117TH CONGRESS
2D SESSION

S. ______

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to strengthen parity in mental health and substance use disorder benefits.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Mr. KAINE, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MURPHY, Mr. SANDERS, Ms. SMITH, Ms. STABENOW, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on ______________

A BILL

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to strengthen parity in mental health and substance use disorder benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the ‘‘Behavioral Health Cov-
5 erage Transparency Act of 2022’’.

1 **SEC. 2. STRENGTHENING PARITY IN MENTAL HEALTH AND**
2 **SUBSTANCE USE DISORDER BENEFITS.**
3 (a) PUBLIC HEALTH SERVICE ACT.—Section
4 2726(a)(8) of the Public Health Service Act (42 U.S.C.
5 300gg–26(a)(8)) is amended—
6 (1) in subparagraph (A), in the matter pre-
7 ceding clause (i)—
8 (A) by inserting ''(including entities that
9 provide administrative services in connection
10 with a group health plan, such as third party
11 administrators)'' after ''insurance coverage'';
12 and
13 (B) by striking ''and, beginning 45 days
14 after'' and all that follows through ''upon re-
15 quest,'' and inserting ''and submit to the Sec-
16 retary (or the Secretary of Labor or the Sec-
17 retary of the Treasury, as applicable), on an
18 annual basis (and at any other time upon re-
19 quest of the Secretary), and to the applicable
20 State authority upon request,'';
21 (2) in subparagraph (B)—
22 (A) in the heading, by striking ''REQUEST''
23 and inserting ''REVIEW'';
24 (B) in clause (i)—

1 (i) in the heading, by striking "SUB-
2 MISSION UPON REQUEST" and inserting
3 "IN GENERAL";
4 (ii) by striking "shall request" and all
5 that follows through "coverage submit"
6 and insert "shall conduct a review of"; and
7 (iii) by striking "shall request not
8 fewer than 20" and inserting "shall con-
9 duct a review of not fewer than 60";
10 (C) in clause (ii)—
11 (i) in the first sentence, by striking
12 "as requested under clause (i)" and insert-
13 ing "as submitted under such subpara-
14 graph";
15 (ii) in the first sentence, by striking
16 "to be responsive to the request under
17 clause (i) for" and inserting "to enable";
18 and
19 (iii) in the second sentence, by strik-
20 ing ", as requested under clause (i)";
21 (D) in clause (iii)—
22 (i) in subclause (I), by striking ", as
23 requested under clause (i),"; and
24 (ii) by adding at the end of subclause
25 (II) the following new sentence: "The pre-

1 ceding sentence shall not apply with re-
2 spect to disclosures made on or after the
3 date of the enactment of this sentence.'';
4 and
5 (E) in clause (iv)—
6 (i) in subclause (I)—
7 (I) by striking ''requested under
8 clause (i)'' and inserting ''reviewed
9 under clause (i)''; and
10 (II) by striking ''after the final
11 determination by the Secretary de-
12 scribed in clause (iii)(I)(bb)'' and in-
13 serting ''by the Secretary as described
14 in clause (iii)(I)'';
15 (ii) in subclause (II), by striking ''the
16 comparative analyses requested under
17 clause (i)'' and inserting ''such compara-
18 tive analyses'';
19 (iii) in subclause (III), by striking
20 ''the comparative analyses requested under
21 clause (i)'' and inserting ''such compara-
22 tive analyses'';
23 (iv) in subclause (IV)—
24 (I) by striking ''the comparative
25 analyses requested under clause (i)''

1 and inserting ‘‘such comparative anal-
2 yses’’; and
3 (II) by striking ‘‘and’’ at the end;
4 (v) in subclause (V), by striking the
5 period and inserting a semicolon; and
6 (vi) by adding at the end the fol-
7 lowing:
8 ‘‘(VI) the name of each group
9 health plan or health insurance issuer
10 found not to have submitted compara-
11 tive analyses in accordance with sub-
12 paragraph (A);
13 ‘‘(VII) the name of each group
14 health plan or health insurance issuer
15 whose comparative analyses were re-
16 viewed under clause (i) and found not
17 to have submitted sufficient informa-
18 tion for the Secretary to review; and
19 ‘‘(VIII) the name of any plan or
20 coverage with respect to which a com-
21 plaint has been submitted under sub-
22 paragraph (C) and for which a final
23 review finding has been issued.
24 The requirements of this clause with re-
25 spect to plans or issuers shall also apply to

1 entities that provide administrative services
2 in connection with a group health plan,
3 such as third party administrators, if ap-
4 plicable.'';
5 (3) in subparagraph (C)(i), by striking ''re-
6 quested''; and
7 (4) by adding at the end the following new sub-
8 paragraphs:
9 ''(D) AUDIT PROCESS.—Beginning 1 year
10 after the date of enactment of this subpara-
11 graph, the Secretary, in cooperation with the
12 Secretaries of Labor and the Treasury, as ap-
13 plicable, shall, in addition to conducting reviews
14 in accordance with subparagraph (B), conduct
15 randomized audits of group health plans, health
16 insurance issuers offering group or individual
17 health insurance coverage, and entities that
18 provide administrative services in connection
19 with a group health plan, such as third party
20 administrators, to determine compliance with
21 this section. Such audits shall be conducted on
22 no fewer than 40 plans or coverages per cal-
23 endar year (not including any reviews con-
24 ducted under such subparagraph). In addition,
25 the Secretary may, in cooperation with the Sec-

1 retaries of Labor and the Treasury, as applica-
2 ble, and in consultation with the Inspector Gen-
3 eral of the Department of Health and Human
4 Services, the Inspector General of the Depart-
5 ment of Labor, and the Inspector General of
6 the Department of the Treasury, as applicable,
7 conduct audits on any such plan or coverage
8 with respect to which a complaint has been sub-
9 mitted under subparagraph (E) to determine
10 compliance with this section.

