

117TH CONGRESS
2D SESSION

H. R. 8881

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to disclose the percentage of in-network participation for certain provider types, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2022

Mr. HORSFORD (for himself and Mr. BUCHANAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to disclose the percentage of in-network participation for certain provider types, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Trans-
3 parency Act”.

4 **SEC. 2. REQUIRING DISCLOSURE OF PERCENTAGE OF IN-**
5 **NETWORK PARTICIPATION FOR CERTAIN**
6 **PROVIDER TYPES.**

7 (a) PHSA.—Part D of title XXVII of the Public
8 Health Service Act (42 U.S.C. 300g–111 et seq.) is
9 amended by adding at the end the following new section:
10 **“SEC. 2799A–11. REQUIRED DISCLOSURE OF PERCENTAGE**
11 **OF IN-NETWORK PARTICIPATION FOR CER-**
12 **TAIN PROVIDER TYPES.**

13 “(a) IN GENERAL.—A group health plan and a health
14 insurance issuer offering group or individual health insur-
15 ance coverage shall, along with any summary of benefits
16 and coverage provided under section 2715 (and in accord-
17 ance with the timing and manner specified under such sec-
18 tion and the implementing regulations of such section),
19 and on a public website, make available the following in-
20 formation with respect to each type of provider specified
21 in subsection (b):

22 “(1) The number and percentage of providers
23 of such type located in the service area of such plan
24 or coverage that have a contractual relationship (as
25 defined by the Secretary) in effect with such plan or
26 coverage for furnishing items and services under

1 such plan or coverage, determined in accordance
2 with information made available by the Secretary
3 under subsection (d).

4 “(2) The designation established by the Sec-
5 retary under subsection (c) corresponding to the per-
6 centage described in paragraph (1).

7 “(b) SPECIFIED PROVIDERS.—For purposes of this
8 section, the types of providers and facilities specified in
9 this subsection are the following (as defined by the Sec-
10 retary and broken down by subspecialty as specified by
11 the Secretary):

12 “(1) Behavioral health care providers and facili-
13 ties.

14 “(2) Substance use disorder treatment pro-
15 viders and facilities.

16 “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-
17 WORK PARTICIPATION.—

18 “(1) IN GENERAL.—Not later than 1 year after
19 the date of the enactment of this section, the Sec-
20 retary, in consultation with the Secretaries of Labor
21 and of the Treasury, shall establish a system of des-
22 ignations (such as ‘high’, ‘medium’, and ‘low’, a star
23 rating, or such other designation determined appro-
24 priate by the Secretary) that correspond to ranges of
25 percentages (from 0 to 100) described in subsection

1 (a)(1) to qualitatively reflect the breadth of the net-
2 works of group health plans and group and indi-
3 vidual health insurance coverage with respect to
4 each type of provider specified in subsection (b).

5 “(2) VARIATION PERMITTED.—Designations
6 corresponding to percentage ranges established
7 under paragraph (1) may vary by type of service
8 area (such as rural or urban), size of service area,
9 and other factors determined appropriate by the
10 Secretary in consultation with the Secretaries of
11 Labor and of the Treasury.

12 “(d) INFORMATION ON PROVIDERS.—

13 “(1) IN GENERAL.—Not later than June 30,
14 2025, the Secretary, in consultation with the Secre-
15 taries of Labor and of the Treasury, shall, based on
16 information submitted under section 2799B–10, post
17 on a public website a list of each specified provider
18 in the country, along with the location of each such
19 provider in which such provider furnishes items and
20 services and each specialty designation (if any) of
21 each such provider. The Secretary shall update the
22 information published under the previous sentence
23 not less frequently than annually.

24 “(2) TREATMENT OF GROUP PRACTICES.—For
25 purposes of the list described in paragraph (1), the

1 Secretary shall list each individual health care pro-
 2 vider separately, regardless of whether such provider
 3 is part of a group practice.

4 “(e) SERVICE AREA DEFINITION.—For purposes of
 5 this section, the term ‘service area’ means, with respect
 6 to a group health plan and group or individual health in-
 7 surance coverage, the area or areas in which in-person
 8 participants and beneficiaries are covered, as determined
 9 by the plan or issuer of such coverage in accordance with
 10 rules specified by the Secretary in consultation with the
 11 Secretaries of Labor and of the Treasury.”.

12 (b) ERISA.—

13 (1) IN GENERAL.—Subpart B of part 7 of sub-
 14 title B of title I of the Employee Retirement Income
 15 Security Act of 1974 is amended by adding at the
 16 end the following new section:

17 **“SEC. 726. REQUIRED DISCLOSURE OF PERCENTAGE OF IN-**
 18 **NETWORK PARTICIPATION FOR CERTAIN**
 19 **PROVIDER TYPES.**

20 “(a) IN GENERAL.—A group health plan and a health
 21 insurance issuer offering group health insurance coverage
 22 shall, along with any summary of benefits and coverage
 23 provided under section 2715 of the Public Health Service
 24 Act (and in accordance with the timing and manner speci-
 25 fied under such section and the implementing regulations

1 of such section), and on a public website, make available
2 the following information with respect to each type of pro-
3 vider specified in subsection (b):

4 “(1) The number and percentage of providers
5 of such type located in the service area of such plan
6 or coverage that have a contractual relationship (as
7 defined by the Secretary) in effect with such plan or
8 coverage for furnishing items and services under
9 such plan or coverage, determined in accordance
10 with information made available by the Secretary
11 under subsection (d).

