

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To strengthen parity in mental health and substance use disorder benefits.

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IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

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”.

6 **SEC. 2. STRENGTHENING PARITY IN MENTAL HEALTH AND**  
7 **SUBSTANCE USE DISORDER BENEFITS.**

8 (a) PUBLIC HEALTH SERVICE ACT.—Section  
9 2726(a) of the Public Health Service Act (42 U.S.C.  
10 300gg–26(a)) is amended by adding at the end the fol-  
11 lowing new paragraph:

1           “(8) DISCLOSURE AND ENFORCEMENT RE-  
2           QUIREMENTS.—

3           “(A) DISCLOSURE REQUIREMENTS.—

4                   “(i) REGULATIONS.—Not later than 6  
5                   months after the date of enactment of this  
6                   paragraph, the Secretary, in cooperation  
7                   with the Secretaries of Labor and the  
8                   Treasury, shall issue regulations for car-  
9                   rying out this section, including an expla-  
10                  nation of documents that group health  
11                  plans and health insurance issuers offering  
12                  group or individual health insurance cov-  
13                  erage shall disclose in accordance with  
14                  clause (ii), the process governing the dis-  
15                  closure of such documents, and analyses  
16                  that such plans and issuers shall conduct  
17                  in order to demonstrate compliance with  
18                  this section.

19                  “(ii) DISCLOSURE REQUIREMENTS.—

20                  The documents required to be disclosed by  
21                  a group health plan or a health insurance  
22                  issuer offering group or individual health  
23                  insurance under clause (i) shall include an  
24                  annual report that details the specific anal-  
25                  yses performed to ensure compliance of

1 such plan or issuer with this section, in-  
2 cluding any regulation promulgated pursu-  
3 ant to this section. At a minimum, with re-  
4 spect to the application of nonquantitative  
5 treatment limitations (in this paragraph  
6 referred to as ‘NQTLs’) to benefits under  
7 the plan or coverage, such report shall—

8 “(I) identify the specific factors  
9 the plan or issuer used in performing  
10 its NQTLs analysis;

11 “(II) identify and define the spe-  
12 cific evidentiary standards relied on to  
13 evaluate such factors;

14 “(III) describe how the evi-  
15 dentiary standards are applied to each  
16 service category for mental health  
17 benefits, substance use disorder bene-  
18 fits, medical benefits, and surgical  
19 benefits;

20 “(IV) disclose the results of the  
21 analyses of the specific evidentiary  
22 standards in each service category;  
23 and

24 “(V) disclose the specific findings  
25 of the plan or issuer in each service

1 category and the conclusions reached  
2 with respect to whether the processes,  
3 strategies, evidentiary standards, or  
4 other factors used in applying the  
5 NQTLs to mental health or substance  
6 use disorder benefits are comparable  
7 to, and applied no more stringently  
8 than, the processes, strategies, evi-  
9 dentiary standards, or other factors  
10 used in applying the NQTLs to med-  
11 ical and surgical benefits in the same  
12 classification.

13 “(iii) GUIDANCE.—Not later than 6  
14 months after the date of enactment of this  
15 paragraph, the Secretary, in cooperation  
16 with the Secretaries of Labor and the  
17 Treasury, shall issue guidance to group  
18 health plans and health insurance issuers  
19 offering group or individual health insur-  
20 ance coverage on how to satisfy the re-  
21 quirements of this section, with respect to  
22 making information available to current  
23 and potential participants and bene-  
24 ficiaries. Such information shall include—

1                   “(I) certificate of coverage docu-  
2                   ments and instruments under which  
3                   the plan or coverage involved is ad-  
4                   ministered and operated that specify,  
5                   include, or refer to procedures, for-  
6                   mulas, and methodologies applied to  
7                   determine a participant’s or bene-  
8                   ficiary’s benefit under the plan or cov-  
9                   erage, regardless of whether such in-  
10                  formation is contained in a document  
11                  designated as the ‘plan document’;  
12                  and

13                  “(II) a disclosure of how the plan  
14                  or issuer involved has provided that  
15                  processes, strategies, evidentiary  
16                  standards, and other factors used in  
17                  applying the NQTLs to mental health  
18                  or substance use disorder benefits are  
19                  comparable to, and applied no more  
20                  stringently than, the processes, strate-  
21                  gies, evidentiary standards, or other  
22                  factors used in applying the NQTLs  
23                  to medical and surgical benefits in the  
24                  same classification.