11 ''(E) COMPLAINT PROCESS.—Not later
12 than 6 months after the date of enactment of
13 this subparagraph, the Secretary, in coopera-
14 tion with the Secretary of Labor and the Sec-
15 retary of the Treasury, shall, with respect to
16 group health plans and health insurance issuers
17 offering group or individual health insurance
18 coverage (including entities that provide admin-
19 istrative services in connection with a group
20 health plan, such as third party administra-
21 tors), issue guidance to clarify the process and
22 timeline for current and potential participants
23 and beneficiaries (and authorized representa-
24 tives and health care providers of such partici-
25 pants and beneficiaries) with respect to such

1 plans and coverage to file formal complaints of
2 such plans or issuers being in violation of this
3 section, including guidance, by plan type, on the
4 relevant State, regional, and national offices
5 with which such complaints should be filed.

6 "(F) COVERAGE DISPARITY INFORMA-
7 TION.—For the first calendar year that begins
8 on or after the date that is 2 years after the
9 date of the enactment of this subparagraph,
10 and for each subsequent calendar year, the Sec-
11 retary, in cooperation with the Secretaries of
12 Labor and the Treasury, shall submit to the
13 Committee on Energy and Commerce of the
14 House of Representatives and the Committee
15 on Health, Education, Labor, and Pensions of
16 the Senate the following information with re-
17 spect to the preceding calendar year:

18 "(i) DENIAL RATES.—Data comparing
19 the rates of and reasons for denial by
20 group health plans and health insurance
21 issuers offering group or individual health
22 insurance coverage (including entities that
23 provide administrative services in connec-
24 tion with a group health plan, such as
25 third party administrators) of claims for

1 mental health benefits, substance use dis-
2 order benefits, and medical and surgical
3 benefits, disaggregated by the following
4 categories:
5 ‘‘(I) Inpatient, in-network claims.
6 ‘‘(II) Inpatient, out-of-network
7 claims.
8 ‘‘(III) Outpatient, in-network
9 claims.
10 ‘‘(IV) Outpatient, out-of-network
11 claims.
12 ‘‘(V) Emergency services.
13 ‘‘(VI) Prescription drug claims.
14 ‘‘(ii) NETWORK ADEQUACY DATA.—
15 Data comparing the network adequacy of
16 group health plans and health insurance
17 issuers offering group or individual health
18 insurance coverage (including entities that
19 provide administrative services in connec-
20 tion with a group health plan, such as
21 third party administrators) based on
22 claims for outpatient and inpatient mental
23 health benefits, substance use disorder
24 benefits, and medical and surgical benefits,
25 including out-of-network utilization rates,

1 the number and percentage of in-network
2 providers accepting new patients, and aver-
3 age wait times between receiving initial
4 treatment and diagnosis and follow-up
5 treatment.
6 "(iii) REIMBURSEMENT RATES.—Data
7 comparing the reimbursement rates of
8 group health plans and health insurance
9 issuers offering group or individual health
10 insurance coverage (including entities that
11 provide administrative services in connec-
12 tion with a group health plan, such as
13 third party administrators) for the 10
14 most commonly billed mental health serv-
15 ices, substance use services, and medical
16 and surgical services, each as a percentage
17 of rates payable for such services under
18 title XVIII of the Social Security Act,
19 disaggregated by the following categories:
20 "(I) Inpatient, in-network claims.
21 "(II) Inpatient, out-of-network
22 claims.
23 "(III) Outpatient, in-network
24 claims.

1 "(IV) Outpatient, out-of-network
2 claims.
3 "(V) Emergency services.
4 "(VI) Prescription drug claims.".
5 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
6 OF 1974.—Section 712(a)(8) of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1185a(a)(8)) is
8 amended—
9 (1) in subparagraph (A), in the matter pre-
10 ceding clause (i)—
11 (A) by inserting "(including entities that
12 provide administrative services in connection
13 with a group health plan, such as third party
14 administrators)" after "insurance coverage";
15 and
16 (B) by striking "and, beginning 45 days
17 after" and all that follows through "upon re-
18 quest," and inserting "and submit to the Sec-
19 retary (or the Secretary of Health and Human
20 Services or the Secretary of the Treasury, as
21 applicable), on an annual basis (and at any
22 other time upon request of the Secretary),";
23 (2) in subparagraph (B)—
24 (A) in the heading, by striking "REQUEST"
25 and inserting "REVIEW";

1 (B) in clause (i)—
2 (i) in the heading, by striking "SUB-
3 MISSION UPON REQUEST" and inserting
4 "IN GENERAL";
5 (ii) by striking "shall request" and all
6 that follows through "coverage submit"
7 and insert "shall conduct a review of"; and
8 (iii) by striking "shall request not
9 fewer than 20" and inserting "shall con-
10 duct a review of not fewer than 60";
11 (C) in clause (ii)—
12 (i) in the first sentence, by striking
13 "as requested under clause (i)" and insert-
14 ing "as submitted under such subpara-
15 graph";
16 (ii) in the first sentence, by striking
17 "to be responsive to the request under
18 clause (i) for" and inserting "to enable";
19 and
20 (iii) in the second sentence, by strik-
21 ing ", as requested under clause (i)";
22 (D) in clause (iii)—
23 (i) in subclause (I), by striking ", as
24 requested under clause (i),"; and

