (D-RI) and was reported from the Committees on Ways and Means and Education and Labor and ordered to be reported by Energy and Commerce. The bill is expected to be considered under a closed rule on March 5, 2008.

H.R. 1424 amends the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code to require mental health and substance-related disorder benefits to be included in employer-sponsored health care plans in the same manner that medical and surgical benefits are provided in these plans.

The bill requires that the plan include benefits for any of the conditions included in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV) published by the American Psychiatric Association, which includes “jet lag” and “caffeine intoxication” as mental conditions.

House Republicans have repeatedly attempted to have the Senate- passed Mental Health Parity Act (S. 558) brought up for consideration. S. 558 was negotiated on a bipartisan basis with outside groups representing patients, providers, insurers, and businesses. The Senate bill requires mental health benefits to be on par with medical and surgical benefits offered by group health plans, but does not mandate that all of the mental illnesses in the DSM-IV are covered. However, House Democrats have not allowed the bill to be brought up for consideration.

**Note: The rule allows for the Genetic Information Nondiscrimination Act (H.R. 493, GINA), which passed the House by a vote of 420 to 3 on April 25, 2007, to be added at the end of H.R. 1424 upon engrossment of the bill.*

FLOOR SITUATION

H.R. 1424 is being considered on the floor under a closed rule. The rule:

- Provides two hours of debate in the House with 40 minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Energy and Commerce, 40 minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Ways and Means, and 40 minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Education and Labor.
- Waives all points of order against consideration of the bill except those arising under clauses 9 and 10 of rule XXI.
- Provides that the bill shall be considered as read.
- Provides that in lieu of the amendments recommended by the Committees on Energy and Commerce, Ways and Means, and Education and Labor, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted.



- Waives all points of order against provisions of the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).
- Provides one motion to recommit with or without instructions.
- Provides that in the engrossment of H.R. 1424, the text of H.R. 493, as passed the House, shall be added at the end of H.R. 1424.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The bill was introduced by Representative Patrick Kennedy (D-RI) on March 9, 2007, and referred to three committees. The Committee on Ways and Means reported the bill as amended on October 15, 2007, by a vote of 27 to 13. On the same day, the Committee on Education and Labor reported the bill as amended by a vote of 33 to 9. The Committee on Energy and Commerce ordered the bill to be reported as amended by a vote of 32 to 13 on October 16, 2007.

**Note: The rule allows for the Genetic Information Nondiscrimination Act (H.R. 493, GINA), which passed the House by a vote of 420 to 3 on April 25, 2007, to be added at the end of H.R. 1424 upon engrossment of the bill. ([Legislative Digest for H.R. 493](#)) The Senate Committee on Health, Education, Labor, and Pensions reported their version of GINA (S. 358) out of committee on April 29, 2007. S. 358 has not been considered by the full Senate.*

The bill is expected to be considered on the floor on March 5, 2008.

BACKGROUND

In 1996, Congress enacted the Mental Health Parity Act (MHPA). The MHPA amended the Employee Retirement Income Security Act (ERISA) and required group health plans that provide mental health benefits offer annual and lifetime dollar limits for mental health treatment that are no less than coverage provided for medical and surgical benefits. In addition, it allowed employers with less than 50 employees to be exempt from this requirement. The MHPA expired on December 31, 2007.

**Note: The House passed a one-year extension of the MHPA (H.R. 4848) on February 7, 2008, by a vote of 384 to 23. ([Roll Call 35](#)) The Senate has not acted on H.R. 4848.*

President Bill Clinton issued an Executive Order in 1999 that required the Federal Employee Health Benefit Program (FEHBP) to implement full mental health parity by January 1, 2001. The FEHBP mental health benefits cover all of the mental illnesses included in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) published by the American Psychiatric Association. In addition, FEHBP only requires mental health parity for in-network services.

During the 110th Congress, the Senate passed the Mental Health Parity Act of 2007 (S. 558) by unanimous consent on September 18, 2007. S. 558 was sponsored by Senator Pete Domenici (R-NM) and Senator Edward Kennedy (D-MA). The legislation was negotiated on a bipartisan basis with outside groups representing patients, providers, insurers, and businesses. The Senate bill requires mental health benefits to be on par with medical and surgical benefits offered by group health plans, but does not mandate that all of the mental illnesses in the DSM-IV are covered. In addition, the Senate bill ensures that group health plans can negotiate separate reimbursement of provider payment rates and service delivery systems for benefits, in the same way FEHBP does, to control the cost and quality of benefits.



