Committee on Mental Health, Disabilities and Addiction

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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE** **HUMAN SERVICES DIVISION**

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**COMMITTEE ON MENTAL HEALTH, DISABILITIES, AND ADDICTION**

*Hon. Diana Ayala, Chair*

**February 24, 2020**

**OVERSIGHT: Mental Health Coverage for City Employees**

**Int. No. 64:** By Council Members Cumbo, Cohen, Branna, Ayala and Lander

**Title:** Local Law to amend the administrative code of the city of New York, in relation to creating a mental health coordinator to inform city employees about mental health support and services

**Administrative Code:** Adds Section 12-140

**Int. No. 1792:** By Council Members Torres and Lander

..Title

..Body

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to providing information relating to behavioral health services

**Administrative Code:** Amends Section17-1801 and adds Section 17-199.12

**Introduction**

 On February 24, 2020, the Committee on Mental Health, Disabilities, and Addiction, chaired by Council Member Diana Ayala, will hold an oversight hearing on Mental Health Coverage for New York City Employees. The Committee will also hear Introduction Number 64 (“Int. No. 64”), introduced by Majority Leader Laurie Cumbo, in relation to creating a mental health coordinator to inform city employees about mental health support and services, and Introduction Number 1792 (“Int. No. 1792”), introduced by Council Member Ritchie Torres, in relation to providing information relating to behavioral health services. Those invited to testify include the New York City Office of Labor Relations (“OLR”), the New York City Department of Health and Mental Hygiene (“DOHMH”), providers, unions, and advocates.

**Background**

*Collective Bargaining*

 In New York State, all terms and conditions pertaining to public employees’ employment – including healthcare benefits – must be the result of a negotiation process, referred to as “collective bargaining,” “Taylor Law,” or “Public Employees’ Fair Employment Act.”[[1]](#footnote-1) This law was passed by the State in 1967, after a period of many labor protests and labor dissatisfaction, and promotes “harmonious and cooperative relationships between government and its employees.”[[2]](#footnote-2) The law protects the public by:

Guaranteeing public employees’ right of organization and representation;

Requiring the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with employee organizations representing public employees which have been certified or recognized;

Encouraging public employers and employee organizations to agree upon procedures for resolving disputes;

Creating a public employment relations board to assist in resolving disputes between public employees and public employers; and

Continuing the prohibition against strikes by public employees and providing remedies for violations of such prohibition.[[3]](#footnote-3)

Under both the Administrative Code[[4]](#footnote-4) and the Charter,[[5]](#footnote-5) New York City has its own collective bargaining laws, which establishes an Office of Collective Bargaining headed by a Director. All employment terms and conditions for employees of the City of New York (“city employees”) are negotiated between employees, represented by labor unions – of which there were 144 bargaining units as of November 2018[[6]](#footnote-6) – and the City, represented by the Office of Labor Relations.

*Health Insurance for New York City Employees[[7]](#footnote-7)*

City employees are comprised of approximately 1.25 million employees (as of November 2018).[[8]](#footnote-8) The City offers three insurance plans to all employees, retirees, and dependents at no cost (“premiums”) for basic coverage. Prescription drug, dental, and other benefits can be purchased through additional riders or are often provided through employees’ welfare funds. These three plans are Group Health Insurance (which merged with Emblem) – Comprehensive Benefits Plan (“GHI-CBP”), a preferred provider plan; Health Insurance Program of NY (“HIP”), a health maintenance organization (“HMO”); and most recently MetroPlus Gold, an HMO. According to the Independent Budget Office, there were nearly 423,300 separate health contracts covering full- and part-time City employees, retirees, and their dependents as of December 31, 2017.[[9]](#footnote-9) In 2017, even though there were 12 plans offered to eligible City employees, 96 percent of employees were enrolled in GHI-CBP, HIP, or MetroPlus Gold.[[10]](#footnote-10) The price of health insurance, as measured by premiums, has been increasing. In Fiscal 2018, the annual HIP premium paid by the City was $8,166 for individual coverage and $20,008 for family coverage, up 118 percent since Fiscal 2007. As for GHI, the annual premium in Fiscal 2018 was $7,479 for individual coverage and $19,604 for family coverage, up 104 percent since Fiscal 2007.[[11]](#footnote-11)

