

PARITY WORK IN THE STATES

WHAT'S ON THE AGENDA?

- Basic overview of parity as a concept
- Parity laws, both state and federal
- Parity enforcement & non-compliance with parity laws
- What are we doing in the states?

WHAT EXACTLY IS PARITY?

Insurance coverage for mental health and addiction services should be the same as insurance coverage for other medical conditions:

- Same terms and conditions
- No more restrictive

PARITY LAWS

PARITY LAWS ARE INSURANCE LAWS

Insurance laws are complicated; parity is EXTREMELY complicated.

Example:

A group health plan (or health insurance coverage) may not impose a non-quantitative treatment limitation with respect to mental health or substance use disorder benefits in any classification unless, under the terms of the plan (or health insurance coverage) as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the non-quantitative treatment limitation to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical/surgical benefits in the classification.

THE FEDERAL PARITY LAW

The Mental Health Parity and Addiction Equity Act (MHPAEA)

- Insurance plans don't have to cover behavioral health treatment, but if they do it must be equal to other medical treatment
- Signed into law by President George W. Bush 10/03/08
- All individual and small group plans on marketplace to provide behavioral health coverage and comply with the Federal Parity Law

STATE “PARITY” LAWS

- Most are generally weaker than the Federal Parity Law, some are generally stronger
- Some are weaker in than the Federal Parity Law generally, but stronger in certain areas
- Most plans have to comply with the Federal Parity Law, so weaker laws are much less relevant now

WHAT ABOUT REPEAL AND REPLACE?

- No matter what happens the Federal Parity law will still apply to large group health plans, most Medicaid enrollees, and most non-federal governmental plans
- Very likely to still apply to individual plans
- However, it's possible that the law will not apply to small group plans anymore
 - Small group protection added by federal regulations issued in conjunction with Essential Health Benefits

FEDERAL PARITY REQUIREMENTS

DEFINING MENTAL HEALTH CONDITIONS AND SUBSTANCE USE DISORDERS

- Insurers must define mental health conditions and substance use disorders in a way that is “consistent with generally recognized independent standards of current medical practice” DSM or ICD are mentioned
- However, this does not mean that a plan is prohibited from excluding coverage for a condition

CLASSIFICATIONS OF BENEFITS

- All mental health and substance use disorder (MH/SUD) benefits and all other medical services must be grouped into one of the following classifications:
 - Inpatient, in-network
 - Inpatient, out-of-network
 - Outpatient, in-network
 - Outpatient, out-of-network
 - Prescription drugs
 - Emergency care

QUANTITATIVE TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS

- **Quantitative treatment limitations:**
 - Inpatient day limits
 - Outpatient visit limits
 - Annual or lifetime dollar limits

- **Financial requirements:**
 - Copays
 - Coinsurance
 - Deductibles

NON-QUANTITATIVE TREATMENT LIMITATIONS

- Anything that can't be measured numerically but can limit care:
 - Prior authorization requirements
 - “Fail-first” requirements
 - Standards for providers joining a network
 - Geographic restrictions
 - Formulary design for prescription drugs
 - Network tier design
 - Many others

PARITY ENFORCEMENT & NON-COMPLIANCE

WHICH AGENCIES ARE RESPONSIBLE?


Federal agencies:

- Health and Human Services (HHS)
- Center for Medicare and Medicaid Services (CMS)
- Department Of Labor (DOL)
- Department of the Treasury (DoT)

State agencies:

- State insurance departments
- State Medicaid Office

NEW ADMINISTRATION & PARITY

- **Trump Administration does not mean shutdown of parity enforcement**
 - Opioid Commission will prioritize parity (Patrick Kennedy will, at least)
 - **Federal agencies have continued their work uninterrupted**
 - **Future budget cuts could play a role, however**
 - **Legislation passed late last year ensures that the federal agencies will continue their focus on parity this year and coordinate with states**
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WHAT DOES NON-COMPLIANCE LOOK LIKE?

Different quantitative treatment limitations and financial requirements:

- Outpatient visit limits
- Inpatient day limits
- Other limits on treatment that can be measured numerically
- Copays, coinsurance, deductibles, other out-of-pocket expenses

Different medical management requirements (NQTLs):

- Frequent and burdensome prior authorization requirements
- Reviews to see if care is “medically necessary”
- Fail-first protocols, i.e. cheaper treatments must be tried first
- Failure to complete entire treatment regimen

MODEL LEGISLATION & STATE WORK

MODEL PARITY LEGISLATION

- Comprehensive model bill created in collaboration with national advocacy and provider organizations
- Fills in gaps in state law and augments the federal law
- States pick provisions that work for them, and leave those that don't


KEY PROVISIONS OF THE BILL

- Insurer transparency – requires submission of data to state insurance departments and state Medicaid offices
- Regulatory accountability – requires state insurance departments to check insurers for compliance with the law
- Regulatory transparency – requires state insurance departments to file public reports about their activities
- Provides modern definitions for mental health conditions

KENNEDY FORUM & PARTNERS IN THE STATES

- These are the targeted states so far:
 - CT, IL, MN, MS, MT, NJ, OH, PA, TN
- States that are interested:
 - AZ, CO, IN, MO, VA, GA
- Additional states we'd like to see:
 - Every state!

KEYS TO SUCCESSFUL LEGISLATION

- Bipartisan sponsorship a MUST, unless your state is very slanted to one party and the governor is of the same party
 - Lead sponsors must be able to explain what the bill does and why it is necessary
 - Framing the bill as a solution to the opioid epidemic very useful in getting Republican support
 - People or family members personally impacted by insurance denials of mental health or addiction treatment (or both) extremely helpful
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TIPS AND TALKING POINTS

- Emphasize that it is entirely impossible to know if insurers are complying with the Federal Parity Law without collecting and examining the data requested by the bill
- Read confusing text from the Federal Parity Law directly to legislators and ask them if it's fair to expect a non-lawyer to understand it and try to figure out if an insurer is following the law
- Use a horror story involving denied treatment but also present a success story of what happens when someone gets treatment

RELEVANT LINKS

[Model Legislation](#)

[State Parity Reports](#)