**Note: Representative John Kline (R-MN) offered S. 558 as a substitute amendment to H.R. 1424 during the Committee on Education and Labor mark-up. The amendment was rejected by a vote of 16 to 25 with every Democrat on the Committee voting against the amendment. According to Committee Republicans, "The Democrats' rejection of a broad-based and well balanced substitute, which is publicly supported by mainstream mental health advocates and providers, threatens to undo the careful balance struck among all parties interested in this issue, and will make passage of meaningful mental health parity legislation this year exceedingly difficult."*

SUMMARY

H.R. 1424 amends the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code to require mental health and substance-related disorder benefits to be included in employer-sponsored health care plans in the same manner that medical and surgical benefits are provided in these plans.

DSM IV: The bill requires that the plan include benefits for any of the conditions included in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV) published by the American Psychiatric Association.

**Note: According to the Republican Views from the Committee on Education and Labor, "H.R. 1424 applies no similar requirement on any other category of medical benefits covered by a plan, many of which involve serious medical conditions. At the same time, an employer is obligated to provide coverage for disorders such as 'caffeine intoxication' and 'jet lag,' which raises serious questions about the validity of the conditions to be covered by the bill. The Majority apparently believes that 'caffeine intoxication' and 'jet lag' are the types of disorders worthy of a federal coverage mandate on employer sponsored plans."*

Increased Cost Exemption: H.R. 1424 provides employers with a one year exemption if the cost of complying with the requirements for mental health and substance-related benefits exceeds 2 percent of total costs of health care coverage in the first year and 1 percent in each subsequent year.

ERISA Preemption: The bill states that ERISA does not preempt state law that establishes, implements, or continues consumer protections, benefits, methods of access to benefits, rights external review programs, or remedies solely relating to health insurance issuers in connection with group health insurance coverage.

**Note: According to the Republican Views from the Committee on Ways and Means, "This change would create a new legal basis to allow states to take actions against ERISA plans. The Supreme Court has consistently concluded that state may not establish their own rights or remedies for enrollees under ERISA plans. Instead, federal rights and remedies exclusively apply to ERISA health plan participants and their benefits."*

Out-of-Network Benefits: H.R. 1424 requires plans that provide medical and surgical benefits out-of-network for emergency, inpatient, or outpatient services to also provide mental health and substance-related disorder benefits outside the network of providers as well.

**Note: Education and Labor Committee Republicans state, "This is not 'parity,' since it limits the ability of employer sponsored plans to design benefit programs. Also, it exceeds the FEHBP requirement to provide parity only for in-network services."*

Medicaid Drug Rebate: H.R. 1424 increases the drug rebate that pharmaceutical companies are required to pay state Medicaid programs from 15.1 percent to 20.1 percent.



Specialty Hospitals: The bill prohibits physicians from opening new specialty hospitals. In addition, it implements regulations to inhibit the growth of specialty hospitals. Physicians can continue to refer Medicare beneficiaries to specialty hospitals as long as they inform the patient that they have a financial interest.

**Note: This provision was included in the CHAMP Act (H.R. 3162) as an offset. At that time the Congressional Budget Office estimated that enacting this provision would result in savings of \$2.9 billion over 10 years.*

Genetic Information Nondiscrimination Act (H.R. 493, GINA): The closed rule allows H.R. 493, which passed the House by a vote of 420 to 3 on April 25, 2007, to be added at the end of H.R. 1424. ([Legislative Digest for H.R. 493](#))

COST

According to the Congressional Budget Office, the Medicaid rebate increase is expected to decrease direct spending by \$1.45 billion over 5 years and \$2.54 billion over 10 years, and the limitation on specialty hospitals is expected to decrease direct spending by \$440 million over 5 years and \$1.83 billion over 10 years. ([CBO Cost Estimate](#))

ADDITIONAL VIEWS

According to the Republican Views from the Committee on Education and Labor, "Notwithstanding the rhetoric from supporters of H.R. 1424 and the Miller Amendment which purports to characterize that legislation as providing 'parity,' H.R. 1424 does nothing of the sort. In fact, largely because of the defined benefit and preemption provisions, H.R. 1424 would create a situation in which employer-sponsored plans would likely have to provide significantly greater mental and behavioral health benefits as compared to other medical benefits."

According to the Ways and Means Committee Republican Views on the bill, "parity equalizes the care between mental health and medical benefits, yet H.R. 1424 goes beyond parity by imposing federal mandates on coverage."

MOTION TO RECOMMIT

Please find the Republican Motion to Recommit [here](#).

STAFF CONTACT

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