Insurance in New York State, including the premium rates charged by health insurance companies, is regulated by the New York State Department of Financial Services (“DFS”). Pursuant to New York State’s “prior approval” law, many health insurers must request approval of premium rate increases before they make adjustments.[[12]](#footnote-12) The federal Affordable Care Act required the issuance of community-rated plans and for states to create rate review over such plans. In 2010, New York State enacted Chapter 107 of the Laws of 2010, which granted DFS authority to approve, disapprove, or modify community-rated policies issued by commercial health insurers (both for-profit and not-for-profit) and HMOs in New York State. Prior approval does not apply to experience-rated large group policies or self-insured plans.[[13]](#footnote-13)

DFS reviews each health insurer’s requests and has the authority to review the actuarial assumptions behind their proposed rates and the financial condition of the insurer to make certain the proposed rates are fair and appropriate. DFS can approve, reject, or modify the proposed rates. There are a number of considerations DFS makes when reviewing an insurer’s request for a premium rate increase. It is important to note that the review process is different depending on the specific insurer and the specific product. Important factors include past claims experience under the specific policy at hand; utilization of services; the insurer’s history of rate changes, its financial condition, administrative costs, profits, and other sources of revenue; and other factors the insurer uses to calculate its proposed premium increase.

On June 16, 2018 the Bill de Blasio Adminsitration (“Administration”) and the Municipal Labor Committee (“MLC”) – an association of municipal labor organizations dedicated to collectively addressing concerns common to its member unions – announced a new commitment to generate substantial employee healthcare cost savings totaling $1.1 billion over three fiscal years (2019-2021).[[14]](#footnote-14) The June 2018 agreement (“the 2018 agreement” or “the 2018 savings plan”) follows a previous agreement dating back to May 2014 (“the 2014 agreement” or “the 2014 savings plan”), in which the Administration and the MLC announced – and reportedly subsequently reached – a target of $3.4 billion in savings over four years, starting with $400 million saved in Fiscal 2015 and growing to $1.3 billion saved in Fiscal 2018. [[15]](#footnote-15) These savings were to be achieved through a collective bargaining agreement. Pursuant to this agreement, the structural changes producing those savings would remain in place beyond the four-year plan. In addition, the agreement stipulated that if the savings were to exceed the $3.4 billion minimum, the first $365 million of excess savings would go back to the workforce as a bonus payment, while additional savings beyond that would be split between the City and the workforce. The two sides also announced a $1 billion transfer from the Health Insurance Premium Stabilization Fund (“HISF”), a fund jointly controlled by the City and the MLC, to help cover the labor agreements’ expected cost. It should be noted that the purpose of the HISF, primarily funded from City taxpayers, is to prevent City employees from having to pay part of their premium out of pocket by requiring the City to pay the difference between the cheaper and more expensive medical plans offered.

Lastly, the 2014 savings agreement stipulated that at the conclusion of the agreement in Fiscal 2018, there would be a final calculation of the savings realized, and that in the event that more than $3.4 billion was achieved, the first $365 million would be credited proportionately to each union as a one-time lump sum bonus payment for its members. Additionally, any savings over the first $365 million would be split equally between the City and the MLC.[[16]](#footnote-16)

