Kentucky Department of Insurance
Initial Cost Defrayal
Statement

After reviewing BR 1937 SB 212 as currently drafted, the Department's initial determination is that this bill does not contain a mandated health benefit that would result in the state being required to make payments to defray costs under 42 U.S.C sec 18031(d)(3) and 45 C.F.R. sec 155.170, as amended.

Therefore, a cost defrayal analysis will not be performed.

Sharon P. Clark

2/24/2026

(Signature of Commissioner/Date)

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Fiscal Impact Report – BR1937/SB212

MH/SUD Parity

PREPARED FOR THE KENTUCKY DEPARTMENT OF INSURANCE

FEBRUARY 24, 2026

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Introduction

Lewis & Ellis, LLC (L&E) was engaged by the Kentucky Department of Insurance (KY DOI) to perform a fiscal impact analysis of BR1937/SB212, which would:

a. require health benefit plan coverage for mental health or substance use disorder treatment under terms or conditions no more restrictive than those for physical health,
b. require claims mental health, substance use disorder, and physical health to be combined for the purposes of meeting a health benefit plan deductible or out-of-pocket limit,
c. mandate annual parity reports,
d. expand state enforcement,
e. require certain timelines for mental health condition claim internal appeal decisions and related external review processes, and
f. require that insurers use medical necessity review criteria for mental health conditions that are clinically specified and consistent with generally accepted standards of care, including those established by the American Society of Addiction Medicine (ASAM).

Kentucky Revised Statute (KRS) 6.948[a] mandates that the sponsor of any bill proposing a health benefit mandate must request a health mandate fiscal impact statement from the Kentucky Department of Insurance (DOI). This statement must be completed within 30 days of the request and should include the following:

1. An assessment of the impact of the mandated health benefit on administrative expenses, premiums, and the overall cost of health care including any potential future cost savings.
2. Supporting documentation, including studies, written opinions, calculations, and citations that validate the findings and conclusions.
3. An estimate of any potential cost savings in the future, along with an explanation of why the bill would or would not lead to such savings, and
4. A certification confirming the accuracy of the information provided.

Additionally, KRS 6.948 mandates that the sponsor of any bill proposing a health benefit mandate must also request a federal cost defrayal impact statement from the Kentucky DOI. This statement must be completed within 30 days of the request. The federal defrayal cost impact statement shall:

1. Indicate whether a bill or amendment that contains a mandated health benefit may result in the state being required to make payments to defray costs.
2. If applicable, indicate which provision(s) of the bill or amendment may trigger the requirement to make payments to defray the costs.
3. If applicable, include an estimate of the payment amount that the state may be required to make if the bill or amendment is enacted into law.

L&E is tasked with performing the health mandate fiscal impact and federal cost defrayal impact analyses for the Kentucky insurance market, excluding the Kentucky Employee Health Plan (KEHP) and the Kentucky Medicaid programs. The fiscal impact analyses for these programs are

[a] As amended by 2024 House Bill 635.

performed by other entities. For this analysis, L&E reviewed literature, gathered statistics from public sources[b], and used data from the KY DOI's 2024 Insurer Annual Data report.

Administrative Expense Impact Analysis

The proposed bill is estimated to have **an immaterial (within +/- 0.05%) impact on administrative expenses**, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. It is our assumption that insurers either already provide coverage for the mandated benefits or the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

Premium Impact Analysis

To estimate BR1937/SB212's premium impact, L&E evaluated data from KY DOI's 2024 Insurer Annual Data report and publicly available sources. L&E used the collected information and data to estimate the aggregate premium impact range.

NO EXPANSION OF COVERED BENEFITS

This bill does not require plans to cover any new mental health or substance use disorder benefit parameters beyond the federal Mental Health Parity and Addiction Equity Act (MHPAEA) framework. The bill requires that mental health or substance use disorder coverage be provided under terms or conditions no more restrictive than those for medical and surgical benefits, consistent with federal parity. Further, the bill explicitly ties its requirements to MHPAEA federal regulations.

UTILIZATION REVIEW REQUIREMENTS

Based on limited available data, industry information, and actuarial judgment:

- A large majority of insurers' medical necessity review criteria for mental health conditions are understood to currently follow ASAM clinical guidelines and standards of care.[1]
- Claim appeals and denials subject to external review are understood to be rare occurrences.[2]

RESULTING PREMIUM IMPACT ESTIMATE

Based on the information above, the proposed bill is estimated to have **an immaterial (within +/- 0.05%[c]) impact on premium**, based upon our analysis of the proposed mandate.

Total Cost of Health Care Impact Analysis

L&E defines 'Total Cost of Health Care' as being equal to the sum of the Allowed Cost (i.e., the amount paid by the insurer plus the amount paid by the insured) and the insurer Non-Benefit Expenses. Additionally, as required by KRS 6.948, L&E considered the impact of potential future cost savings.

[b] Including reports for other states who have considered or passed similar legislation.