1                   “(iv) DEFINITIONS.—In this para-  
2 graph and paragraph (7), the terms ‘non-  
3 quantitative treatment limitations’, ‘com-  
4 parable to’, and ‘applied no more strin-  
5 gently than’ have the meanings given such  
6 terms in sections 146.136 and 147.160 of  
7 title 45, Code of Federal Regulations (or  
8 any successor regulation).

9                   “(B) ENFORCEMENT.—

10                   “(i) PROCESS FOR COMPLAINTS.—Not  
11 later than 6 months after the date of en-  
12 actment of this paragraph, the Secretary,  
13 in cooperation with the Secretaries of  
14 Labor and the Treasury, shall, with re-  
15 spect to group health plans and health in-  
16 surance issuers offering group or indi-  
17 vidual health insurance coverage, issue  
18 guidance to clarify the process and  
19 timeline for current and potential partici-  
20 pants and beneficiaries (and authorized  
21 representatives and health care providers  
22 of such participants and beneficiaries) with  
23 respect to such plans and coverage to file  
24 formal complaints of such plans or issuers  
25 being in violation of this section, including

1 guidance, by plan type, on the relevant  
2 State, regional, and national offices with  
3 which such complaints should be filed.

4 “(ii) AUDITS.—

5 “(I) RANDOMIZED AUDITS.—Be-  
6 ginning 1 year after the date of enact-  
7 ment of this paragraph, the Secretary,  
8 in cooperation with the Secretaries of  
9 Labor and the Treasury, as applica-  
10 ble, shall conduct randomized audits  
11 of group health plans and health in-  
12 surance issuers offering group or indi-  
13 vidual health insurance coverage to  
14 determine compliance with this sec-  
15 tion. Such audits shall be conducted  
16 on no fewer than 12 plans or cov-  
17 erages per plan year.

18 “(II) ADDITIONAL AUDITS.—Be-  
19 ginning 1 year after the date of enact-  
20 ment of this paragraph, in the case of  
21 a group health plan or health insur-  
22 ance issuer offering group or indi-  
23 vidual health insurance coverage with  
24 respect to which any claim has been  
25 filed during a plan year, the Sec-

1                   retary, in cooperation with the Secre-  
2                   taries of Labor and the Treasury, as  
3                   applicable, may audit the books and  
4                   records of such plan or issuer to de-  
5                   termine compliance with this section.

6                   “(iii) DENIAL RATES.—The Secretary,  
7                   in cooperation with the Secretaries of  
8                   Labor and the Treasury, shall collect infor-  
9                   mation on the rates of and reasons for de-  
10                  nial by group health plans and health in-  
11                  surance issuers offering group or indi-  
12                  vidual health insurance coverage of claims  
13                  for outpatient and inpatient mental health  
14                  and substance use disorder benefits com-  
15                  pared to the rates of and reasons for de-  
16                  nial of claims for medical and surgical ben-  
17                  efits. For the first plan year that begins on  
18                  or after the date that is 2 years after the  
19                  date of enactment of this paragraph, and  
20                  each subsequent plan year, the Secretary,  
21                  in such cooperation, shall submit to the  
22                  Committee on Energy and Commerce of  
23                  the House of Representatives and the  
24                  Committee on Health, Education, Labor,  
25                  and Pensions of the Senate the informa-



1                   tion collected under the previous sentence  
2                   with respect to the previous plan year.

3                   “(C) EFFECTIVE DATE.—Any require-  
4                   ments of group health plans and health insur-  
5                   ance issuers offering group or individual health  
6                   insurance coverage that are included in the reg-  
7                   ulations issued under subparagraph (A)(i), in-  
8                   cluding the requirement described in subpara-  
9                   graph (A)(ii) to disclose documents, shall have  
10                  an effective date of 1 year after the date of en-  
11                  actment of this paragraph.”.