1 (ii) by adding at the end of subclause
2 (II) the following new sentence: ‘‘The pre-
3 ceding sentence shall not apply with re-
4 spect to disclosures made on or after the
5 date of the enactment of this sentence.’’;
6 and
7 (E) in clause (iv)—
8 (i) in subclause (I)—
9 (I) by striking ‘‘requested under
10 clause (i)’’ and inserting ‘‘reviewed
11 under clause (i)’’; and
12 (II) by striking ‘‘after the final
13 determination by the Secretary de-
14 scribed in clause (iii)(I)(bb)’’ and in-
15 serting ‘‘by the Secretary as described
16 in clause (iii)(I)’’;
17 (ii) in subclause (II), by striking ‘‘the
18 comparative analyses requested under
19 clause (i)’’ and inserting ‘‘such compara-
20 tive analyses’’;
21 (iii) in subclause (III), by striking
22 ‘‘the comparative analyses requested under
23 clause (i)’’ and inserting ‘‘such compara-
24 tive analyses’’;
25 (iv) in subclause (IV)—

1 (I) by striking ‘‘the comparative
2 analyses requested under clause (i)’’
3 and inserting ‘‘such comparative anal-
4 yses’’; and
5 (II) by striking ‘‘and’’ at the end;
6 (v) in subclause (V), by striking the
7 period and inserting a semicolon; and
8 (vi) by adding at the end the fol-
9 lowing:
10 ‘‘(VI) the name of each group
11 health plan or health insurance issuer
12 found not to have submitted compara-
13 tive analyses in accordance with sub-
14 paragraph (A);
15 ‘‘(VII) the name of each group
16 health plan or health insurance issuer
17 whose comparative analyses were re-
18 viewed under clause (i) and found not
19 to have submitted sufficient informa-
20 tion for the Secretary to review; and
21 ‘‘(VIII) the name of any plan or
22 coverage with respect to which a com-
23 plaint has been submitted under sub-
24 paragraph (C) and for which a final
25 review finding has been issued.

1 The requirements of this clause with re-
2 spect to plans or issuers shall also apply to
3 entities that provide administrative services
4 in connection with a group health plan,
5 such as third party administrators, if ap-
6 plicable.'';
7 (3) in subparagraph (C)(i), by striking ''re-
8 quested''; and
9 (4) by adding at the end the following new sub-
10 paragraphs:
11 ''(D) AUDIT PROCESS.—Beginning 1 year
12 after the date of enactment of this subpara-
13 graph, the Secretary, in cooperation with the
14 Secretaries of Health and Human Services and
15 the Treasury, as applicable, shall, in addition to
16 conducting reviews in accordance with subpara-
17 graph (B), conduct randomized audits of group
18 health plans, health insurance issuers offering
19 group health insurance coverage, and entities
20 that provide administrative services in connec-
21 tion with a group health plan, such as third
22 party administrators, to determine compliance
23 with this section. Such audits shall be con-
24 ducted on no fewer than 40 plans or coverages
25 per calendar year (not including any reviews

1 conducted under such subparagraph). In addi-
2 tion, the Secretary may, in cooperation with the
3 Secretaries of Health and Human Services and
4 the Treasury, as applicable, and in consultation
5 with the Inspector General of the Department
6 of Health and Human Services, the Inspector
7 General of the Department of Labor, and the
8 Inspector General of the Department of the
9 Treasury, as applicable, conduct audits on any
10 such plan or coverage with respect to which a
11 complaint has been submitted under subpara-
12 graph (E) to determine compliance with this
13 section.

14 "(E) COMPLAINT PROCESS.—Not later
15 than 6 months after the date of enactment of
16 this subparagraph, the Secretary, in coopera-
17 tion with the Secretary of Health and Human
18 Services and the Secretary of the Treasury,
19 shall, with respect to group health plans and
20 health insurance issuers offering group health
21 insurance coverage (including entities that pro-
22 vide administrative services in connection with a
23 group health plan, such as third party adminis-
24 trators), issue guidance to clarify the process
25 and timeline for current and potential partici-

1 pants and beneficiaries (and authorized rep-
2 resentatives and health care providers of such
3 participants and beneficiaries) with respect to
4 such plans and coverage to file formal com-
5 plaints of such plans or issuers being in viola-
6 tion of this section, including guidance, by plan
7 type, on the relevant State, regional, and na-
8 tional offices with which such complaints should
9 be filed.

10 ''(F) COVERAGE DISPARITY INFORMA-
11 TION.—For the first calendar year that begins
12 on or after the date that is 2 years after the
13 date of the enactment of this subparagraph,
14 and for each subsequent calendar year, the Sec-
15 retary, in cooperation with the Secretaries of
16 Health and Human Services and the Treasury,
17 shall submit to the Committee on Energy and
18 Commerce of the House of Representatives and
19 the Committee on Health, Education, Labor,
20 and Pensions of the Senate the following infor-
21 mation with respect to the preceding calendar
22 year:

23 ''(i) DENIAL RATES.—Data comparing
24 the rates of and reasons for denial by
25 group health plans and health insurance

1 issuers offering group health insurance
2 coverage (including entities that provide
3 administrative services in connection with
4 a group health plan, such as third party
5 administrators) of claims for mental health
6 benefits, substance use disorder benefits,
7 and medical and surgical benefits,
8 disaggregated by the following categories:
9 "(I) Inpatient, in-network claims.
10 "(II) Inpatient, out-of-network
11 claims.
12 "(III) Outpatient, in-network
13 claims.
14 "(IV) Outpatient, out-of-network
15 claims.
16 "(V) Emergency services.
17 "(VI) Prescription drug claims.
18 "(ii) NETWORK ADEQUACY DATA.—
19 Data comparing the network adequacy of
20 group health plans and health insurance
21 issuers offering group health insurance
22 coverage (including entities that provide
23 administrative services in connection with
24 a group health plan, such as third party
25 administrators) based on claims for out-