*Mental Health Coverage for City Employees*

 In 1996, the Federal Government passed The Mental Health Parity Act (“MHPA”),[[17]](#footnote-17) which provided that large group health plans could not impose annual or lifetime dollar limits on mental health benefits that were less favorable than any such limits imposed on medical or surgical benefits.[[18]](#footnote-18) This law was mostly replaced by the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”),[[19]](#footnote-19) which prevents group health plans and health insurance companies that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations on those benefits than on medical and surgical benefits.[[20]](#footnote-20) The MHPAEA essentially requires that mental health coverage has to be equal to that of physical or surgical health coverage. This law does not, however, guarantee good or comprehensive mental health care coverage, and not all plans are subject to the parity requirement. State and local government health plans are subject to the federal mental health parity requirement, which means that plans must cover:

* Inpatient and outpatient in-network and out-of-network;
* Intensive outpatient services;
* Partial hospitalization;
* Residential treatment;
* Emergency care;
* Prescription drugs;
* Co-pays;
* Deductibles;
* Maximum out-of-pocket limits;
* Geographic location;
* Facility type;
* Provider reimbursement rates;
* Clinical criteria used to approve or deny care; and

Clinical criteria used by health insurers to approve or deny mental health or substance use treatment, also known as, “medical necessity determinations.”[[21]](#footnote-21)

New York State also has a mental health parity law known as “Timothy’s Law,” which mandates that New York group health plans that provide coverage for inpatient hospital care or physician services must also provide “broad-based coverage for the diagnosis and treatment of mental, nervous or emotional disorders or ailments, . . . at least equal to the coverage provided for other health conditions.”[[22]](#footnote-22) The State also requires that group plans must cover a minimum of 30 days of inpatient care, 20 visits of outpatient care, and up to 60 visits of partial hospitalization treatment for the diagnosis and treatment of mental, nervous or emotional disorders or ailments.[[23]](#footnote-23) Timothy’s Law also requires that deductibles, copayments and co-insurance for mental health treatment be consistent with those imposed on other benefits, and that utilization review for mental health benefits be applied “in a consistent fashion to all services covered by [health insurance and health maintenance organization] contracts.”[[24]](#footnote-24)

For New York City employees, mental health parity laws are required. Each insurance plan has its own method for administering and ensuring mental health coverage. For example, Emblem contracts with a behavioral health administrator called Beacon Health Options (“Beacon”). Beacon administers behavioral health services to most of its members under two programs: 1) Members of plans underwritten by HIP or HIPIC and ASO plans administered by Vytra Health Plans Managed Systems (VHMS) have their behavioral health services administered by Beacon Health Options under the Emblem Behavioral Health Services Program (EBHSP); 2) GHI-underwritten plan members by have their behavioral health services administered by Beacon Health Options under the EmblemHealth Behavioral Management Program (BMP).[[25]](#footnote-25) EBHSP are underwritten and administered by Beacon Health Options and include inpatient, outpatient and ambulatory behavioral health services including utilization review and case management services.[[26]](#footnote-26) Through behavioral health screenings, assessment and discussion, EmblemHealth provides “broad-based coverage for the diagnosis and treatment of behavioral health conditions, at least equal to the coverage provided for other health conditions.”[[27]](#footnote-27) Members are encouraged to use in network health care professionals to ensure coverage for services provided. [[28]](#footnote-28) Members are also encouraged to logon through their online member portal, and using the GHI CBP Allowance Calculator, obtain an estimate of how much seeing an out of network mental health care provider may cost.[[29]](#footnote-29) Members are also advised that they will need a medical procedure code from their physician before calculating the potential out of network fees.[[30]](#footnote-30) The below table details the in-network coverage for both of the no-cost plans that are selected and utilized by a majority of New York City employees: [[31]](#footnote-31)

|  |  |  |  |
| --- | --- | --- | --- |
| EmblemHealth Plan | Outpatient | Inpatient | Out-of-Network |
| GHI-CBP | $0 copay for preferred providers$15 copay for participating providers  | $300 copay per admission $750 maximum copay per calendar yearPre-certification required | Outpatient Services: 0% coinsuranceInpatient Services: $500 copay per admission/$1,250 maximum per calendar year20% to maximum of $2,000 per person per calendar year |
| HIP HMO | $0 copay for preferred providers$10 copay for prime providers Unlimited visits for substance misuse care, up to 20 visits per calendar year may be used for family counseling | $100 copay pay per admissionPreauthorization required, except in case of emergency admission | In Patient and Outpatient Services: Not Covered |