12                  (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
13                  OF 1974.—Section 712(a) of the Employee Retirement In-  
14                  come Security Act of 1974 (29 U.S.C. 1185a(a)) is  
15                  amended by adding at the end the following new para-  
16                  graph:

17                  “(6) DISCLOSURE AND ENFORCEMENT RE-  
18                  QUIREMENTS.—

19                  “(A) DISCLOSURE REQUIREMENTS.—

20                  “(i) REGULATIONS.—Not later than 6  
21                  months after the date of enactment of this  
22                  paragraph, the Secretary, in cooperation  
23                  with the Secretaries of Health and Human  
24                  Services and the Treasury, shall issue reg-  
25                  ulations for carrying out this section, in-

1 cluding an explanation of documents that a  
2 group health plan (or health insurance  
3 issuer offering health insurance coverage in  
4 connection with such a plan) shall disclose  
5 in accordance with clause (ii), the process  
6 governing the disclosure of such docu-  
7 ments, and analyses that such plans and  
8 issuers shall conduct in order to dem-  
9 onstrate compliance with this section.

10 “(ii) DISCLOSURE REQUIREMENTS.—  
11 The documents required to be disclosed by  
12 a group health plan (or a health insurance  
13 issuer offering health insurance coverage in  
14 connection with such a plan) under clause  
15 (i) shall include an annual report that de-  
16 tails the specific analyses performed to en-  
17 sure compliance of such plan or issuer with  
18 this section, including any regulation pro-  
19 mulgated pursuant to this section. At a  
20 minimum, with respect to the application  
21 of nonquantitative treatment limitations  
22 (in this paragraph referred to as ‘NQTLs’)  
23 to benefits under the plan or coverage,  
24 such report shall—

1                   “(I) identify the specific factors  
2                   the plan or issuer used in performing  
3                   its NQTLs analysis;

4                   “(II) identify and define the spe-  
5                   cific evidentiary standards relied on to  
6                   evaluate such factors;

7                   “(III) describe how the evi-  
8                   dentiary standards are applied to each  
9                   service category for mental health  
10                  benefits, substance use disorder bene-  
11                  fits, medical benefits, and surgical  
12                  benefits;

13                  “(IV) disclose the results of the  
14                  analyses of the specific evidentiary  
15                  standards in each service category;  
16                  and

17                  “(V) disclose the specific findings  
18                  of the plan or issuer in each service  
19                  category and the conclusions reached  
20                  with respect to whether the processes,  
21                  strategies, evidentiary standards, or  
22                  other factors used in applying the  
23                  NQTLs to mental health or substance  
24                  use disorder benefits are comparable  
25                  to, and applied no more stringently

1 than, the processes, strategies, evi-  
2 dentiary standards, or other factors  
3 used in applying the NQTLs to med-  
4 ical and surgical benefits in the same  
5 classification.

6 “(iii) GUIDANCE.—Not later than 6  
7 months after the date of enactment of this  
8 paragraph, the Secretary, in cooperation  
9 with the Secretaries of Health and Human  
10 Services and the Treasury, shall issue  
11 guidance to group health plans (and health  
12 insurance issuers offering health insurance  
13 coverage in connection with such plans) on  
14 how to satisfy the requirements of this sec-  
15 tion, with respect to making information  
16 available to current and potential partici-  
17 pants and beneficiaries. Such information  
18 shall include—

19 “(I) certificate of coverage docu-  
20 ments and instruments under which  
21 the plan or coverage involved is ad-  
22 ministered and operated that specify,  
23 include, or refer to procedures, for-  
24 mulas, and methodologies applied to  
25 determine a participant’s or bene-

1           ficiary’s benefit under the plan or cov-  
2           erage, regardless of whether such in-  
3           formation is contained in a document  
4           designated as the ‘plan document’;  
5           and

6                   “(II) a disclosure of how the plan  
7           or issuer involved has provided that  
8           processes, strategies, evidentiary  
9           standards, and other factors used in  
10          applying the NQTLs to mental health  
11          or substance use disorder benefits are  
12          comparable to, and applied no more  
13          stringently than, the processes, strate-  
14          gies, evidentiary standards, or other  
15          factors used in applying the NQTLs  
16          to medical and surgical benefits in the  
17          same classification.

