PARITY ACT ENFORCEMENT:
HOW PROVIDERS CAN IMPROVE ACCESS TO CARE

Ellen Weber, JD – Legal Action Center
Sherri Layton, LCDC – La Hacienda Treatment Center
PRESENTATION OVERVIEW

• What is Parity?
• Parity Act Protections
• Common Warning Signs of Parity Violations
• Parity Enforcement Barriers
• How Providers Can Be Involved to Help Patients and Impact Policy
• Steps to Improve Enforcement
• What Some States are Doing to Improve Parity Compliance

Questions?
DO YOU KNOW YOUR PARITY LINGO?

- QTLs
- DOL
- ERISA
- NQTLs
- EHB
- ACA
- ASAM

- Affordable Care Act
- Employment Retirement Income Security Act
- Quantitative Treatment Limits
- Essential Health Benefits
- American Society of Addiction Medicine
- Non Quantitative Treatment Limits
- Department of Labor
The Parity Act alone does not require a health plan to provide any MH benefits or SUD benefits, unless federal or state law requires that benefit coverage.

The Parity Act removed all caps on the number of visits with MH and SUD providers that a plan must reimburse.

State insurance departments have primary authority to monitor compliance with the Parity Act for commercial health plans sold in the State.

Medicare is required to comply with the Parity Act.

An insurance company cannot have more restrictive standards for a MH/SUD provider to become credentialed in its network compared to the standards for medical/surgical providers to become credentialed.

Insurance Plan X provides MH/SUD benefits. If the plan offers inpatient medical/surgical services, it must also offer inpatient MH/SUD services.
- **Consumers (5 States)**
  - 49% had not heard of the Parity Act (5% not sure)
  - 48% did not know of right to equal MH/SUD coverage (10% not sure)

- **Providers (5 states)**
  - Key parity standards - less than 50% could select correct responses on questions about key parity standards
PARITY ACT - EQUAL INSURANCE COVERAGE
PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008

End historic discrimination in the coverage of MH/SUD benefits in all plan features
Plans that provide MH/SUD benefits must cover them “at parity” (at the same level) with medical/surgical benefits

Equal benefit coverage
Equal access to benefit

Parity Act does not require plans to cover MH/SUD benefits, but many other laws do

Affordable Care Act – Essential Health Benefits
State law mandates in private insurance for SUD and MH

If plan provides any coverage of MH/SUD benefits, it must cover MH/SUD at the same level as medical/surgical benefit coverage.
So when does parity **not** apply?

- Small Employer Group Self-Insured Plans
- TRICARE
- Federal Government Plans – Executive Order has imposed parity standards
- State and Local Government Entities – Opted Out
- Medicaid – Exclusively Fee-for-Service Financing
- Medicare
### WHO CAN HELP - ENFORCEMENT AUTHORITY OF PLANS SUBJECT TO PARITY MANDATES

<table>
<thead>
<tr>
<th>Insurance Coverage</th>
<th>Federal Parity Law</th>
<th>Primary Enforcement Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>✔ (ACA)</td>
<td>State Insurance Department</td>
</tr>
<tr>
<td>Small Group – Fully Insured (50 or fewer employees)</td>
<td>✔ (ACA)</td>
<td>State Insurance Department</td>
</tr>
<tr>
<td>Large Group – Fully Insured and Self-Insured (51+ employees)</td>
<td>✔</td>
<td>State Insurance Department – Fully Insured U.S. Department of Labor – Self-Insured</td>
</tr>
<tr>
<td>Public Employer (self-insured)</td>
<td>✔ State/local plans may opt out</td>
<td>Depends – State Insurance Dept. based on state law; State may otherwise regulate if self-insured.</td>
</tr>
<tr>
<td>Medicaid - MCO Plans; MH/SUD carve-out but enrollees receive MCO medical services</td>
<td>✔</td>
<td>State Medicaid + Centers for Medicare &amp; Medicaid Services</td>
</tr>
<tr>
<td>Medicaid Expansion population</td>
<td>✔ (ACA)</td>
<td>State Medicaid + Centers for Medicare &amp; Medicaid Services</td>
</tr>
<tr>
<td>Children’s Health Insurance Program (CHIP)</td>
<td>✔</td>
<td>State Medicaid + Centers for Medicare &amp; Medicaid Services</td>
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WHAT PARITY VIOLATIONS LOOK LIKE