1 patient and inpatient mental health bene-
2 fits, substance use disorder benefits, and
3 medical and surgical benefits, including
4 out-of-network utilization rates, the num-
5 ber and percentage of in-network providers
6 accepting new patients, and average wait
7 times between receiving initial treatment
8 and diagnosis and follow-up treatment.
9 ''(iii) REIMBURSEMENT RATES.—Data
10 comparing the reimbursement rates of
11 group health plans and health insurance
12 issuers offering group health insurance
13 coverage (including entities that provide
14 administrative services in connection with
15 a group health plan, such as third party
16 administrators) for the 10 most commonly
17 billed mental health services, substance use
18 services, and medical and surgical services,
19 each as a percentage of rates payable for
20 such services under title XVIII of the So-
21 cial Security Act, disaggregated by the fol-
22 lowing categories:
23 ''(I) Inpatient, in-network claims.
24 ''(II) Inpatient, out-of-network
25 claims.

1 "(III) Outpatient, in-network
2 claims.
3 "(IV) Outpatient, out-of-network
4 claims.
5 "(V) Emergency services.
6 "(VI) Prescription drug claims.".
7 (c) INTERNAL REVENUE CODE OF 1986.—Section
8 9812(a)(8) of the Internal Revenue Code of 1986 is
9 amended—
10 (1) in subparagraph (A), in the matter pre-
11 ceding clause (i)—
12 (A) by inserting "(including entities that
13 provide administrative services in connection
14 with a group health plan, such as third party
15 administrators)" after "In the case of a group
16 health plan"; and
17 (B) by striking "and, beginning 45 days
18 after" and all that follows through "upon re-
19 quest," and inserting "and submit to the Sec-
20 retary (or the Secretary of Health and Human
21 Services or the Secretary of Labor, as applica-
22 ble), on an annual basis (and at any other time
23 upon request of the Secretary),";
24 (2) in subparagraph (B)—

1 (A) in the heading, by striking ''REQUEST''
2 and inserting ''REVIEW'';
3 (B) in clause (i)—
4 (i) in the heading, by striking ''SUB-
5 MISSION UPON REQUEST'' and inserting
6 ''IN GENERAL'';
7 (ii) by striking ''shall request'' and all
8 that follows through ''plan submit'' and in-
9 sert ''shall conduct a review of''; and
10 (iii) by striking ''shall request not
11 fewer than 20'' and inserting ''shall con-
12 duct a review of not fewer than 60'';
13 (C) in clause (ii)—
14 (i) in the first sentence, by striking
15 ''as requested under clause (i)'' and insert-
16 ing ''as submitted under such subpara-
17 graph'';
18 (ii) in the first sentence, by striking
19 ''to be responsive to the request under
20 clause (i) for'' and inserting ''to enable'';
21 and
22 (iii) in the second sentence, by strik-
23 ing '', as requested under clause (i)'';
24 (D) in clause (iii)—

1 (i) in subclause (I), by striking ", as
2 requested under clause (i),"; and
3 (ii) by adding at the end of subclause
4 (II) the following new sentence: "The pre-
5 ceding sentence shall not apply with re-
6 spect to disclosures made on or after the
7 date of the enactment of this sentence.";
8 and
9 (E) in clause (iv)—
10 (i) in subclause (I)—
11 (I) by striking "requested under
12 clause (i)" and inserting "reviewed
13 under clause (i)"; and
14 (II) by striking "after the final
15 determination by the Secretary de-
16 scribed in clause (iii)(I)(bb)" and in-
17 serting "by the Secretary as described
18 in clause (iii)(I)";
19 (ii) in subclause (II), by striking "the
20 comparative analyses requested under
21 clause (i)" and inserting "such compara-
22 tive analyses";
23 (iii) in subclause (III), by striking
24 "the comparative analyses requested under

1 clause (i)'' and inserting ''such compara-
2 tive analyses'';
3 (iv) in subclause (IV)—
4 (I) by striking ''the comparative
5 analyses requested under clause (i)''
6 and inserting ''such comparative anal-
7 yses''; and
8 (II) by striking ''and'' at the end;
9 (v) in subclause (V), by striking the
10 period and inserting a semicolon; and
11 (vi) by adding at the end the fol-
12 lowing:
13 ''(VI) the name of each group
14 health plan found not to have sub-
15 mitted comparative analyses in ac-
16 cordance with subparagraph (A);
17 ''(VII) the name of each group
18 health plan whose comparative anal-
19 yses were reviewed under clause (i)
20 and found not to have submitted suf-
21 ficient information for the Secretary
22 to review; and
23 ''(VIII) the name of any plan
24 with respect to which a complaint has
25 been submitted under subparagraph

1 (C) and for which a final review find-
2 ing has been issued.
3 The requirements of this clause with re-
4 spect to plans shall also apply to entities
5 that provide administrative services in con-
6 nection with a group health plan, such as
7 third party administrators, if applicable.'';
8 (3) in subparagraph (C)(i), by striking ''re-
9 quested''; and
10 (4) by adding at the end the following new sub-
11 paragraphs:
12 ''(D) AUDIT PROCESS.—Beginning 1 year
13 after the date of enactment of this subpara-
14 graph, the Secretary, in cooperation with the
15 Secretaries of Health and Human Services and
16 Labor, as applicable, shall, in addition to con-
17 ducting reviews in accordance with subpara-
18 graph (B), conduct randomized audits of group
19 health plans and entities that provide adminis-
20 trative services in connection with a group
21 health plan, such as third party administrators,
22 to determine compliance with this section. Such
23 audits shall be conducted on no fewer than 40
24 plans per calendar year (not including any re-
25 views conducted under such subparagraph). In

