

**Department of Legislative Services**  
 Maryland General Assembly  
 2024 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1085 (Delegate Cullison)  
 Health and Government Operations

**Maryland Insurance Administration - Mental Health Parity and Addiction  
 Equity Reporting Requirements - Revisions and Sunset Repeal**

This emergency bill requires carriers, by July 1, 2024, and every two years thereafter, to submit a report on products identified by the Insurance Commissioner to demonstrate the carrier’s compliance with the federal Mental Health and Addiction Equity Act (Parity Act). The bill alters the contents of the compliance report and the requirements for analyses of nonquantitative treatment limitations (NQTL) and authorizes the Commissioner to take specified actions to enforce reporting requirements. The requirement that carriers submit a specified benefits report by March 1, 2024, is repealed; instead, the Commissioner may develop and require additional data submissions. The requirement that the Commissioner use a specific form for reporting is repealed; instead, the form must be in accordance with current best practices. The bill specifies that “Parity Act” includes any amendments, implementing regulations, or other related federal regulations. The bill also repeals the termination date of Chapters 211 and 212 of 2020.

**Fiscal Summary**

**State Effect:** No likely effect in FY 2024. Maryland Insurance Administration (MIA) special fund expenditures increase by \$620,000 in FY 2025 and every two years thereafter for contractual expenses to review NQTLs, as discussed below. MIA special fund revenues increase by an indeterminate amount in FY 2025 and every two years thereafter from any charges on carriers for incomplete report submissions. No effect on the State Employee and Retiree Health and Welfare Benefits Program.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	-	\$0	-	\$0	-
SF Expenditure	\$620,000	\$0	\$620,000	\$0	\$620,000
Net Effect	(\$-)	\$0	(\$-)	\$0	(\$-)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary/Current Law:** Chapters 211 and 212 require carriers to submit two specified reports to the Insurance Commissioner, by March 1, 2022, and March 1, 2024, to demonstrate compliance with the federal Parity Act and conduct a specified comparative analysis. The Acts terminate September 30, 2026.

### *Compliance Report*

Under current law, by March 1, 2022, and March 1, 2024, each carrier must identify the five health benefit plans with the highest enrollment for each product offered by the carrier in the individual, small, and large group markets and submit a report to the Commissioner to demonstrate the carrier's compliance with the Parity Act. The reports must include the following information for the five health benefit plans identified:

- a description of the process used to develop or select the medical necessity criteria for mental health, substance use disorder (SUD), and medical and surgical benefits;
- for each Parity Act classification, identification of NQTLs that are applied to mental health, SUD, and medical and surgical benefits;
- identification of the description of NQTLs in the carrier's plan documents and instruments under which the plan is established or operated; and
- the results of a specified comparative analysis.

Under the bill, the requirement that each carrier identify the five health benefit plans with the highest enrollment for each product offered by the carrier in each market is repealed. The specific components of the report described above are also repealed, with the exception of the comparative analysis, which must be conducted by each carrier on at least four NQTLs selected by the Commissioner.

In selecting NQTLs that must be included in each reporting period, the Commissioner must prioritize NQTLs identified as having the greatest impact on patient access to care and may take into consideration other factors determined relevant.

### *Comparative Analysis*

Under current law, a carrier must conduct a comparative analysis for NQTLs identified in the compliance report as those limitations are written and in operation. The comparative analysis must demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental health and SUD benefits in each Parity Act classification are comparable to, and are applied no more stringently than, those used for medical and surgical benefits.

Under the bill, a carrier must perform and provide a comparative analysis for each process, strategy, evidentiary standard, or other factor used in applying a selected NQTL used during a reporting period and requested by the Commissioner, regardless of whether it was used before the Parity Act was enacted.

### *Benefits Report*

Under current law, by March 1, 2022, and March 1, 2024, each carrier must submit a report to the Commissioner for the five health benefit plans identified in the compliance report on the following data for the immediately preceding calendar year for mental health, SUD, and medical/surgical benefits by Parity Act classification:

- the frequency, reported by number and rate, with which the health benefit plan received, approved, and denied prior authorization requests for mental health, SUD, and medical and surgical benefits in each Parity Act classification; and
- the number of claims submitted for mental health, SUD, and medical and surgical benefits in each Parity Act classification and the number, rates of, and reasons for denials of claims.

The bill repeals this reporting requirement. Instead, the Commissioner is authorized to develop and require additional standardized data submissions to evaluate a comparative analysis of NQTLs.

### *General Reporting Requirements*

The bill specifies that any reports submitted must be on a standard form that is developed by the Commissioner in accordance with current best practices.