 In addition to health insurance coverage, there are several other mental health care benefits for city employees. OLR’s Employee Assistance Programs (“EAP”), is a “robust and comprehensive mental health and substance misuse program available to all employees in the City of New York."[[32]](#footnote-32) EAP provides free and confidential behavioral health services to all non-uniform Mayoral agencies.[[33]](#footnote-33) EAP programs provide education, information, counseling and individualized referrals in an effort to assist members in successfully meeting challenges that may arise due to personal, professional, or social problems.[[34]](#footnote-34) Each member and their families are given individualized attention and all persons using the services of these programs are covered by applicable confidentiality laws and regulations in order to protect personal information.[[35]](#footnote-35)

 In addition to providing support and treatment referrals for substance misuse, other key services include assistance in exploring solutions to mental health concerns, family matters, environmental or situational issues, problems at work or job performance concerns.[[36]](#footnote-36) EAP is staffed by New York State licensed master-level social workers and mental health counselors, can offer employees individual interviews to assess and evaluate the nature and scope of the problem, provide assessments to study the effects of childhood trauma on adult mental and physical being, and help connect EAP clients with appropriate services.[[37]](#footnote-37) Not only does EAP serve as a point of contact for family members, but when there is a traumatic event at the worksite or in the community, EAP provides support with worksite bereavement groups and informational seminars including supervisory training and consultation and psychological first aid.[[38]](#footnote-38)

In addition to EAP, OLR’s BeWell program partners with ThriveNYC to offer resources to city employees.[[39]](#footnote-39) The BeWell website[[40]](#footnote-40) is a repository for videos on how to identify common mental health challenges, a checklist of stress management tips and posters, an index of helpful things to understand about what to say to someone in need of mental health support, and provides links and information on how to access EAP resources in order to help members understand and learn about their behavioral healthcare benefits.[[41]](#footnote-41)

Employees that are not covered by EAP programs are encouraged to reach out to their own union EAPs for further details.[[42]](#footnote-42)

*Criticism of Mental Health Care Coverage for City Employees*

 There has been some deal of criticism of the mental health care coverage for city employees, including concerns surrounding inadequate number of participating members, lack of competitive rates paid to mental health providers, high mental health premiums paid by the City, lack of meeting federal and state parity laws, copays and deductibles that are too high, lack of information provided to city employees about mental healthcare options, and stigma in receiving care within certain city agencies.

Many of the criticisms and concerns surrounding the adequacy of mental health care coverage for city employees have existed for a long time. When the City’s two main insurers, HIP and GHI, merged in 2006 under Emblem Health, the City sued arguing: “If the merger were allowed to take effect, the newly formed company would control more than 90 percent of the City’s municipal health care market and 100 percent of the ‘low-cost’ municipal market, resulting in substantially higher premiums at astronomical costs to the City.”[[43]](#footnote-43) Despite the City’s concern, the merger was allowed to take effect.

As part of DFS’s review process, the City is permitted to submit comments regarding HIP’s requests for rate increases. In its comments to HIP’s rate increase request in 2015, the Commissioner of OLR requested “that [DFS] find HIP’s proposed rate increase unwarranted …” Among the reasons cited:

* “The increase is not justified by financial need and in fact, HIP/Emblem Health should be reducing its surpluses;”[[44]](#footnote-44)
* “Emblem Health is unfairly using its profits at HIP to cross-subsidize less profitable companies under its umbrella;”
* “Emblem Health describes worryingly high administrative costs including aggressive rates of executive pay that have been the subject of DFS concern in the past;” and
* “Emblem Health is relying on highly conservative estimates that seem calculated to produce profits, rather than reflect the accurate economic conditions the company faces.”[[45]](#footnote-45)

Despite the City’s objections, the increase was approved. Since, 2015, the City has not submitted comments with respect to requested rate increases.