1 addition, the Secretary may, in cooperation with
2 the Secretaries of Health and Human Services
3 and Labor, as applicable, and in consultation
4 with the Inspector General of the Department
5 of Health and Human Services, the Inspector
6 General of the Department of Labor, and the
7 Inspector General of the Department of the
8 Treasury, as applicable, conduct audits on any
9 such plan with respect to which a complaint has
10 been submitted under subparagraph (E) to de-
11 termine compliance with this section.
12 ''(E) COMPLAINT PROCESS.—Not later
13 than 6 months after the date of enactment of
14 this subparagraph, the Secretary, in coopera-
15 tion with the Secretary of Health and Human
16 Services and the Secretary of Labor, shall, with
17 respect to group health plans (including entities
18 that provide administrative services in connec-
19 tion with a group health plan, such as third
20 party administrators), issue guidance to clarify
21 the process and timeline for current and poten-
22 tial participants and beneficiaries (and author-
23 ized representatives and health care providers
24 of such participants and beneficiaries) with re-
25 spect to such plans to file formal complaints of

1 such plans being in violation of this section, in-
2 cluding guidance, by plan type, on the relevant
3 State, regional, and national offices with which
4 such complaints should be filed.
5 "(F) COVERAGE DISPARITY INFORMA-
6 TION.—For the first calendar year that begins
7 on or after the date that is 2 years after the
8 date of the enactment of this subparagraph,
9 and for each subsequent calendar year, the Sec-
10 retary, in cooperation with the Secretaries of
11 Health and Human Services and Labor, shall
12 submit to the Committee on Energy and Com-
13 merce of the House of Representatives and the
14 Committee on Health, Education, Labor, and
15 Pensions of the Senate the following informa-
16 tion with respect to the preceding calendar
17 year:
18 "(i) DENIAL RATES.—Data comparing
19 the rates of and reasons for denial by
20 group health plans (including entities that
21 provide administrative services in connec-
22 tion with a group health plan, such as
23 third party administrators) of claims for
24 mental health benefits, substance use dis-
25 order benefits, and medical and surgical

1 benefits, disaggregated by the following
2 categories:
3 ‘‘(I) Inpatient, in-network claims.
4 ‘‘(II) Inpatient, out-of-network
5 claims.
6 ‘‘(III) Outpatient, in-network
7 claims.
8 ‘‘(IV) Outpatient, out-of-network
9 claims.
10 ‘‘(V) Emergency services.
11 ‘‘(VI) Prescription drug claims.
12 ‘‘(ii) NETWORK ADEQUACY DATA.—
13 Data comparing the network adequacy of
14 group health plans (including entities that
15 provide administrative services in connec-
16 tion with a group health plan, such as
17 third party administrators) based on
18 claims for outpatient and inpatient mental
19 health benefits, substance use disorder
20 benefits, and medical and surgical benefits,
21 including out-of-network utilization rates,
22 the number and percentage of in-network
23 providers accepting new patients, and aver-
24 age wait times between receiving initial

1 treatment and diagnosis and follow-up
2 treatment.
3 "(iii) REIMBURSEMENT RATES.—Data
4 comparing the reimbursement rates of
5 group health plans (including entities that
6 provide administrative services in connec-
7 tion with a group health plan, such as
8 third party administrators) for the 10
9 most commonly billed mental health serv-
10 ices, substance use services, and medical
11 and surgical services, each as a percentage
12 of rates payable for such services under
13 title XVIII of the Social Security Act,
14 disaggregated by the following categories:
15 "(I) Inpatient, in-network claims.
16 "(II) Inpatient, out-of-network
17 claims.
18 "(III) Outpatient, in-network
19 claims.
20 "(IV) Outpatient, out-of-network
21 claims.
22 "(V) Emergency services.
23 "(VI) Prescription drug claims.".

1 **SEC. 3. CONSUMER PARITY UNIT FOR MENTAL HEALTH**
2 **AND SUBSTANCE USE DISORDER PARITY VIO-**
3 **LATIONS.**

4 (a) DEFINITIONS.—In this section:
5 (1) APPLICABLE STATE AUTHORITY.—The term
6 ‘‘applicable State authority’’ has the meaning given
7 the term in section 2791 of the Public Health Serv-
8 ice Act (42 U.S.C. 300gg–91).
9 (2) COVERED PLAN.—The term ‘‘covered plan’’
10 means any creditable coverage that is subject to any
11 of the mental health parity laws described in para-
12 graph (4).
13 (3) CREDITABLE COVERAGE.—The term ‘‘cred-
14 itable coverage’’ has the meaning given the term in
15 section 2704(c) of the Public Health Service Act (42
16 U.S.C. 300gg–3(c)).
17 (4) MENTAL HEALTH PARITY LAW.—The term
18 ‘‘mental health parity law’’ means—
19 (A) section 2726 of the Public Health
20 Service Act (42 U.S.C. 300gg–26);
21 (B) section 712 of the Employee Retire-
22 ment Income Security Act of 1974 (29 U.S.C.
23 1185a);
24 (C) section 9812 of the Internal Revenue
25 Code of 1986; or

