

At a Glance

Mental Health Care Legislation

As ordered reported by the House Committee on Ways and Means on September 21, 2022

On September 21, 2022, the House Committee on Ways and Means ordered legislation in the form of five committee prints to be reported; those committee prints contain 13 sections in all. Each section corresponds to a bill that has been introduced in the Congress. In some cases, the introduced versions of those bills were amended before being ordered reported in the committee print. The table below shows in parentheses the number of the introduced bill that became the basis of the relevant section of each committee print. This document provides CBO's estimates of the budgetary effects of the committee prints.

Pay-as-you-go procedures would apply to all five committee prints because at least one section in each would affect direct spending or revenues—and thus affect the deficit. Three committee prints contain sections that would increase spending subject to appropriation, all by less than \$500,000; three would impose private-sector mandates; and three contain sections that would have long-term deficit effects. Details of the estimated costs of each committee print are discussed in the text below.

| Bill | Net Increase in the Deficit Over the 2023-2032 Period (Millions of Dollars) | Changes in Spending Subject to Appropriation Over the 2023-2027 Period (Outlays, Millions of Dollars) | Mandates? |
|--|--|--|----------------------|
| Committee Print 117-1 | | | |
| Section 1 (H.R. 8879) | 10 | 0 | No |
| Section 2 (H.R. 8878) ^a | 854 | 0 | No |
| Committee Print 117-2 | | | |
| Section 1 (H.R. 432) ^a | 902 | 0 | No |
| Section 2 (H.R. 8910) | 0 | * | No |
| Section 3 (H.R. 8884) | 0 | * | No |
| Section 4 (H.R. 8890) | 0 | 0 | No |
| Section 5 (H.R. 8908) | 0 | * | No |
| Committee Print 117-3 | | | |
| Section 1 (H.R. 8891) ^a | 8 | 0 | Yes, Under Threshold |
| Committee Print 117-4 | | | |
| Section 1 (H.R. 8885) | 0 | * | Yes, Under Threshold |
| Section 2 (H.R. 8886) | 0 | 0 | Yes, Under Threshold |
| Section 3 (H.R. 8892) | 24 | 0 | No |
| Committee Print 117-5 | | | |
| Section 1 (H.R. 8881) | 15 | 0 | Yes, Under Threshold |
| Section 2 (H.R. 8889) | 0 | * | Yes, Under Threshold |
| * = between zero and \$500,000. | | | |
| a. This section would increase on-budget deficits in at least one of the four consecutive 10-year periods beginning in 2033. | | | |



Bill Summary

On September 21, 2022, the House Committee on Ways and Means ordered reported five committee prints. This document provides cost estimates for those committee prints.

Generally, the pieces of legislation would:

- Revise Medicare payments for inpatient psychiatric services,
- Add new mental health services and provider classes to the Medicare Part B program,
- Require various agencies to conduct outreach to providers and beneficiaries related to behavioral health services and benefits for the treatment of mental health conditions and substance use disorders,
- Require private health insurers to cover forensic medical exams without requiring cost sharing,
- Link the definitions of mental health conditions and substance use disorders to external benchmarks, and
- Place additional requirements on private insurance plans related to the transparency of provider networks and summaries of benefits and coverage.

Basis of Estimate

For this estimate, CBO assumes that each committee print will be enacted before the end of calendar year 2022 and that spending of appropriated amounts would begin in fiscal year 2023. Estimated outlays are based on historical spending patterns for the affected programs. The costs of the legislation fall within budget functions 550 (health) and 570 (Medicare).

Direct Spending and Revenues

The estimated budgetary effects of the sections that would affect direct spending or revenues are shown in Table 1.