Regarding violations of mental health parity laws, in 2014, former New York State Attorney General Eric T. Schneiderman announced a settlement with EmblemHealth that required the insurer to reform its behavioral health claims review process.[[46]](#footnote-46) Found to be in violation of mental health parity laws, the investigation identified EmblemHealth, through its behavioral health subcontractor Value Options, as having issued 64 percent more coverage denials for individuals seeking behavioral healthcare than for those seeking medical coverage.[[47]](#footnote-47) EmblemHealth had improperly denied requests for substance use disorder treatment “on the grounds that the member was not experiencing ‘life-threatening withdrawal’” when in fact such a withdrawal was not a prerequisite to receive treatment.[[48]](#footnote-48) EmblemHealth was also found to routinely and improperly deny requests for more intensive levels of care, such as medically managed inpatient detoxification, unless the member had met what was known as a “fail first” requirement—meaning members were not approved for higher levels of care without having first experienced sometimes multiple failed out-patient treatment attempts.[[49]](#footnote-49)

In addition to monetary fines which included civil penalties of $1.2 million dollars to the OAG, the settlement required EmblemHealth to resubmit previously denied mental health claims for its 3.4 million members in its HIP and GHI divisions. [[50]](#footnote-50) Potentially, the resubmission of claims could amount to EmblemHealth being held responsible to pay over $31 million dollars in reimbursements to some 15,000 members who had been denied coverage for behavioral health treatment for both in-patient and out-patient mental health services, including treatment for substance use and eating disorders. [[51]](#footnote-51)

 There are particular city employees that bear the burden of inadequate mental health care coverage more than others, namely, first responders. In October of 2019, former New York Police Department (“NYPD”) Commissioner James O’Neill responded to the news that the tenth NYPD officer had died by suicide—more officers than in any other year in the Department’s history.[[52]](#footnote-52) Describing the situation as a “mental health crisis,” O’Neill attributed the “difficulty” for officers to come forward, with the cultural stigma attached to seeking help.[[53]](#footnote-53) Citing the stressful nature of police work, O’Neill pointed out the importance of providing the City’s uniformed personnel with support from “mental health professionals and other resources to mitigate the risks of suicide, address substance abuse and manage employment-related stress that leads to poor job performance.”[[54]](#footnote-54) Commissioner O’Neill encouraged officers to avail themselves of the “internal and external” resources available coordinated by the newly appointed NYPD Mental Health and Wellness Coordinator intended to promote departmental mental health services including the EAP unit, peer support personnel, referrals to psychologists and psychiatrists, clergy, financial counselors and the counseling service unit.[[55]](#footnote-55)

An Office of the Inspector General (“OIG”) and NYPD’s Support Services Survey asked a sampling of NYPD officers about their perception of the stigma associated with seeking help for emotional and behavioral issues.[[56]](#footnote-56) One respondent answered that the NYPD’s policies dealing with employees who have emotional problems were “antiquated” and despite the purported availability of services, due to the tremendous shame attached to admitting the need for assistance, many officers would not voluntarily seek help within the department.[[57]](#footnote-57) Additionally, complaints were made by high ranking NYPD officers about the inadequacy of the City’s behavioral healthcare insurance system—namely GHI.[[58]](#footnote-58) NYPD Chief of Department Terence Monahan admitted that GHI makes it “tough for cops to seek mental health care,” citing several providers having dropped out of GHI due to low and non-competitive reimbursement rates.[[59]](#footnote-59) While some healthcare providers continued to accept the insurance out of a commitment to serve their communities, reportedly, the NYPD sought to offset the lack of mental health services with volunteer peer-level ThriveNYC counselors. [[60]](#footnote-60)

**Legislation**

*Introduction Number 64 - A Local Law to amend the administrative code of the city of New York, in relation to creating a mental health coordinator to inform city employees about mental health support and services*

Int. No. 64 would require the creation of a mental health coordinator in each city agency. This coordinator would assist each agency in its efforts to comply with the Americans with Disabilities Act and other federal, state, and local laws and regulations concerning accessibility and support for city employees with mental health needs. This coordinator will would perform outreach to city employees about available mental health services and support services, including but not limited to the employee assistance program. This local law would take effect 120 days after it becomes law.