1 (D) any other Federal law that applies the
2 requirements under any of the sections de-
3 scribed in subparagraph (A), (B), or (C), or re-
4 quirements that are substantially similar to the
5 requirements under any such section, as deter-
6 mined by the Secretary, to creditable coverage.
7 (5) SECRETARY.—The term ''Secretary'' means
8 the Secretary of Health and Human Services.
9 (6) SPECIFIED COVERED PLAN.—The term
10 ''specified covered plan'' means a covered plan that
11 is any of the following:
12 (A) A group health plan or group or indi-
13 vidual health insurance coverage (as such terms
14 are defined in section 2791 of the Public
15 Health Service Act (42 U.S.C. 300gg–91)).
16 (B) A Medicare Advantage plan offered
17 under part C of title XVIII of the Social Secu-
18 rity Act (42 U.S.C. 1395w–21 et seq.).
19 (C) A State plan (or waiver of such plan)
20 under title XIX of the Social Security Act (42
21 U.S.C. 1396 et seq.).
22 (D) A plan offered under the program es-
23 tablished under chapter 89 of title 5, United
24 States Code.

1 (b) ESTABLISHMENT.—Not later than 6 months after
2 the date of enactment of this Act, the Secretary, in con-
3 sultation with the Secretary of Labor, the Secretary of the
4 Treasury, and the heads of any other applicable agencies,
5 shall establish a consumer parity unit with functions that
6 include—
7 (1) facilitating the centralized collection of,
8 monitoring of, and response to consumer complaints
9 (including provider complaints) regarding violations
10 of mental health parity laws through developing and
11 administering, in accordance with subsection (d)—
12 (A) a single, toll-free telephone number;
13 and
14 (B) a public website portal, which may in-
15 clude enhancing a website portal in existence on
16 the date of enactment of this Act; and
17 (2) providing information to health care con-
18 sumers regarding the disclosure requirements and
19 enforcement under section 2726(a)(8) of the Public
20 Health Service Act (42 U.S.C. 300gg–26(a)(8)), sec-
21 tion 712(a)(8) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1185a(a)(8)), and
23 section 9812(a)(8) of the Internal Revenue Code of
24 1986.

1 (c) WEBSITE PORTAL.—The Secretary, in consulta-
2 tion with the Secretary of Labor, the Secretary of the
3 Treasury, and the heads of any other applicable agencies,
4 shall make available on the website portal established
5 under subsection (b)(1)(B)—
6 (1) any guidance and any reports issued by the
7 Secretary, the Secretary of Labor, or the Secretary
8 of the Treasury, under section 2726 of the Public
9 Health Service Act (42 U.S.C. 300gg–26), section
10 712 of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1185a), or section 9812 of
12 the Internal Revenue Code of 1986, respectively;
13 (2) any information obtained under subsection
14 (b)(1) that it is in the public interest to disclose,
15 through aggregated reported or other appropriate
16 formats designed to protect confidential information
17 in accordance with subsection (g); and
18 (3) information on the results of, or progress
19 on, any concluded or ongoing audits or investiga-
20 tions of the Secretary, the Secretary of Labor, or the
21 Secretary of the Treasury, as applicable, under such
22 section 2726, 712, or 9812, respectively, including
23 the identity of each group health plan or health in-
24 surance issuer (including entities that provide ad-
25 ministrative services in connection with a group

1 health plan, such as third party administrators)
2 that—
3 (A) was the subject of a concluded audit or
4 investigation; or
5 (B) that is the subject of an ongoing audit
6 or investigation and which was found, pursuant
7 to such audit or investigation, not to have sub-
8 mitted NQTL analyses in accordance with such
9 sections (or to have submitted incomplete
10 NQTL analyses).
11 (d) RESPONSE TO CONSUMER COMPLAINTS AND IN-
12 QUIRIES.—
13 (1) TIMELY RESPONSE TO CONSUMERS.—The
14 Secretary, in consultation with the Secretary of
15 Labor, the Secretary of the Treasury, and the heads
16 of any other applicable agencies, shall establish rea-
17 sonable procedures for the consumer parity unit es-
18 tablished under this section to provide a response (in
19 writing if appropriate) within 90 days to consumers
20 regarding complaints received by the unit against, or
21 inquiries concerning, a covered plan, at the discre-
22 tion of the applicable agency, which shall at min-
23 imum include—
24 (A) steps that have been taken by the ap-
25 propriate State or Federal enforcement agency

1 in response to the complaint or inquiry of the
2 consumer;
3 (B) in the case such complaint relates to
4 a specified covered plan, any responses received
5 by the appropriate State or Federal enforce-
6 ment agency from the covered plan;
7 (C) any follow-up actions or planned fol-
8 low-up actions by the appropriate State or Fed-
9 eral enforcement agency in response to the com-
10 plaint or inquiry of the consumer; and
11 (D) contact information of the appropriate
12 enforcement agency for the consumer to obtain
13 additional information on the complaint or in-
14 quiry.
15 (2) TIMELY RESPONSE TO REGULATORS.—A
16 specified covered plan shall provide a response (in
17 writing if appropriate) within 7 days to the appro-
18 priate State or Federal enforcement agency having
19 jurisdiction over such plan (or, in the case such plan
20 is a State plan (or wavier of such plan) under title
21 XIX of the Social Security Act (42 U.S.C. 1396 et
22 seq.), to the Secretary of Health and Human Serv-
23 ices) concerning a consumer complaint or inquiry
24 submitted to the consumer parity unit established
25 under this section including—