18                   “(iv) DEFINITIONS.—In this para-  
19          graph, the terms ‘nonquantitative treat-  
20          ment limitations’, ‘comparable to’, and ‘ap-  
21          plied no more stringently than’ have the  
22          meanings given such terms in sections  
23          146.136 and 147.160 of title 45, Code of  
24          Federal Regulations (or any successor reg-  
25          ulation).

1 “(B) ENFORCEMENT.—

2 “(i) PROCESS FOR COMPLAINTS.—Not  
3 later than 6 months after the date of en-  
4 actment of this paragraph, the Secretary,  
5 in cooperation with the Secretaries of  
6 Health and Human Services and the  
7 Treasury, shall, with respect to group  
8 health plans (and health insurance issuers  
9 offering health insurance coverage in con-  
10 nection with such plans), issue guidance to  
11 clarify the process and timeline for current  
12 and potential participants and beneficiaries  
13 (and authorized representatives and health  
14 care providers of such participants and  
15 beneficiaries) with respect to such plans  
16 and coverage to file formal complaints of  
17 such plans or issuers being in violation of  
18 this section, including guidance, by plan  
19 type, on the relevant State, regional, and  
20 national offices with which such complaints  
21 should be filed.

22 “(ii) AUDITS.—

23 “(I) RANDOMIZED AUDITS.—Be-  
24 ginning 1 year after the date of enact-  
25 ment of this paragraph, the Secretary,

1 in cooperation with the Secretaries of  
2 Health and Human Services and the  
3 Treasury, as applicable, shall conduct  
4 randomized audits of group health  
5 plans (and health insurance issuers  
6 offering health insurance coverage in  
7 connection with such plans) to deter-  
8 mine compliance with this section.  
9 Such audits shall be conducted on no  
10 fewer than 12 plans or coverages per  
11 plan year.

12 “(II) ADDITIONAL AUDITS.—Be-  
13 ginning 1 year after the date of enact-  
14 ment of this paragraph, in the case of  
15 a group health plan (or health insur-  
16 ance issuer offering health insurance  
17 coverage in connection with such a  
18 plan) with respect to which any claim  
19 has been filed during a plan year, the  
20 Secretary, in cooperation with the  
21 Secretaries of Health and Human  
22 Services and the Treasury, as applica-  
23 ble, may audit the books and records  
24 of such plan or issuer to determine  
25 compliance with this section.

1                   “(iii) DENIAL RATES.—The Secretary,  
2                   in cooperation with the Secretaries of  
3                   Health and Human Services and the  
4                   Treasury, shall collect information on the  
5                   rates of and reasons for denial by group  
6                   health plans (and health insurance issuers  
7                   offering health insurance coverage in con-  
8                   nection with such plans) of claims for out-  
9                   patient and inpatient mental health and  
10                  substance use disorder benefits compared  
11                  to the rates of and reasons for denial of  
12                  claims for medical and surgical benefits.  
13                  For the first plan year that begins on or  
14                  after the date that is 2 years after the date  
15                  of enactment of this paragraph, and each  
16                  subsequent plan year, the Secretary, in  
17                  such cooperation, shall submit to the Com-  
18                  mittee on Energy and Commerce of the  
19                  House of Representatives and the Com-  
20                  mittee on Health, Education, Labor, and  
21                  Pensions of the Senate the information col-  
22                  lected under the previous sentence with re-  
23                  spect to the previous plan year.

24                  “(C) EFFECTIVE DATE.—Any require-  
25                  ments of group health plans (or health insur-



1           ance issuers offering health insurance coverage  
2           in connection with such plans) that are included  
3           in the regulations issued under subparagraph  
4           (A)(i), including the requirement described in  
5           subparagraph (A)(ii) to disclose documents,  
6           shall have an effective date of 1 year after the  
7           date of enactment of this paragraph.”.

