HOUSE BILL REPORT
SHB 1154

As Passed House:
January 28, 2005

Title: An act relating to mental health parity.

Brief Description: Requiring that insurance coverage for mental health services be at parity with medical and surgical services.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Campbell, Kirby, Jarrett, Green, Kessler, Simpson, Clibborn, Hasegawa, Appleton, Moeller, Kagi, Ormsby, Chase, McCoy, Kilmer, Williams, O'Brien, P. Sullivan, Tom, Morrell, Fromhold, Dunshee, Lantz, McIntire, Sells, Murray, Kenney, Haigh, Darneille, McDermott, Dickerson, Santos and Linville).

Brief History:
Committee Activity:
Financial Institutions & Insurance: 1/18/05, 1/20/05 [DPS].
Floor Activity:
Passed House: 1/28/05, 67-25.

Brief Summary of Substitute Bill

- Requires group health insurance plans to provide the same amounts and terms of coverage for mental health services as is provided for medical and surgical services.
- Allows the mental health parity requirements to be phased-in between January 1, 2006, and July 1, 2010.
- Exempts certain types of mental health services from mandatory coverage provisions.
- Exempts groups with 50 or fewer employees from mandatory coverage. Insurers must offer optional mental health coverage to those groups.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kirby, Chair; Ericks, Santos, Schual-Berke, Simpson, Tom and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives Roach, Ranking Minority Member; and Serben.

Staff: Jon Hedegard (786-7127).

Background:

State law does not require health carriers to provide mental health coverage. Health carriers providing group coverage to employers are required to offer optional supplemental coverage for mental health treatment, which can be waived at the request of the employer. If a health carrier does provide mental health coverage there is no specific mandates on the level of coverage that must be provided under the group coverage.

The administrator of the Basic Health Plan (BHP) is authorized to offer mental health services under the BHP as long as those services, along with chemical dependency and organ transplant services, do not increase the actuarial value of BHP benefits by more than 5 percent. Currently, inpatient care is covered in full up to 10 days per calendar year, and outpatient care is covered in full up to 12 visits per year. These limits are not found on other hospital inpatient services. The coinsurance rate, applicability of a deductible, and maximum facility charges for mental health benefits are generally consistent with hospital inpatient service charges.

The Washington State Health Care Authority (HCA) is the state agency that administers health care benefits for low income residents through the BHP. The HCA also oversees state employee health insurance programs provided by various private health insurers (e.g., Group Health, Premera, Regence, etc.) as well as the Uniform Medical Plan.

The Office of the Insurance Commissioner (OIC) is the state agency that oversees private health insurance. There are three main categories of insuring entities or "health carriers" that offer health plans that fall under the jurisdiction of the OIC:

- Disability insurers (Chapter 48.21 RCW). An example is Aetna.
- Health care services contractors (Chapter 48.44 RCW). Examples include Premera and Regence.
- Health maintenance organizations (Chapter 48.46 RCW). An example is Group Health.

Optional supplemental mental health coverage: Generally, health carriers are required to offer optional, supplemental mental health treatment coverage to group purchasers. The coverage extends to insureds and covered dependents. The contract holder for the group can waive coverage for the group. The coverage must be offered at the "usual and customary rates for such treatment" and is subject to other specified requirements and conditions.

Diagnostic and Statistical Manual of Mental Disorders (DSM): The DSM is a manual published by the American Psychiatric Association that covers all recognized mental health disorders affecting both children and adults. It lists the factors known to cause these disorders, presents pertinent statistics, and cites research concerning optimal treatment

approaches. The DSM is considered to be the standard reference for mental health professionals who make psychiatric diagnoses.

Summary of Substitute Bill:

I. OVERVIEW

The bill requires group health insurance plans with over 50 employees to provide a level of coverage for mental health services that is equal to the coverage provided for medical and surgical services. The requirements are imposed in three increments between 2006 and 2010. Once the mental health parity requirements are fully implemented in 2010, limitations on mental health services may be imposed by an insurance plan only if the same limitations are imposed on medical and surgical services.

The mental health parity requirements for each type of plan are largely identical and are subject to the same structured phase-in. This mental health parity requirement applies to five categories of group health insurance coverages:

(1) plans administered by the HCA on behalf of state employees;
(2) plans provided by disability insurers;
(3) plans provided by health care services contractors;
(4) plans provided by health maintenance organizations; and
(5) benefits provided by Washington Basic Health Plan.

Small business exemption: Health carriers do not have to provide mental health coverage to small businesses with 50 or fewer employees. As a general rule, health carriers must make an offer of optional coverage to any group other than a group of 50 or fewer employees.

II. COVERED MENTAL HEATH SERVICES

"Mental health services" defined: The required mental health services include medically necessary inpatient and outpatient services provided to treat mental disorders listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association. The determination of whether or not a mental health service is medically necessary in a particular case is subject to the discretion of the medical director of the health plan. The medical necessity standard for mental health care must be comparable to that applied for medical and surgical services.

Exempted mental health services: There are specified types of mental health disorders and treatment categories that are exempted from coverage, including:

- disorders related to substance abuse;
- life transition problems (family/marital issues, occupational/academic problems, etc.);
- residential treatment and custodial care; and
- court ordered treatment (unless medically necessary).