*Introduction Number 1792 - A Local Law to amend the administrative code of the city of New York, in relation to providing information relating to behavioral health services*

Int. No. 1792 would require the Department of Health and Mental Hygiene (DOHMH) to develop a list of all free behavioral health services and share the information with any City agency that provides direct services to young adults, families, and children. DOHMH would also be required to train the identified agencies on appropriate dissemination of the information and ensure that the developed list would be available on the appropriate agencies’ websites. This local law would take effect one year after it becomes law.

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Int. No. 64

By Council Members Cumbo, Cohen, Brannan, Ayala and Lander

A Local Law to amend the administrative code of the city of New York, in relation to creating a mental health coordinator to inform city employees about mental health support and services

Be it enacted by the Council as follows:

                     Section 1. Chapter 1 of title 12 of the administrative code of the city of New York is amended by adding a new section 12-140 to read as follows:

                     § 12-140 Mental health coordinator. a. The head of each agency, in consultation with the mayor’s office for people with disabilities, shall designate an employee as such agency’s mental health coordinator.

                     b. Such mental health coordinator shall assist each agency in coordinating such agency’s efforts to comply with the Americans with Disabilities Act and other federal, state, and local laws and regulations concerning accessibility and support for city employees with mental health needs.

                     c. Such mental health coordinator shall perform outreach to employees of the city about mental health services and support services available to such employees, including but not limited to the employee assistance program.

                     § 2. This local law shall take effect in 120 days.

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LS #9310/ Int. No. 1800-2017

LS 691

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| Int. No. 1792 By Council Members Torres and Lander A Local Law to amend the administrative code of the city of New York, in relation to providing information relating to behavioral health services Be it enacted by the Council as follows: Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-199.12 to read as follows:§ 17-199.12 a. Definitions. For purposes of this section, the term “behavioral health service” means any healthcare service offered directly to an individual that addresses or treats mental illness or mental health needs.b. Behavioral health services information. 1. The department shall develop a list of available free behavioral health services, including those provided by, or whose cost is covered by, the city, the state, the federal government or not-for-profit and community-based organizations and provide such list to agencies providing direct services to children, young adults and families, including, but not limited to, the administration for children’s services, the human resources administration, the department of education, the New York city housing authority and the department of youth and community development.2. The department shall develop a training for the agencies identified pursuant to paragraph 1 of this subdivision, relating to appropriate dissemination of information regarding available behavioral health services to the children, young adults and families serviced by such agencies, and provide such training to each identified agency on an annual basis.3. To the extent possible, the department shall ensure that the list developed pursuant to paragraph 1 of this subdivision be made available on the websites of the agencies identified pursuant to paragraph 1 of this subdivision.§ 2. This local law takes effect one year after it becomes law. SIL/SCLS #847310/24/19  |