12 “(2) The designation established by the Sec-
13 retary under subsection (c) corresponding to the per-
14 centage described in paragraph (1).

15 “(b) SPECIFIED PROVIDERS.—For purposes of this
16 section, the types of providers and facilities specified in
17 this subsection are the following (as defined by the Sec-
18 retary and broken down by subspecialty as specified by
19 the Secretary):

20 “(1) Behavioral health care providers and facili-
21 ties.

22 “(2) Substance use disorder treatment pro-
23 viders and facilities.

24 “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-
25 WORK PARTICIPATION.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of the enactment of this section, the Sec-
3 retary, in consultation with the Secretaries of Health
4 and Human Services and of the Treasury, shall es-
5 tablish a system of designations (such as ‘high’, ‘me-
6 dium’, and ‘low’, a star rating, or such other des-
7 ignation determined appropriate by the Secretary)
8 that correspond to ranges of percentages (from 0 to
9 100) described in subsection (a)(1) to qualitatively
10 reflect the breadth of the networks of group health
11 plans and group health insurance coverage with re-
12 spect to each type of provider specified in subsection
13 (b).

14 “(2) VARIATION PERMITTED.—Designations
15 corresponding to percentage ranges established
16 under paragraph (1) may vary by type of service
17 area (such as rural or urban), size of service area,
18 and other factors determined appropriate by the
19 Secretary in consultation with the Secretaries of
20 Health and Human Services and of the Treasury.

21 “(d) INFORMATION ON PROVIDERS.—

22 “(1) IN GENERAL.—Not later than June 30,
23 2025, the Secretary of Health and Human Services,
24 in consultation with the Secretaries of Labor and of
25 the Treasury, shall, based on the information sub-

1 mitted under section 2799B–10 of the Public Health
2 Service Act, post on a public website a list of each
3 specified provider in the country, along with the lo-
4 cation of each such provider in which such provider
5 furnishes items and services and each specialty des-
6 ignation (if any) of each such provider. The Sec-
7 retary of Health and Human Services shall update
8 the information published under the previous sen-
9 tence not less frequently than annually.

10 “(2) TREATMENT OF GROUP PRACTICES.—For
11 purposes of the list described in paragraph (1), the
12 Secretary shall list each individual health care pro-
13 vider separately, regardless of whether such provider
14 is part of a group practice.

15 “(e) SERVICE AREA DEFINITION.—For purposes of
16 this section, the term ‘service area’ means, with respect
17 to a group health plan and group health insurance cov-
18 erage, the area or areas in which in-person participants
19 and beneficiaries are covered, as determined by the plan
20 or issuer of such coverage in accordance with rules speci-
21 fied by the Secretary in consultation with the Secretaries
22 of Health and Human Services and of the Treasury.”.

23 “(2) TECHNICAL AMENDMENT.—The table of
24 contents in section 1 of such Act is amended by in-

1 serting after the item relating to section 725 the fol-
 2 lowing new item:

“Sec. 726. Required disclosure of percentage of in-network participation for
 certain provider types.”.

3 (c) IRC.—

4 (1) IN GENERAL.—Subchapter B of chapter
 5 100 of the Internal Revenue Code of 1986 is amend-
 6 ed by adding at the end the following new section:

7 **“SEC. 9826. REQUIRED DISCLOSURE OF PERCENTAGE OF**
 8 **IN-NETWORK PARTICIPATION FOR CERTAIN**
 9 **PROVIDER TYPES.**

10 “(a) IN GENERAL.—A group health plan shall, along
 11 with any summary of benefits and coverage provided
 12 under section 2715 of the Public Health Service Act (and
 13 in accordance with the timing and manner specified under
 14 such section and the implementing regulations of such sec-
 15 tion), and on a public website, make available the following
 16 information with respect to each type of provider specified
 17 in subsection (b):

18 “(1) The number and percentage of providers
 19 of such type located in the service area of such plan
 20 that have a contractual relationship (as defined by
 21 the Secretary) in effect with such plan for furnishing
 22 items and services under such plan, determined in
 23 accordance with information made available by the
 24 Secretary under subsection (d).

1 “(2) The designation established by the Sec-
2 retary under subsection (c) corresponding to the per-
3 centage described in paragraph (1).

4 “(b) SPECIFIED PROVIDERS.—For purposes of this
5 section, the types of providers and facilities specified in
6 this subsection are the following (as defined by the Sec-
7 retary and broken down by subspecialty as specified by
8 the Secretary):

9 “(1) Behavioral health care providers and facili-
10 ties.