**Table 1.
Estimated Budgetary Effects of Ways and Means Mental Health Care Legislation**

| | By Fiscal Year, Millions of Dollars | | | | | | | | | | 2023- 2027 | 2023- 2032 |
|-------------------------------------|-------------------------------------|------|------|------|------|------|------|------|------|------|---------------|---------------|
| | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | | |
| Increases in Direct Spending | | | | | | | | | | | | |
| Committee Print 117-1 | | | | | | | | | | | | |
| <i>Section 1 (H.R. 8879)</i> | | | | | | | | | | | | |
| Budget Authority | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10 | 10 |
| Estimated Outlays | 8 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10 | 10 |
| <i>Section 2 (H.R. 8878)</i> | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 12 | 33 | 57 | 82 | 117 | 123 | 136 | 143 | 151 | 184 | 854 |
| Estimated Outlays | 0 | 12 | 33 | 57 | 82 | 117 | 123 | 136 | 143 | 151 | 184 | 854 |
| Committee Print 117-2 | | | | | | | | | | | | |
| <i>Section 1 (H.R. 432)</i> | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 55 | 91 | 94 | 97 | 107 | 103 | 113 | 118 | 124 | 337 | 902 |
| Estimated Outlays | 0 | 55 | 91 | 94 | 97 | 107 | 103 | 113 | 118 | 124 | 337 | 902 |
| Committee Print 117-3 | | | | | | | | | | | | |
| <i>Section 1 (H.R. 8891)</i> | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 0 | * | * | * | * | * | * | * | * | * | 1 |
| Estimated Outlays | 0 | 0 | * | * | * | * | * | * | * | * | * | 1 |
| Committee Print 117-4 | | | | | | | | | | | | |
| <i>Section 3 (H.R. 8892)</i> | | | | | | | | | | | | |
| Estimated Budget Authority | 20 | * | * | * | * | 0 | 0 | 0 | 0 | 0 | 20 | 20 |
| Estimated Outlays | 3 | 10 | 7 | * | * | 0 | 0 | 0 | 0 | 0 | 20 | 20 |
| Committee Print 117-5 | | | | | | | | | | | | |
| <i>Section 1 (H.R. 8881)</i> | | | | | | | | | | | | |
| Budget Authority | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 15 | 15 |
| Estimated Outlays | 4 | 3 | 3 | 4 | * | * | * | * | * | * | 14 | 15 |
| Decreases in Revenues | | | | | | | | | | | | |
| Committee Print 117-3 | | | | | | | | | | | | |
| <i>Section 1 (H.R. 8891)</i> | | | | | | | | | | | | |
| Estimated On-Budget Revenues | 0 | 0 | * | -1 | -1 | -1 | -1 | -1 | -1 | -1 | -2 | -6 |
| Estimated Off-Budget Revenues | 0 | 0 | * | * | * | * | * | * | * | * | -1 | -2 |
| Committee Print 117-4 | | | | | | | | | | | | |
| <i>Section 3 (H.R. 8892)</i> | | | | | | | | | | | | |
| Estimated On-Budget Revenues | 0 | * | -1 | -1 | * | 0 | 0 | 0 | 0 | 0 | -3 | -3 |
| Estimated Off-Budget Revenues | 0 | * | * | * | * | 0 | 0 | 0 | 0 | 0 | -1 | -1 |

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.
Components may not sum to totals because of rounding; * = between -\$500,000 and \$500,000.
Off-budget effects would come from changes in Social Security revenues.



Legislation With Effects on Direct Spending or Revenues. Six sections would affect direct spending or revenues.

Committee Print 117-1, Section 1, Improvements to Medicare Prospective Payment System for Psychiatric Hospitals and Psychiatric Units, would direct the Department of Health and Human Services (HHS) to revise Medicare payments for inpatient psychiatric services, as the Secretary deems appropriate. CBO estimates that enacting the section would not change Medicare's total payments for those services. The section also would provide \$10 million for the Centers for Medicare & Medicaid Services to standardize assessment data for people receiving inpatient psychiatric treatment. Based on historic spending patterns, CBO estimates that enacting the provision would increase federal spending by \$10 million over the 2023-2032 period.