8           (c) INTERNAL REVENUE CODE OF 1986.—Section  
9           9812(a) of the Internal Revenue Code of 1986 is amended  
10          by adding at the end the following new paragraph:

11                 “(6) DISCLOSURE AND ENFORCEMENT RE-  
12          QUIREMENTS.—

13                         “(A) DISCLOSURE REQUIREMENTS.—

14                                 “(i) REGULATIONS.—Not later than 6  
15                                 months after the date of enactment of this  
16                                 paragraph, the Secretary, in cooperation  
17                                 with the Secretaries of Health and Human  
18                                 Services and Labor, shall issue regulations  
19                                 for carrying out this section, including an  
20                                 explanation of documents that group  
21                                 health plans shall disclose in accordance  
22                                 with clause (ii), the process governing the  
23                                 disclosure of such documents, and analyses  
24                                 that such plans shall conduct in order to  
25                                 demonstrate compliance with this section.

1                   “(ii) DISCLOSURE REQUIREMENTS.—

2                   The documents required to be disclosed by  
3                   a group health plan under clause (i) shall  
4                   include an annual report that details the  
5                   specific analyses performed to ensure com-  
6                   pliance of such plan with this section, in-  
7                   cluding any regulation promulgated pursu-  
8                   ant to such section. At a minimum, with  
9                   respect to the application of nonquantita-  
10                  tive treatment limitations (in this para-  
11                  graph referred to as ‘NQTLs’) to benefits  
12                  under the plan, such report shall—

13                   “(I) identify the specific factors  
14                   the plan used in performing its  
15                   NQTLs analysis;

16                   “(II) identify and define the spe-  
17                   cific evidentiary standards relied on to  
18                   evaluate such factors;

19                   “(III) describe how the evi-  
20                   dentiary standards are applied to each  
21                   service category for mental health  
22                   benefits, substance use disorder bene-  
23                   fits, medical benefits, and surgical  
24                   benefits;

1                   “(IV) disclose the results of the  
2 analyses of the specific evidentiary  
3 standards in each service category;  
4 and

5                   “(V) disclose the specific findings  
6 of the plan in each service category  
7 and the conclusions reached with re-  
8 spect to whether the processes, strate-  
9 gies, evidentiary standards, or other  
10 factors used in applying the NQTLs  
11 to mental health or substance use dis-  
12 order benefits are comparable to, and  
13 applied no more stringently than, the  
14 processes, strategies, evidentiary  
15 standards, or other factors used in ap-  
16 plying the NQTLs to medical and sur-  
17 gical benefits in the same classifica-  
18 tion.

19                   “(iii) GUIDANCE.—Not later than 6  
20 months after the date of enactment of this  
21 paragraph, the Secretary, in cooperation  
22 with the Secretaries of Health and Human  
23 Services and Labor, shall issue guidance to  
24 group health plans on how to satisfy the  
25 requirements of this section, with respect

1 to making information available to current  
2 and potential participants and bene-  
3 ficiaries. Such information shall include—

4 “(I) certificate of coverage docu-  
5 ments and instruments under which  
6 the plan involved is administered and  
7 operated that specify, include, or refer  
8 to procedures, formulas, and meth-  
9 odologies applied to determine a par-  
10 ticipant’s or beneficiary’s benefit  
11 under the plan, regardless of whether  
12 such information is contained in a  
13 document designated as the ‘plan doc-  
14 ument’; and

15 “(II) a disclosure of how the plan  
16 involved has provided that processes,  
17 strategies, evidentiary standards, and  
18 other factors used in applying the  
19 NQTLs to mental health or substance  
20 use disorder benefits are comparable  
21 to, and applied no more stringently  
22 than, the processes, strategies, evi-  
23 dentiary standards, or other factors  
24 used in applying the NQTLs to med-

1                   ical and surgical benefits in the same  
2                   classification.

3                   “(iv) DEFINITIONS.—In this para-  
4                   graph, the terms ‘nonquantitative treat-  
5                   ment limitations’, ‘comparable to’, and ‘ap-  
6                   plied no more stringently than’ have the  
7                   meanings given such terms in sections  
8                   146.136 and 147.160 of title 45, Code of  
9                   Federal Regulations (or any successor reg-  
10                  ulation).