1 (A) steps that have been taken by the plan
2 to respond to the complaint or inquiry of the
3 consumer;
4 (B) any responses received by the plan
5 from the consumer; and
6 (C) follow-up actions or planned follow-up
7 actions by the plan in response to the complaint
8 or inquiry of the consumer.
9 (3) PROVISION OF INFORMATION TO CON-
10 SUMERS.—
11 (A) IN GENERAL.—A covered plan shall
12 comply with a consumer request for information
13 in the control or possession of such covered
14 plan concerning the coverage the consumer ob-
15 tained from such covered plan within 7 days of
16 receipt of such request.
17 (B) EXCEPTIONS.—Notwithstanding sub-
18 paragraph (A), a covered plan, and any agency
19 or entity having jurisdiction over a covered
20 plan, may not be required by this paragraph to
21 make available to the consumer any information
22 required to be kept confidential by any other
23 provision of law.
24 (4) ENFORCEMENT.—

1 (A) PRIVATE INSURANCE.—The provisions
2 of paragraphs (2) and (3) shall apply to group
3 health plans and group and individual health
4 insurance coverage (as such terms are defined
5 in section 2791 of the Public Health Service
6 Act (42 U.S.C. 300gg–91)) as if such provi-
7 sions were included in part D of title XXVII of
8 such Act (42 U.S.C. 300g–111 et seq.), part 7
9 of title I of the Employee Retirement Act of
10 1974 (29 U.S.C. 1181 et seq.), and chapter
11 100 of the Internal Revenue Code of 1986.
12 (B) OTHER SPECIFIED COVERED PLANS.—
13 (i) MEDICARE ADVANTAGE PLANS.—
14 Section 1852 of the Social Security Act
15 (42 U.S.C. 1395w–22) is amended by add-
16 ing at the end the following new section:
17 "(o) APPLICATION OF CERTAIN MENTAL HEALTH
18 PARITY COMPLAINT REQUIREMENTS.—An MA plan shall
19 comply with the requirements of paragraphs (2) and (3)
20 of section 3(d) of the Behavioral Health Coverage Trans-
21 parency Act of 2022.".
22 (ii) MEDICAID.—Section 1902(a) of
23 the Social Security Act (42 U.S.C.
24 1396a(a)) is amended—

1 (I) in paragraph (86), by striking
2 ''; and'' at the end;
3 (II) in paragraph (87)(D), by
4 striking the period and inserting '';
5 and''; and
6 (III) by inserting after paragraph
7 (87) the following new paragraph:
8 ''(88) provide for compliance with the provi-
9 sions of paragraphs (2) and (3) of section 3(d) of
10 the Behavioral Health Coverage Transparency Act
11 of 2022.''.
12 (C) OTHER COVERED PLANS.—In the case
13 of a covered plan that is not a specified covered
14 plan, the Federal agency charged with the ad-
15 ministration or supervision of such plan shall
16 ensure that such plan complies with the provi-
17 sions of paragraph (3).
18 (e) REPORTS.—
19 (1) IN GENERAL.—Not later than December 31
20 of each year, the Secretary, in consultation with the
21 Secretary of Labor, the Secretary of the Treasury,
22 and the heads of any other applicable agencies, shall
23 submit a report to Congress on the complaints re-
24 ceived by the consumer parity unit established under

1 this section in the prior year regarding covered
2 plans.
3 (2) CONTENTS.—Each such report shall include
4 information and analysis about complaint numbers,
5 complaint types, and, where applicable, information
6 about the resolution of complaints, including the
7 identity of the group health plan or health insurance
8 issuer that is the subject of such a complaint.
9 (3) CONSUMER PARITY UNIT POSTING.—The
10 Secretary shall submit such reports to the consumer
11 parity unit established under this section, and such
12 unit shall post the reports on the website portal es-
13 tablished under subsection (b)(1)(B).
14 (f) DATA SHARING.—Subject to any applicable stand-
15 ards for Federal or State agencies with respect to pro-
16 tecting personally identifiable information and data secu-
17 rity and integrity, including the regulations under part 2
18 of title 42, Code of Federal Regulations—
19 (1) the consumer parity unit established under
20 this section shall share consumer complaint informa-
21 tion with the Secretary, and the head of any other
22 applicable Federal or State agency; and
23 (2) the Secretary, and the head of any other
24 applicable Federal or State agency, shall share data

1 relating to consumer complaints regarding covered
2 plans with such unit.
3 (g) PRIVACY CONSIDERATIONS.—
4 (1) IN GENERAL.—In carrying out this section,
5 the consumer parity unit established under this sec-
6 tion and the Secretary, in consultation with the Sec-
7 retary of Labor, the Secretary of the Treasury, and
8 the head of any other applicable agency, shall take
9 measures to ensure that proprietary, personal, or
10 confidential consumer information that is protected
11 from public disclosure under section 552(b) or 552a
12 of title 5, United States Code, or any other provision
13 of law, is not made public under this section.
14 (2) EXCEPTIONS.—The consumer parity unit
15 established under this section may not obtain from
16 a covered plan any personally identifiable informa-
17 tion about a consumer from the records of the cov-
18 ered plan, except—
19 (A) if the records are reasonably described
20 in a request by the consumer parity unit estab-
21 lished under this section, and the consumer pro-
22 vides appropriate consent for the disclosure and
23 use of such information by the covered plan to
24 such unit; or