Committee Print 117-1, Section 2, Ensuring Adequate Coverage of Outpatient Mental Health Services Under the Medicare Program, would add new mental health services under Medicare Part B. Medicare currently covers services for outpatient partial hospitalization for beneficiaries who would otherwise qualify for treatment in an inpatient psychiatric facility. The new benefit would provide similar services without the inpatient qualification and would reduce the amount of time patients are required to spend in treatment each week. Based on projected spending for partial hospitalization services and information from the National Survey on Drug Use and Health, CBO estimates that enacting the section would increase federal spending by \$854 million over the 2023-2032 period.

Committee Print 117-2, Section 1, Coverage of Marriage and Family Therapist Services and Mental Health Counselor Services Under Part B of the Medicare Program, would cover diagnostic and treatment services from marriage and family therapists and mental health counselors. Based on an analysis of similar provider classes, CBO estimates that the section would increase federal spending by \$902 million over the 2023-2032 period.

Committee Print 117-3, Section 1, Requiring Coverage of Forensic Medical Exams With No Cost Sharing, would require private health insurance plans to provide forensic medical exams without cost sharing when a sexual assault results in a medical emergency. That requirement would not apply if the state already covers the full out-of-pocket costs of an exam through the Violence Against Women Act provisions of the Omnibus Crime Control and Safe Streets Act of 1968. The new requirements would take effect on January 1, 2025. According to survey data, under current law most forensic medical exams are covered without cost sharing, but a coverage gap can exist if a state does not recognize a provider as a certified examiner. Based on the projected number and cost of forensic medical exams subject to cost sharing under current law for patients with private health insurance, CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting the bill would increase direct spending by \$1 million and reduce revenues by \$8 million, for a total net effect on the deficit of \$8 million over the 2023-2032 period.



Committee Print 117-4, Section 3, Outreach and Report on Access to Mental Health and Substance Use Disorder Crisis Services Under Group Health Plans and Health Insurance Coverage, would require HHS, the Department of Labor (DOL), and the Department of the Treasury to conduct a joint outreach campaign about federal laws that restrict how group or individual plans can limit coverage or impose financial requirements on enrollees. Those agencies would report to the Congress on private insurance coverage, barriers to access, and unexpected billing. Using projections of services covered by private insurance, CBO and JCT estimate that enacting the section would increase direct spending by \$20 million and reduce revenues by \$4 million for a total net effect on the deficit of \$24 million over the 2023-2032 period.

Committee Print 117-5, Section 1, Requiring Disclosure of Percentage of In-Network Participation for Certain Provider Types, would direct HHS, DOL, and the Department of the Treasury to create new ratings to measure the comprehensiveness of provider networks in behavioral health care and the treatment of substance use disorders. The agencies would be required to post the ratings system and list all providers on a website and to report to the Congress on participation of providers in networks. Using information about similar activities, CBO estimates that enacting the provision would increase direct spending by \$15 million over the 2023-2032 period.

Spending Subject to Appropriation

CBO estimates that five sections would increase spending subject to appropriation, but that implementing each one would cost less than \$500,000 over the 2023-2027 period. Estimated authorizations stem primarily from costs for required reporting and administrative expenses; any spending would be subject to the availability of appropriated funds.

- *Committee Print 117-2, Section 2, Provider Outreach and Reporting on Certain Behavioral Health Integration Services;*
- *Committee Print 117-2, Section 3, Outreach and Reporting on Opioid Use Disorder Treatment Services Furnished by Opioid Treatment Programs;*
- *Committee Print 117-2, Section 5, Review of Safe Harbor Under the Anti-Kickback Statute for Certain Contingency Management Interventions;*
- *Committee Print 117-4, Section 1, Provider Directory Improvements to Enhance Enrollee, Participant, and Beneficiary Access;* and
- *Committee Print 117-5, Section 2, Improved Access to Group Health Plan and Health Insurance Coverage Summary of Benefits and Coverage Explanation.*



Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues for the six sections discussed in this document are shown in Table 1.