11                  “(B) ENFORCEMENT.—

12                  “(i) PROCESS FOR COMPLAINTS.—Not  
13                  later than 6 months after the date of en-  
14                  actment of this paragraph, the Secretary,  
15                  in cooperation with the Secretaries of  
16                  Health and Human Services and Labor,  
17                  shall, with respect to group health plans,  
18                  issue guidance to clarify the process and  
19                  timeline for current and potential partici-  
20                  pants and beneficiaries (and authorized  
21                  representatives and health care providers  
22                  of such participants and beneficiaries) with  
23                  respect to such plans to file formal com-  
24                  plaints of such plans being in violation of  
25                  this section, including guidance, by plan

1 type, on the relevant State, regional, and  
2 national offices with which such complaints  
3 should be filed.

4 “(ii) AUDITS.—

5 “(I) RANDOMIZED AUDITS.—Be-  
6 ginning 1 year after the date of enact-  
7 ment of this paragraph, the Secretary,  
8 in cooperation with the Secretaries of  
9 Health and Human Services and  
10 Labor, as applicable, shall conduct  
11 randomized audits of group health  
12 plans to determine compliance with  
13 this section. Such audits shall be con-  
14 ducted on no fewer than 12 plans per  
15 plan year.

16 “(II) ADDITIONAL AUDITS.—Be-  
17 ginning 1 year after the date of enact-  
18 ment of this paragraph, in the case of  
19 a group health plan with respect to  
20 which any claim has been filed during  
21 a plan year, the Secretary, in coopera-  
22 tion with the Secretaries of Health  
23 and Human Services and Labor, as  
24 applicable, may audit the books and

1 records of such plan to determine  
2 compliance with this section.

3 “(iii) DENIAL RATES.—The Secretary,  
4 in cooperation with the Secretaries of  
5 Health and Human Services and Labor,  
6 shall collect information on the rates of  
7 and reasons for denial by group health  
8 plans of claims for outpatient and inpa-  
9 tient mental health and substance use dis-  
10 order benefits compared to the rates of  
11 and reasons for denial of claims for med-  
12 ical and surgical benefits. For the first  
13 plan year that begins on or after the date  
14 that is 2 years after the date of enactment  
15 of this paragraph, and each subsequent  
16 plan year, the Secretary, in such coopera-  
17 tion, shall submit to the Committee on En-  
18 ergy and Commerce of the House of Rep-  
19 resentatives and the Committee on Health,  
20 Education, Labor, and Pensions of the  
21 Senate the information collected under the  
22 previous sentence with respect to the pre-  
23 vious plan year.

24 “(C) EFFECTIVE DATE.—Any require-  
25 ments of group health plans that are included

1 in the regulations issued under subparagraph  
2 (A)(i), including the requirement described in  
3 subparagraph (A)(ii) to disclose documents,  
4 shall have an effective date of 1 year after the  
5 date of enactment of this paragraph.”.

6 **SEC. 3. CONSUMER PARITY UNIT FOR MENTAL HEALTH**  
7 **AND SUBSTANCE USE DISORDER PARITY VIO-**  
8 **LATIONS.**

9 (a) DEFINITIONS.—In this section:

10 (1) APPLICABLE STATE AUTHORITY.—The term  
11 “applicable State authority” has the meaning given  
12 the term in section 2791 of the Public Health Serv-  
13 ice Act (42 U.S.C. 300gg–91).

14 (2) COVERED PLAN.—The term “covered plan”  
15 means any creditable coverage that is subject to any  
16 of the mental health parity laws.

17 (3) CREDITABLE COVERAGE.—The term “cred-  
18 itable coverage” has the meaning given the term in  
19 section 2704(c) of the Public Health Service Act (42  
20 U.S.C. 300gg–3(c)).

21 (4) MENTAL HEALTH PARITY LAWS.—The term  
22 “mental health parity laws” means—

23 (A) section 2726 of the Public Health  
24 Service Act (42 U.S.C. 300gg–26);



1 (B) section 712 of the Employee Retirement  
2 ment Income Security Act of 1974 (29 U.S.C.  
3 1185a);

4 (C) section 9812 of the Internal Revenue  
5 Code of 1986; or

6 (D) any other law that applies the require-  
7 ments under any of the sections described in  
8 subparagraph (A), (B), or (C), or requirements  
9 that are substantially similar to those provided  
10 under any such section, as determined by the  
11 Secretary, to creditable coverage.

12 (5) SECRETARY.—The term “Secretary” means  
13 the Secretary of Health and Human Services.