1. N.Y. Civil Service Law Article 14 (§ 200–14). [↑](#footnote-ref-1)
2. Taylor Law, § 200 State of Policy, available at <https://perb.ny.gov/taylor-law/>. [↑](#footnote-ref-2)
3. *Id*. [↑](#footnote-ref-3)
4. NYC Admin Code § 12-301–12-316. [↑](#footnote-ref-4)
5. Charter § 1170–77. [↑](#footnote-ref-5)
6. *See, e.g.*, Testimony by Robert Linn, Commissioner, OLR, Before New York City Council Hearing of the Committee on Finance, Civil Service and Labor, Nov. 29, 2018. [↑](#footnote-ref-6)
7. Much of this section was taken from a November 29, 2018 Hearing of the Committees on Finance and Civil Service & Labor on “Oversight: Healthcare Savings Agreement: A Look Back and a Look Forward.” [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. “Could City Employees Provide a Major Source of Enrollees for Metroplus Gold?” New York City Independent Budget Office. July 2, 2018. <https://ibo.nyc.ny.us/cgi-park2/2018/07/could-city-employees-provide-a-reliable-source-of-enrollees-for-metroplus-gold/> [↑](#footnote-ref-9)
10. Id. [↑](#footnote-ref-10)
11. See Fiscal 2001 through 2018 Comprehensive Annual Financial Reports of the Comptroller, available at: https://comptroller.nyc.gov/reports/comprehensive-annual-financial-reports/ (last accessed October 18, 2018). 2018 premium amounts made available to Council Finance staff by the NYC Office of Management and Budget [↑](#footnote-ref-11)
12. See “Health Insurance Rate Review (Prior Approval) Consumer FAQs.” New York State Department of Financial Services, April 4, 2016, available at https://www.dfs.ny.gov/consumer/health\_ins\_prem\_faqs.htm (last accessed October 18, 2018). [↑](#footnote-ref-12)
13. Under community rating, an insurer charges all people covered by the same type of health insurance policy the same premium without regard to age, gender, health status, occupation, or other factors. The insurer determines the premium based on the health and demographic profile of the geographic region or the total population covered under a particular policy that it insures. In comparison, an insurer uses experience rating when it predicts a group's future medical costs based on its past experience (i.e., the actual cost of providing health care coverage to the group during a given period of time; the group's claim history). Thus, the insurer calculates the group's insurance premium based on its own, not the overall community's, experience. See Kaminski Leduc (2008. July 3) *Community Versus Experience Rating Health Insurance.* <https://www.cga.ct.gov/2008/rpt/2008-R-0377.htm> [↑](#footnote-ref-13)
14. *Id*. [↑](#footnote-ref-14)
15. *Id*. [↑](#footnote-ref-15)
16. Health Benefits Agreement Fiscal Years FY2015-2018. See Section 5. NYC Office of Labor Relations. <https://www1.nyc.gov/assets/olr/downloads/pdf/collectivebargaining/health-benefits-agreement-fiscal-years-2015-2018.pdf> [↑](#footnote-ref-16)
17. Pub. L. 104-204. [↑](#footnote-ref-17)
18. *See* “The Mental Health Parity and Addiction Equity Act (MHPAEA),” The Center for Consumer Inforamtion & Insurance Oversight, Centers for Medicare & Medicaid Services, available at <https://www.cms.gov/cciio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet>. [↑](#footnote-ref-18)
19. Passed as a rider to H.R. 1424. [↑](#footnote-ref-19)
20. *See* “The Mental Health Parity and Addiction Equity Act (MHPAEA),” The Center for Consumer Inforamtion & Insurance Oversight, Centers for Medicare & Medicaid Services, available at <https://www.cms.gov/cciio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet>. [↑](#footnote-ref-20)
21. *See* “What is Mental Health Parity?,” National Alliance on Mental Illness, available at <https://www.nami.org/find-support/living-with-a-mental-health-condition/understanding-health-insurance/what-is-mental-health-parity>. [↑](#footnote-ref-21)