• Quantitative Limits
  • Financial Requirements
    • Deductible, Co-Pay, Co-Insurance, OOP Max
  • Numerical Limits on Treatment
    • Number of visits, Days of coverage, Frequency of treatment

Many plans comply
Mathematical test – pretty easy to identify
Compliance review – easy to identify differences thru plan data
WHAT PARITY VIOLATIONS LOOK LIKE

• Non-Quantitative Limits (NQLs)
  • SUD/MH coverage excluded
  • Medical necessity criteria
  • Prior/continuing authorization requirements
  • Step therapy & fail first
  • Rx drug coverage – formulary tiers + utilization standards
  • Network adequacy & provider admission to networks
  • Provider reimbursement + contracting
  • Restrictions on facility type, geographic location, provider specialty

Many plans DO NOT comply

Requires detailed comparative analysis of rules as written & in operation

Requires data analysis to show “no more stringent” application
VIOLATIONS ARE IDENTIFIED

• AT VERIFICATION OF BENEFITS

• AT PRE-AUTHORIZATION OF CARE

• ONGOING AUTHORIZATION OF CARE
ENFORCEMENT OBSTACLES: PROVIDERS

• Private insurance – Discrimination in network admission and reimbursement

• Barriers to assisting patients with insurance denials (Parity at 10 - 5 state data)
  • Too time-consuming (40%)
  • Not area of expertise (35%)
  • Lack of resources (32%)
  • Past efforts not successful (25%)
  • Don’t know what to do (25%)
HELPING YOUR (PROSPECTIVE) PATIENT NAVIGATE THE COMPLAINT PROCESS

• AT VERIFICATION OF BENEFITS
  • Examples?

• They aren’t your patient yet so ....
  • Have resources for family and patient on how to file complaint
  • Understand it’s about the product purchased, and it may stand as purchased, until next renewal – impact next renewal
    Will they go to HR Director?
  • Where to file based on policy
  • Know the various complaint process forms/websites
  • Help insureds get the info they need to file; make it English for them
  • Offer to assist to extent they will consent
  • Encourage!
HELPING YOUR (PROSPECTIVE) PATIENT NAVIGATE THE COMPLAINT PROCESS

• AT PRE-AUTHORIZATION OF CARE
  • Examples?

• Maybe they are engaged in treatment, maybe not ….
  • From UR position –
    • Challenge criteria they are using
    • Point out parity violations
    • Build relationships with insurance management and don’t be afraid to go up the ladder
    • Appeal the decision – parity law requires plans must give reason for denial

• Assist the family/patient to file appeal/complaint
  • (see previous slide 😊)
HELPING YOUR PATIENT NAVIGATE THE COMPLAINT PROCESS

• ONGOING AUTHORIZATION OF CARE
  • Examples?

• Engaged in the treatment process ….
  • Approach through UR process (see previous slide)
  • Appeal, appeal, appeal – internal, external
  • Report to state regulatory authority
AS AN ORGANIZATION

• Create a mechanism to collect your data about violations
• Get organized; collaborate
• Know who to talk to
• Testify, share, raise a rucus!
YOUR INSURANCE RIGHTS
MENTAL HEALTH AND SUBSTANCE USE DISORDER TREATMENT RIGHTS

5 TIPS TO HELP YOU UNDERSTAND YOUR TREATMENT RIGHTS

Many people need mental health and substance use disorder (MH/SUD) treatments to improve their health and well-being, but they may not know what is covered under their insurance plan. Here are 5 important tips to better understand and utilize your one's MH/SUD health care benefits.