14 (b) ESTABLISHMENT.—Not later than 6 months after  
15 the date of enactment of this Act, the Secretary, in con-  
16 sultation with the Secretary of Labor, the Secretary of the  
17 Treasury, and the head of any other applicable agency,  
18 shall establish a consumer parity unit with functions that  
19 include—

20 (1) facilitating the centralized collection of,  
21 monitoring of, and response to consumer complaints  
22 regarding violations of mental health parity laws  
23 through developing and administering, in accordance  
24 with subsection (d)—

1 (A) a single, toll-free telephone number;  
2 and

3 (B) a public website portal, which may in-  
4 clude enhancing a website portal in existence on  
5 the date of enactment of this Act; and

6 (2) providing information to health care con-  
7 sumers regarding the disclosure requirements and  
8 enforcement under section 2726(a)(8) of the Public  
9 Health Service Act, section 712(a)(6) of the Em-  
10 ployee Retirement Income Security Act of 1974, and  
11 section 9812(a)(6) of the Internal Revenue Code of  
12 1986, as added by section 2.

13 (c) WEBSITE PORTAL.—The Secretary, in consulta-  
14 tion with the Secretary of Labor, the Secretary of the  
15 Treasury, and the head of any other applicable agency,  
16 shall make available on the website portal established  
17 under subsection (b)(1)(B)—

18 (1) any guidance and any reports issued by the  
19 Secretary, the Secretary of Labor, or the Secretary  
20 of the Treasury, under section 2726 of the Public  
21 Health Service Act, section 712 of the Employee Re-  
22 tirement Income Security Act of 1974, or section  
23 9812 of the Internal Revenue Code of 1986, respec-  
24 tively, including the amendments to such sections  
25 made by section 2;

1           (2) de-identified information on the results of,  
2           or progress on, any concluded or ongoing audits or  
3           investigations of the Secretary, the Secretary of  
4           Labor, or the Secretary of the Treasury, as applica-  
5           ble, under such section 2726, 712, or 9812, respec-  
6           tively; and

7           (3) any information on rates of or reasons for  
8           denial collected by the Secretary, the Secretary of  
9           Labor, or the Secretary of the Treasury, pursuant to  
10          subsection (a)(8)(B)(iii) of such section 2726, sub-  
11          section (a)(6)(B)(iii) of such section 712, or sub-  
12          section (a)(6)(B)(iii) of such section 9812, respec-  
13          tively.

14          (d) RESPONSE TO CONSUMER COMPLAINTS AND IN-  
15          QUIRIES.—

16           (1) TIMELY RESPONSE TO CONSUMERS.—The  
17          Secretary, in consultation with the Secretary of  
18          Labor, the Secretary of the Treasury, and the head  
19          of any other applicable agency, shall establish rea-  
20          sonable procedures for the consumer parity unit es-  
21          tablished under this section to provide a timely re-  
22          sponse (in writing if appropriate) to consumers re-  
23          garding complaints received by the unit against, or  
24          inquiries concerning, a covered plan, including—

1 (A) steps that have been taken by the ap-  
2 propriate State or Federal enforcement agency  
3 in response to the complaint or inquiry of the  
4 consumer;

5 (B) any responses received by the appro-  
6 priate State or Federal enforcement agency  
7 from the covered plan;

8 (C) any follow-up actions or planned fol-  
9 low-up actions by the appropriate State or Fed-  
10 eral enforcement agency in response to the com-  
11 plaint or inquiry of the consumer; and

12 (D) contact information of the appropriate  
13 enforcement agency for the consumer to follow  
14 up on the complaint or inquiry.

15 (2) **TIMELY RESPONSE TO REGULATORS.**—A  
16 covered plan shall provide a timely response (in writ-  
17 ing if appropriate) to the appropriate State or Fed-  
18 eral enforcement agency having jurisdiction over  
19 such plan concerning a consumer complaint or in-  
20 quiry submitted to the consumer parity unit estab-  
21 lished under this section including—

22 (A) steps that have been taken by the plan  
23 to respond to the complaint or inquiry of the  
24 consumer;

1 (B) any responses received by the plan  
2 from the consumer; and

3 (C) follow-up actions or planned follow-up  
4 actions by the plan in response to the complaint  
5 or inquiry of the consumer.