[c] 0.05% premium impact translates to approximately $0.34 per member per month (PMPM).

POTENTIAL FOR FUTURE COST SAVINGS

BR1937/SB212 does not mandate new benefits and does not expand coverage beyond MHPAEA, so no direct premium savings are expected. Over time, modest efficiencies could arise from improved parity administration, better in-network utilization, and fewer claim handling frictions. The utilization review requirements in the proposed mandate are primarily designed to enhance access to care rather than generate cost savings. Although improved access allows for earlier diagnosis and treatment—potentially lowering future costs—estimating those savings is challenging because it requires determining what would have occurred without early intervention. In addition, some savings may be offset by increased utilization. Given current coverage levels, L&E estimates any future savings impact to be immaterial (within ±0.05%).

RESULTING TOTAL COST OF HEALTH CARE IMPACT ESTIMATE

The proposed bill is estimated to have **an immaterial (within +/- 0.05%) impact on total cost of health care**, including potential future cost savings, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits.

Cost Defrayal Impact Analysis

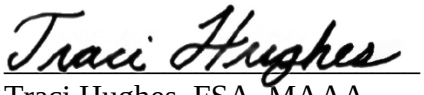
Based on L&E's research and actuarial judgment, L&E determined that this bill does not contain a mandated health benefit that would result in the state being required to make payments to defray costs under 42 U.S.C sec 18031(d)(3) and 45 C.F.R. sec 155.170, as amended. This bill does not mandate coverage of mental health or substance use disorder services and does not expand covered benefits beyond those already required under the federal Mental Health Parity and Addiction Equity Act.

L&E has disclosed its defrayal determination based on its earnest interpretation of federal guidance available as of the date of this report. However, determination of defrayal is ultimately under the regulatory purview of Centers for Medicare and Medicaid Services (CMS).

Certification of Accuracy

L&E believes the estimates are accurate based on the information disclosed in the report. To the extent that there are material inaccuracies, misrepresentations, or lack of adequate disclosure in the data, the results may be accordingly affected. Several of the assumptions made in this analysis are subject to uncertainty and it is expected that actual results could differ from the calculated estimates.

Robert Dorman, ASA, MAAA
Vice President & Consulting Actuary
Lewis & Ellis, LLC



Traci Hughes, FSA, MAAA
Vice President & Principal
Lewis & Ellis, LLC

2/24/2026
(Signature of Commissioner/Date)

ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations[d], promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States.

Each of these organizations requires its members, through its Code of Professional Conduct[e], to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary

The responsible actuaries are:

- Bobby Dorman, ASA, MAAA, Vice President & Consulting Actuary
- Traci Hughes, FSA, MAAA, Vice President & Principal

These actuaries are available to provide supplementary information and explanation.

Identification of Actuarial Documents

The date of this document is February 24, 2026. The date (a.k.a. "latest information date") through which data or other information has been considered in performing this analysis is February 24, 2026.

Disclosures in Actuarial Reports

- The contents of this report are intended for the use of the Kentucky Department of Insurance. The authors of this report are aware that it may be distributed to third parties. Any third party with access to this report acknowledges, as a condition of receipt, that they cannot bring suit, claim, or action against L&E, under any theory of law, related in any way to this material.
- Lewis & Ellis, LLC is financially and organizationally independent from the health insurers and providers involved in this analysis. There is nothing that would impair or seem to impair the objectivity of the work.
- The purpose of this report is to assist the Kentucky Department of Insurance in assessing the financial impact and federal cost defrayal impact of proposed legislation that includes a proposed health benefit mandate.
- The responsible actuaries identified above are qualified as specified in the Qualification Standards of the American Academy of Actuaries.
- L&E has reviewed the data provided by the insurers and Kentucky Department of Insurance for reasonableness, but the data has not been audited. L&E nor the responsible actuaries assume responsibility for these items that may have a material impact on the analysis. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the results may be accordingly affected.

[d] The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

[e] These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001.

- Several of the assumptions made in this analysis are subject to uncertainty and it is not unexpected that actual results could differ from the calculated estimates.
- L&E is not aware of any subsequent events that may have a material effect on the findings.
- There are no other documents or files that accompany this report.

Actuarial Findings

The actuarial findings of the report can be found in the body of this report.

Bibliography

[1] Colorado Department of Health Care Policy & Financing. *FY 2025–2026 Inpatient and Residential Substance Use Disorder Service Denial Determination Analysis*. Health Services Advisory Group, Inc., Jan. 2026. *Colorado Department of Health Care Policy & Financing*, https://hcpf.colorado.gov/sites/hcpf/files/CO2025-26_SUD%20Denial_Aggregate%20Report_F1-B.pdf

[2] Lo, Justin, et al. *Claims Denials and Appeals in ACA Marketplace Plans in 2023*. Kaiser Family Foundation, 27 Jan. 2025, https://www.kff.org/private-insurance/claims-denials-and-appeals-in-aca-marketplace-plans-in-2023/