III. FIVE YEAR PHASE-IN

Health coverage is generally offered for one year periods. Parity between mental health, medical, and surgical services is achieved in three phases between January 1, 2006, and July 1, 2010. Phase One begins on January 1, 2006. Phase Two begins on January 1, 2008. Phase Three begins on July 1, 2010. The phases are cumulative. The second phase incorporates the coverage requirements of the first phase. The third phase incorporates the coverage requirements of the first two phases. On July 1, 2010, all of the parity provisions will become effective.

Phase One - For health benefit plans established or renewed on or after January 1, 2006:

(1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One.*

(2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One.*

Phase Two - For health benefit plans established or renewed on or after January 1, 2008:

(1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One. Maintained in Phase Two.*

(2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One. Maintained in Phase Two.*

(3) If the health insurance plan imposes a maximum out of pocket limit or stop loss, the same limit or stop loss must apply to medical, surgical, and mental health services. *Begun in Phase Two.*

Phase Three - For health benefit plans established or renewed on or after July 1, 2010:

(1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One. Maintained in Phases Two and Three*.

(2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One. Maintained in Phases Two and Three*.

(3) If the health insurance plan imposes a maximum out of pocket limit or stop loss, the same limit or stop loss must apply to medical, surgical, and mental health services. *Begun in Phase Two. Maintained in Phase Three*.

(4) If the health insurance plan imposes a deductible, it must be a single deductible covering medical, surgical, and mental health services. *Begun in Phase Three*.

5) Any treatment limitations or financial requirements must be the same for mental health, medical, or surgical services. *Begun in Phase Three*.

IV. OTHER PROVISIONS

Groups with 50 or fewer employees – Health carriers are not required to offer the mental health parity provisions set forth in the Act to groups with 50 or fewer employees. Generally,

health carriers must offer optional supplemental mental health coverage to these groups. The group contract holder may waive the optional coverage for all insureds.

Rule-making authority: The Insurance Commissioner, the administrator of the State Health Care Authority, and the administrator of the Basic Health Plan are each granted authority to adopt rules necessary to implement the Act.

Appropriation: None.

Fiscal Note: Requested on January 14, 2005.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill had bipartisan support last year. There are provisions that minimize costs, including provisions that limit treatment to where it is medically necessary and exempt small employers. We know that effective mental health treatment can lessen medical costs of care and costs to society. We commissioned an actuarial study that shows that the costs would be less than 1 percent. Societal benefits include reduced absenteeism, fewer lost work days, and reduced imprisonment. Thirty-three states have some type of mental health parity. One in five of us will suffer from a mental disorder. Most of those will not be treated or not treated adequately. One in five kids have disorders and they are even less likely to receive care. Suicide is the second leading cause of death among adolescents. The mental health recovery rate for kids exceed the recovery rate for physical illnesses. A lack of treatment can lead to lifelong problems. We need to stop the cycle where the police or justice system has to deal with mental health issues that should be addressed in our health system. The cost of imprisonment greatly exceeds the cost of care. The leading cause of hospitalization is mental illness. Insurers won't take on these risks unless compelled to do so. They are afraid of adverse selection and won't offer greater benefits so the market won't respond to the need. The bill exempts employers with less than 50 employees and individual policies. A national expert has studied the issue, he found a 1 percent gross impact and a 0.44 percent net impact. The federal government has found the impact to be about 1 percent in their employee programs. This is the right thing to do. Facilities are closing mental health units due to lack of compensation while people need more care. The costs of implementing mental health parity would be offset by the societal cost savings.

Testimony Against: We are concerned about adding an additional mandate. There are 47 mandates today. Cost estimates for parity vary widely. The study done by the advocates was based on parity for those who have mental health coverage today. It does not factor those that have no mental health coverage today and will have to provide it under the bill. We haven't had time to analyze the fiscal impacts, but we think the cost impacts more in line with 5 percent increases or more. We are concerned about the effective date of the first phase, we would have trouble getting filings to, and approved by, the Office of the Insurance Commissioner. Purchasers want reduced or stable premiums, this will increase premiums. Increased premiums may increase the number of uninsured. Mandates add costs, there are

significant mandates in Washington that add considerably to the costs of premiums. We are skeptical of the cost estimates. We are concerned about the July 1, 2005 effective date. Perhaps 15 percent of premiums are due to mandates. Many large employers self-insure, the more the state regulates health care the greater the number of large groups will choose federal regulation. Mandates increase costs, this can reduce the number of employers who can afford coverage. As mandates increase, it reduces the attractiveness of Washington as a place to do business for out of state health carriers. Cost is our concern. Employers are struggling to provide coverage. If premiums rise, employers will drop coverage.

Persons Testifying: (In support of Original Bill) Representative Schual-Berke, prime sponsor; Randy Revelle, Washington State Parity Coalition; Lucy Homans, Psychological Association; Peter Lukovich, Partners in Crisis; Kevin Glavlin-Coley, Childrens Alliance; Sean Corry, Savage Israel; Len McComb, Washington Health Authority; and Michael Dyer, Service Employees International Union 1199.

(With concerns on Original Bill) Gary Smith, Independent Business Association; and Carolyn Logue National Federation of Independent Business.

(Opposed on Original Bill) Sydney Zvara, Association of Washington Health Care Plans; Mel Sorensen, Americas Health Insurance Plans and Washington Association of Health Underwriters; and Mellani Hughes McAleenan, Association of Washington Business.

(In Support of Substitute Bill) Representative Schual-Berke, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.