6 (3) PROVISION OF INFORMATION TO CON-  
7 SUMERS.—

8 (A) IN GENERAL.—A covered plan shall, in  
9 a timely manner, comply with a consumer re-  
10 quest for information in the control or posses-  
11 sion of such covered plan concerning the cov-  
12 erage the consumer obtained from such covered  
13 plan.

14 (B) EXCEPTIONS.—Notwithstanding sub-  
15 paragraph (A), a covered plan, and any agency  
16 or entity having jurisdiction over a covered  
17 plan, may not be required by this paragraph to  
18 make available to the consumer any information  
19 required to be kept confidential by any other  
20 provision of law.

21 (e) REPORTS.—

22 (1) IN GENERAL.—Not later than March 31 of  
23 each year, the Secretary, in consultation with the  
24 Secretary of Labor, the Secretary of the Treasury,  
25 and the head of any other applicable agency, shall

1 submit a report to Congress on the complaints re-  
2 ceived by the consumer parity unit established under  
3 this section in the prior year regarding covered  
4 plans.

5 (2) CONTENTS.—Each such report shall include  
6 information and analysis about complaint numbers,  
7 complaint types, and, where applicable, information  
8 about the resolution of complaints.

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—

18 (1) the consumer parity unit established under  
19 this section shall share consumer complaint informa-  
20 tion with the Secretary, and the head of any other  
21 applicable Federal or State agency; and

22 (2) the Secretary, and the head of any other  
23 applicable Federal or State agency, shall share data  
24 relating to consumer complaints regarding covered  
25 plans with such unit.

1 (g) PRIVACY CONSIDERATIONS.—

2 (1) IN GENERAL.—In carrying out this section,  
3 the consumer parity unit established under this sec-  
4 tion and the Secretary, in consultation with the Sec-  
5 retary of Labor, the Secretary of the Treasury, and  
6 the head of any other applicable agency, shall take  
7 measures to ensure that proprietary, personal, or  
8 confidential consumer information that is protected  
9 from public disclosure under section 552(b) or 552a  
10 of title 5, United States Code, or any other provision  
11 of law, is not made public under this section.

12 (2) EXCEPTIONS.—The consumer parity unit  
13 established under this section may not obtain from  
14 a covered plan any personally identifiable informa-  
15 tion about a consumer from the records of the cov-  
16 ered plan, except—

17 (A) if the records are reasonably described  
18 in a request by the consumer parity unit estab-  
19 lished under this section, and the consumer pro-  
20 vides appropriate permission for the disclosure  
21 of such information by the covered plan to such  
22 unit; or

23 (B) as may be specifically permitted or re-  
24 quired under other applicable provisions of law,  
25 including HIPAA privacy and security law as

1 defined in section 3009(a) of the Public Health  
2 Service Act (42 U.S.C. 300jj–19(a)).

3 (h) COLLABORATION.—

4 (1) AGREEMENTS WITH OTHER AGENCIES.—

5 The Secretary, the Secretary of Labor, the Secretary  
6 of the Treasury, and the head of any other applica-  
7 ble agency, shall enter into a memorandum of under-  
8 standing with any affected Federal regulatory agen-  
9 cy regarding procedures by which any covered plan,  
10 and any other agency having jurisdiction over a cov-  
11 ered plan, shall comply with this section.

12 (2) AGREEMENTS WITH STATES.—To the ex-  
13 tent practicable, an applicable State authority may  
14 receive appropriate complaints from the consumer  
15 parity unit established under this section, if—

16 (A) the applicable State authority has the  
17 functional capacity to receive calls or electronic  
18 reports routed by the unit;

19 (B) the applicable State authority has sat-  
20 isfied any conditions of participation that the  
21 unit may establish, including treatment of per-  
22 sonally identifiable information and sharing of  
23 information on complaint resolution or related  
24 compliance procedures and resources; and



1           (C) participation by the applicable State  
2 authority includes measures necessary to pro-  
3 tect personally identifiable information in ac-  
4 cordance with standards that apply to Federal  
5 agencies with respect to protecting personally  
6 identifiable information and data security and  
7 integrity.