22. N.Y. Ins. Law §§ 3221(l)(5)(A); 4303(g)(1) (emphasis added). [↑](#footnote-ref-22)
23. N.Y. Ins. Law §§ 3221(l)(5)(A)(i)&(ii); 4303(g)(1)(A)&(B). [↑](#footnote-ref-23)
24. 2006 N.Y. Laws Ch. 748, § 1. [↑](#footnote-ref-24)
25. “Behavioral Health Services,” Provider Manual, EmblemHealth, available at <https://www.emblemhealth.com/content/dam/emblemhealth/pdfs/provider/provider-manual/Behavioral-Health-Services.pdf>. [↑](#footnote-ref-25)
26. EmblemHealth (2020) Behavioral Health and Substance Use, <https://www.emblemhealth.com/providers/clinical-corner/behavioral-health/behavorial-health-and-substance-use>. [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. EmblemHealth GHI CBP Allowance Calculator (2020) <https://www.emblemhealth.com/resources/city-of-new-york-employees/ghi-cbp/ghi-cbp-allowance-calculator> [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. NYC.Gov (2020) Important Information for City Employees on Mental health Services, <https://www1.nyc.gov/assets/olr/downloads/pdf/wellness/mentalhealth/mental-health-eap.pdf> [↑](#footnote-ref-32)
33. *Id.* [↑](#footnote-ref-33)
34. *Id.* [↑](#footnote-ref-34)
35. *Id.* [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. *Id.* [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. NYC.gov (2020) OLR Wellness-Mental Health, <https://www1.nyc.gov/site/olr/wellness/wellness-mentalhealth.page> [↑](#footnote-ref-39)
40. *Id.* [↑](#footnote-ref-40)
41. *Id.* [↑](#footnote-ref-41)
42. NYC OLR (2020). EAP Home <https://www1.nyc.gov/site/olr/eap/eaphome.page> [↑](#footnote-ref-42)
43. See New York City Law Department, Office of the Corporation Council, “Press Release: New York City Sues HIP and GHI Seeking to Enjoin the Two Health Insurance Companies from Merging.” [↑](#footnote-ref-43)
44. Insurance company surpluses are essentially retained profits that give the company a financial cushion. [↑](#footnote-ref-44)
45. New York City Office of Labor Relations, Letter to Anthony J. Albanese Superintendent of Financial Services New York State Department of Financial Services, Re Health Insurance Plan of Greater New York” September 18, 2015. [↑](#footnote-ref-45)
46. Office of the Attorney General (2014) Press Release: A.G. Schneiderman Announces Settlement With Emblem Health For Wrongly Denying Mental Health And Substance Abuse Treatment For Thousands Of New York Members<https://ag.ny.gov/press-release/2014/ag-schneiderman-announces-settlement-emblem-health-wrongly-denying-mental-health>. [↑](#footnote-ref-46)
47. *Id.* [↑](#footnote-ref-47)
48. *Id.* [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. *Id.* [↑](#footnote-ref-50)
51. *Id.* [↑](#footnote-ref-51)
52. Law, Tara (2019) New York City Police Officer Dies By Suicide – the 10th NYPD Suicide in 2019. Time.com <https://time.com/5702036/10th-police-suicide-nypd-new-york-city/> [↑](#footnote-ref-52)
53. Id. [↑](#footnote-ref-53)
54. An Investigation of NYPD’s Officer wellness and Safety Services (September 2019) [file:///C:/Users/cdwyer/Desktop/REVISED\_FINAL\_DOIOIGNYPD\_OfficerWellnessandSafety\_9242019%20(1).pdf](file:///C%3A/Users/cdwyer/Desktop/REVISED_FINAL_DOIOIGNYPD_OfficerWellnessandSafety_9242019%20%281%29.pdf) [↑](#footnote-ref-54)
55. Id. p.13 [↑](#footnote-ref-55)
56. Id. p.25 [↑](#footnote-ref-56)
57. Id. p.24 [↑](#footnote-ref-57)
58. McCarthy, Craig (2019) NYPD chief admits city insurance falls short on mental health care in wake of cop suicides. *New York Post*, August 13, 2019 <https://nypost.com/2019/08/13/nypd-chief-admits-city-has-poor-mental-health-care-in-wake-of-cop-suicides/> [↑](#footnote-ref-58)
59. Id. [↑](#footnote-ref-59)
60. Id. [↑](#footnote-ref-60)