11 “(2) Substance use disorder treatment pro-
12 viders and facilities.

13 “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-
14 WORK PARTICIPATION.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of the enactment of this section, the Sec-
17 retary, in consultation with the Secretaries of Health
18 and Human Services and of Labor, shall establish a
19 system of designations (such as ‘high’, ‘medium’,
20 and ‘low’, a star rating, or such other designation
21 determined appropriate by the Secretary) that cor-
22 respond to ranges of percentages (from 0 to 100)
23 described in subsection (a)(1) to qualitatively reflect
24 the breadth of the networks of group health plans

1 with respect to each type of provider specified in
2 subsection (b).

3 “(2) VARIATION PERMITTED.—Designations
4 corresponding to percentage ranges established
5 under paragraph (1) may vary by type of service
6 area (such as rural or urban), size of service area,
7 and other factors determined appropriate by the
8 Secretary in consultation with the Secretaries of
9 Health and Human Services and of Labor.

10 “(d) INFORMATION ON PROVIDERS.—

11 “(1) IN GENERAL.—Not later than June 30,
12 2025, the Secretary of Health and Human Services,
13 in consultation with the Secretaries of Labor and of
14 the Treasury, shall, based on the information sub-
15 mitted under section 2799B–10 of the Public Health
16 Service Act, post on a public website a list of each
17 specified provider in the country, along with the lo-
18 cation of each such provider in which such provider
19 furnishes items and services and each specialty des-
20 ignation (if any) of each such provider. The Sec-
21 retary of Health and Human Services shall update
22 the information published under the previous sen-
23 tence not less frequently than annually.

24 “(2) TREATMENT OF GROUP PRACTICES.—For
25 purposes of the list described in paragraph (1), the

1 Secretary shall list each individual health care pro-
 2 vider separately, regardless of whether such provider
 3 is part of a group practice.

4 “(e) SERVICE AREA DEFINITION.—For purposes of
 5 this section, the term ‘service area’ means, with respect
 6 to a group health plan, the area or areas in which in-per-
 7 son participants and beneficiaries are covered, as deter-
 8 mined by the plan in accordance with rules specified by
 9 the Secretary in consultation with the Secretaries of
 10 Health and Human Services and of Labor.”.

11 (2) TECHNICAL AMENDMENT.—The table of
 12 sections for such subchapter is amended by adding
 13 at the end the following new item:

“Sec. 9826. Required disclosure of percentage of in-network participation for
 certain provider types.”.

14 (d) PROVIDER REQUIREMENTS.—Part E of title
 15 XXVII of the Public Health Service Act (42 U.S.C.
 16 300gg–131 et seq.) is amended by adding at the end the
 17 following new section:

18 **“SEC. 2799B–10. PROVISION OF CERTAIN INFORMATION TO**
 19 **THE SECRETARY.**

20 “(a) IN GENERAL.—Subject to subsection (b), in the
 21 case of a health care provider or health care facility that
 22 is a specified provider (as described in subsection (b) of
 23 section 2799A–11), such provider or facility shall, annu-
 24 ally at a time and in a manner specified by the Secretary,

1 provide to the Secretary such information as the Secretary
2 determines necessary to carry out subsection (d) of such
3 section.

4 “(b) EXCEPTION.—Subsection (a) shall not apply in
5 the case of a specified provider that has not, during the
6 1-year period ending on the date that information de-
7 scribed in subsection (a) would be required to be sub-
8 mitted to the Secretary by such provider without applica-
9 tion of this subsection, submitted any claim for an item
10 or service under a Federal health care program (as defined
11 in section 1128B of the Social Security Act), the program
12 established under chapter 89 of title 5, United States
13 Code, or a group health plan or group or individual health
14 insurance coverage.”.

15 (e) REPORT.—Not later than December 31, 2026,
16 and annually thereafter, the Secretary of Health and
17 Human Services shall submit to Congress a report on the
18 participation of behavioral health care and substance use
19 disorder treatment providers in networks established by
20 group health plan and health insurance issuers offering
21 group or individual health insurance coverage (as such
22 terms are defined in section 2791 of the Public Health
23 Service Act (42 U.S.C. 300gg–91)). Each such report
24 shall include data and analysis relating to service areas
25 (as defined in section 2799A–11 of such Act) of such plans

1 and issuers that the Secretary has identified as having low
2 participation rates with respect to such providers' partici-
3 pation in such networks.

4 (f) IMPLEMENTATION.—The Secretaries of Labor,
5 Health and Human Services, and the Treasury may imple-
6 ment the amendments made by this section through in-
7 terim final rule, subregulatory guidance, program instruc-
8 tion, or otherwise.

9 (g) FUNDING.—In addition to amounts otherwise
10 available for such purposes, there is appropriated
11 \$15,000,000, to remain available until expended, for pur-
12 poses of carrying out this section.

13 (h) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to plan years begin-
15 ning on or after January 1, 2026.

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