1 (B) as may be specifically permitted or re-
2 quired under other applicable provisions of law,
3 including the regulations under part 2 of title
4 42, Code of Federal Regulations.
5 (h) COLLABORATION.—
6 (1) AGREEMENTS WITH OTHER AGENCIES.—
7 The Secretary, the Secretary of Labor, the Secretary
8 of the Treasury, and the heads of any other applica-
9 ble agencies, shall enter into a memorandum of un-
10 derstanding with any affected Federal regulatory
11 agency regarding procedures by which any covered
12 plan, and any other agency having jurisdiction over
13 a covered plan, shall comply with this section.
14 (2) AGREEMENTS WITH STATES.—To the ex-
15 tent practicable, an applicable State authority may
16 receive appropriate complaints from the consumer
17 parity unit established under this section, if—
18 (A) the applicable State authority has the
19 functional capacity to receive calls or electronic
20 reports routed by the unit;
21 (B) the applicable State authority has sat-
22 isfied any conditions of participation that the
23 unit may establish, including treatment of per-
24 sonally identifiable information and sharing of

1 information on complaint resolution or related
2 compliance procedures and resources; and
3 (C) participation by the applicable State
4 authority includes measures necessary to pro-
5 tect personally identifiable information in ac-
6 cordance with standards that apply to Federal
7 agencies with respect to protecting personally
8 identifiable information and data security and
9 integrity.
10 (3) ASSISTANCE TO STATES.—The Secretary,
11 the Secretary of Labor, the Secretary of the Treas-
12 ury, and the heads of any other applicable agencies,
13 shall provide assistance to States to increase the ca-
14 pacity of State governments to work with the Fed-
15 eral parity unit under this section, including through
16 the provision of training and technical assistance,
17 and identification of violations of mental health and
18 substance use disorder parity protections.
19 (i) FUNDING.—
20 (1) INITIAL FUNDING.—There is hereby appro-
21 priated to the Secretary, out of any funds in the
22 Treasury not otherwise appropriated, $30,000,000
23 for the first fiscal year for which this section applies
24 to carry out this section. Such amount shall remain
25 available until expended.

1 (2) AUTHORIZATION FOR SUBSEQUENT
2 YEARS.—There is authorized to be appropriated to
3 the Secretary for each fiscal year following the fiscal
4 year described in paragraph (1), such sums as may
5 be necessary to carry out this section.

6 **SEC. 4. GRANTS FOR HEALTH INSURANCE INFORMATION**
7 **CONCERNING MENTAL HEALTH AND SUB-**
8 **STANCE USE DISORDER BENEFITS.**

9 (a) IN GENERAL.—The Secretary of Health and
10 Human Services (referred to in this section as the ''Sec-
11 retary'') shall award grants to States to enable such
12 States (or the Exchanges established under the Patient
13 Protection and Affordable Care Act (Public Law 111–
14 148) operating in such States) to establish, expand, or
15 provide support for—
16 (1) offices of health insurance consumer assist-
17 ance; or
18 (2) health insurance ombudsman programs,
19 in order to enable such offices and programs to carry out
20 the activities described in subsection (c).
21 (b) ELIGIBILITY.—
22 (1) IN GENERAL.—To be eligible to receive a
23 grant, a State shall designate an independent office
24 of health insurance consumer assistance, or an om-
25 budsman, that, directly or in coordination with State

1 private and public health insurance regulators and
2 consumer assistance organizations, receives and re-
3 sponds to inquiries and complaints concerning health
4 insurance coverage with respect to Federal health in-
5 surance requirements and under State law relating
6 to mental health or substance use disorder benefits.
7 (2) CRITERIA.—A State that receives a grant
8 under this section shall comply with criteria estab-
9 lished by the Secretary for carrying out activities
10 under such grant.
11 (c) USE OF FUNDS.—Funds received from a grant
12 awarded under this section shall be used by an office of
13 health insurance consumer assistance or health insurance
14 ombudsman described in subsection (a) to—
15 (1) assist with the filing of complaints and ap-
16 peals, including filing appeals with the internal ap-
17 peal or grievance process of the group health plan or
18 health insurance issuer, Medicaid program, and
19 Children's Health Insurance Program involved, re-
20 lating to mental health or substance use disorder
21 benefits, and providing information about the exter-
22 nal appeal process;
23 (2) collect, track, and quantify problems and in-
24 quiries encountered by consumers;

1 (3) educate consumers on their rights and re-
2 sponsibilities with respect to group health plans and
3 health insurance coverage, Medicaid, and Children's
4 Health Insurance Program relating to mental health
5 or substance use disorder benefits;
6 (4) assist consumers with enrollment in a group
7 health plan or health insurance coverage, Medicaid,
8 and the Children's Health Insurance Program by
9 providing information, referral, and assistance; and
10 (5) assist consumers in resolving problems with
11 obtaining premium tax credits under section 36B of
12 the Internal Revenue Code of 1986 by providing in-
13 formation, referral, and assistance.
14 (d) DATA COLLECTION.—As a condition of receiving
15 a grant under subsection (a), an office of health insurance
16 consumer assistance or ombudsman program shall be re-
17 quired to collect and report data to the Secretary and
18 State public and private health insurance regulators on
19 the types of problems and inquiries encountered by con-
20 sumers relating to mental health or substance use disorder
21 benefits. The Secretary shall utilize such data to identify
22 areas where more enforcement action is necessary and
23 shall share such information with State insurance regu-
24 lators, the Secretary of Labor, and the Secretary of the

1 Treasury for use in the enforcement activities of such
2 agencies.
3 (e) FUNDING.—
4 (1) INITIAL FUNDING.—There is hereby appro-
5 priated to the Secretary, out of any funds in the
6 Treasury not otherwise appropriated, $25,000,000
7 for the first fiscal year for which this section applies
8 to carry out this section. Such amount shall remain
9 available until expended.
10 (2) AUTHORIZATION FOR SUBSEQUENT
11 YEARS.—There is authorized to be appropriated to
12 the Secretary for each fiscal year following the fiscal
13 year described in paragraph (1), such sums as may
14 be necessary to carry out this section.