Increase in Long-Term Deficits

CBO estimates that the following three committee prints would increase on-budget deficits in at least one of the four consecutive 10-year periods beginning in 2033:

- *Committee Print 117-1, Section 2, Ensuring Adequate Coverage of Outpatient Mental Health Services Under the Medicare Program;*
- *Committee Print 117-2, Section 1, Coverage of Marriage and Family Therapist Services and Mental Health Counselor Services Under Part B of the Medicare Program; and*
- *Committee Print 117-3, Section 1, Requiring Coverage of Forensic Medical Exams With No Cost Sharing.*

CBO estimates that Committee Print 117-4 and Committee Print 117-5 would not increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2033.

Mandates

Three of the committee prints would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA): Committee Prints 117-3, 117-4 and 117-5. CBO estimates that the aggregate cost of the mandates in each committee print would not exceed the private-sector threshold established in UMRA (\$184 million, adjusted annually for inflation). None of the committee prints would impose intergovernmental mandates.

Committee Print 117-3, Section 1, Requiring Coverage of Forensic Medical Exams With No Cost Sharing, would impose a private-sector mandate by requiring group health plans and insurance issuers to waive cost-sharing requirements for forensic medical exams that result in a medical emergency. Based on published information about how often such examinations occur and how much they cost, CBO estimates that the cost of the mandate would not exceed the annual private-sector threshold established in UMRA.

Committee Print 117-4, Section 1, Provider Directory Improvements to Enhance Enrollee, Participant, and Beneficiary Access, would impose private-sector mandates by requiring health care providers and facilities to inform group health plans and insurers whether they are accepting new patients and by requiring the plans to include that information in provider directories. Because these are largely administrative duties that are similar to existing communication requirements, CBO estimates that the cost of the mandates would not exceed the annual private-sector threshold established in UMRA.



Committee Print 117-4, Section 2, Ensuring Mental Health and Substance Use Disorder Benefits Are Defined Pursuant to External Benchmarks Based on Nationally Recognized Standards, would impose a private-sector mandate by requiring group health plans and insurance issuers to use standardized definitions of mental health conditions and substance use disorders. Because most plans already use recognized standard definitions, CBO estimates that the cost of the mandate would not exceed the annual private-sector threshold established in UMRA.

Committee Print 117-5, Section 1, Requiring Disclosure of Percentage of In-Network Participation for Certain Provider Types, would impose a private-sector mandate by requiring group health plans and insurers to publish information on behavioral health care and substance use disorder treatment providers under contract in their service areas. Because these duties are primarily administrative, CBO estimates that the cost of the mandate would not exceed the annual private-sector threshold established in UMRA.

Committee Print 117-5, Section 2, Improved Access to Group Health Plan and Health Insurance Coverage Summary of Benefits and Coverage Explanation, would impose a private-sector mandate by requiring group health plans and insurance issuers to submit summary information on benefits and coverage to the federal government in a machine-readable format. Because those entities already provide similar information to enrollees and applicants, CBO estimates that the cost of the mandate would not exceed the annual private-sector threshold established in UMRA.



Estimate Prepared By

Federal Costs:

Jessica Hale (private health insurance)
Cornelia Hall (Medicare)
Brian Klein-Qiu (Medicare)
Hudson Osgood (Medicare)
Lara Robillard (Medicare)
Sarah Sajewski (Medicare)
Emily Vreeland (private health insurance)
Katie Zhang (private health insurance)

Mandates: Andrew Laughlin

Estimate Reviewed By

Sarah Masi
Senior Adviser, Budget Analysis Division

Chad Chirico
Chief, Low-Income Health Programs and Prescription Drugs Cost Estimates Unit

Kathleen FitzGerald
Chief, Public and Private Mandates Unit

Paul Masi
Chief, Health Systems and Medicare Cost Estimates Unit

Leo Lex
Deputy Director of Budget Analysis

Theresa Gullo
Director of Budget Analysis