The bill repeals the requirement that the Commissioner create a standard form for entities to submit compliance and benefits reports and a summary form for entities to post on their websites. Provisions relating to the specific content of the forms are also repealed.

### *Enforcement Mechanisms*

Under current law, if the Commissioner finds that a carrier failed to submit a complete report, the Commissioner may impose any penalty or action as authorized.

Under the bill, if the Commissioner determines the initially submitted report was incomplete, the Commissioner may charge the carrier for any additional expenses incurred. If the Commissioner cannot determine that a specific conduct or practice is compliant with the Parity Act because the carrier failed to provide a sufficient comparative analysis for an NQTL, the Commissioner may (1) issue an administrative order requiring the carrier to modify the conduct or practice, cease the conduct or practice, or submit periodic data related to the conduct or practice until the Commissioner can make a determination of compliance or (2) require the carrier to perform a new comparative analysis.

For a new comparative analysis, the Commissioner may require the carrier to establish specific quantitative thresholds for evidentiary standards and conduct a new comparative analysis for an NQTL if the carrier failed to provide a sufficient analysis because the carrier did not (1) use applicable quantitative thresholds or (2) provide a specific, detailed, and reasoned explanation of how the carrier ensures the factors for the NQTL are being applied comparatively and no more stringently to mental health and SUD services.

### *Commissioner Reporting Requirement*

The bill repeals uncodified language requiring the Commissioner to submit a specified final report to the General Assembly by December 1, 2025. Instead, by January 1, 2026, and every two years thereafter, the Commissioner must submit a report to the General Assembly that (1) summarizes the findings of the Commissioner after reviewing required carrier reports and (2) makes specific recommendations regarding the information gained from the reports, the value and need for ongoing compliance and data reporting, the frequency of reporting in subsequent years; and any changes in the reporting and data requirement that should be implemented.

**State Revenues:** Under the bill, if the Commissioner determines the initially submitted report was incomplete, the Commissioner may charge the carrier for any additional expenses incurred. Thus, MIA special fund revenues increase by an indeterminate amount beginning in fiscal 2025 (and every two years thereafter) from any charges assessed on carriers.

**State Expenditures:** Even though the bill is an emergency bill, it likely cannot take effect until after March 1, 2024, the date on which the final compliance and benefits reports under current law are due to MIA from carriers. Nevertheless, on February 13, 2024, MIA issued [Bulletin 24-5](#) advising carriers of an extension of the deadline to file Parity Act compliance

and benefit reports from March 1, 2024, to July 1, 2024, in light of pending legislation that would directly impact the reports. Accordingly, under the bill and that bulletin, carriers would not prepare or submit those reports and MIA would not review them. This analysis assumes that MIA redirects resources to other priorities, particularly those related to alerting carriers about which NTQLs must be included in the July 1, 2024 report.

Under current compliance and benefit reporting requirements, each carrier must submit a compliance and benefit report for the top five plans for each product offered by the carrier in each of the individual, small group, and large group markets. In 2022, MIA received 213 separate reports from 17 different carriers, including approximately 2,982 NQTLs to be reviewed over a two-year period.

Under the bill, MIA advises that it must now select and review four NQTLs every other year for specified products identified by the Commissioner. MIA advises that review of a single NQTL typically takes 60 to 80 hours. Generally, the first report reviewed for each carrier takes 80 hours, while additional reports from the same carrier take less time to review. MIA estimates that, under the bill, it will receive reports from 17 carriers for approximately 40 products, with four NQTLs per report. The total review time for these reports is estimated to take approximately 4,000 hours every other year.

As the reporting requirement is biennial, MIA would contract with its current contractor/vendor to review the NQTLs. At a fully loaded fixed hourly rate of \$155, 4,000 hours of review of NQTLs would cost \$620,000 in fiscal 2025 (with the initial report due July 1, 2024), and every other year thereafter.

As noted above, the bill permits MIA to charge a carrier for the costs of additional review if the initial submission is determined to be incomplete. Thus, expenditures are offset by an indeterminate amount of special fund revenues in fiscal 2025 and every other year thereafter.

**Additional Comments:** In December 2023, MIA submitted an interim [report](#) on NQTLs and data based on March 2022 report submissions. MIA determined that carrier reports were uniformly and significantly inadequate, impeding the ability to reach parity determinations. MIA offered several recommendations for options to streamline the reporting process to make the reviews more effective and efficient, including granting MIA greater enforcement authority and discretion on the frequency and number of reports required to be filed, the specific NQTLs that should be subject to the reporting requirements, the structure and content of the standard reporting forms and data, and additional options for corrective actions.

## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced in the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2024  
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