HELP PATIENTS RESPOND TO INSURANCE BARRIERS

Treatment providers are often the “first responders” when health insurance barriers are encountered. They can help identify potential barriers and offer alternatives. The Mental Health Parity and Addiction Equity Act (Parity Act) can empower patients to ensure they receive the care they need.

VIOLATING YOUR RIGHT TO EQUAL MENTAL HEALTH AND SUBSTANCE USE DISORDER TREATMENT?

Is Your Insurance Company Violating Your Right to Equal Mental Health and Substance Use Disorder Treatment?

The Mental Health Parity and Addiction Equity Act (Parity Act) is a federal law that requires most insurance companies and Medicaid programs to provide the same level of coverage for mental health and substance use disorder (MH/SUD) care as they do for other health conditions. In other words, insurance companies cannot make it more difficult to get or stay in treatment for conditions like depression or substance use disorder than for conditions like asthma or diabetes.

FILING A HEALTH INSURANCE APPEAL

MARYLAND

Private Insurance Plans

Did your insurance company deny or limit your request for mental health or substance use disorder (MH/SUD) services? If so, your insurance company may be violating your health insurance rights. You can challenge the decision by filing an appeal.

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PARITY COMPLAINTS &
CONFIDENTIALITY
Understanding and Advocating for Parity Rights
FEDERAL ADVOCACY FOR PARITY ENFORCEMENT

• Let your legislators know what is not working in your state!

• https://parityat10.org/
  • National & local advocates unify to achieve enforcement
  • Lots of resources

• https://www.thekennedyforum.org/paritypartner toolkit/
  • Parity registry – file appeals, complain to gov. officials
  • Parity track – track legislative, regulatory activity in all 50 states
ACTION IN THE COURTS

March 2019 Ruling against UBH in CA Fed Court –

• “unlawfully denied MH & SUD treatment to its policyholders across the country”

• “internal coverage guidelines that failed to comply with generally accepted standards of care”

• “denied its insureds coverage by using overly restrictive guidelines to make coverage decisions”
STATE ACTIONS TO INSURE PARITY ENFORCEMENT

- Provider and Consumer Education Surveys and Reports
- Consumer and Provider Education Toolkits
- Policy Maker Education + Regulatory Oversight
  - Share Stories – identify barriers to treatment
  - Private Insurance Compliance: Data analysis of plan compliance with Maryland network adequacy requirements; 3rd Market Conduct Survey data on prior authorization decisions, denial of services, out-of-network reimbursement (awaiting Maryland Insurance Administration data)
  - Medicaid Compliance – MD Dept. of Health identified parity violation with data collection requirements; outstanding analysis of medical necessity, utilization management, and reimbursement rate setting
- 2019 Legislative Session - Parity Enforcement –
  - Private Insurance (SB 631/HB 599)
    - Require ASAM Criteria for SUD medical necessity and utilization management decisions, as in Medicaid
STATE ACTIONS TO INSURE PARITY ENFORCEMENT

Texas Mental Health & Substance Use Disorder Parity Workgroup

- 2017 Legislative Session –

Establish Ombudsman for Behavioral Health Access to Care

TDI & HHSC to report on parity compliance

Establish MH Condition and SUD Parity Workgroup

- Develop a strategic plan with metrics to serve as a roadmap to increase compliance with the rules, regulations, and statutes

  Compliance, Enforcement & Oversight
  - Ensure state regulated plans comply with state and federal parity rules, regulations, and statutes.
  - State regulators will actively monitor and enforce parity for state regulated plans.

Complaints & Investigations

- Improve complaint process to be easier to find, access, and navigate.
- Ensure complaints related to MHC/SUD treatment limitation issues are investigated and are resolved timely, effectively, and equitable

Education and Awareness

- Ensure stakeholders understand federal and state rights and responsibilities and their impact on MHCSUD care access.
IMPROVE PARITY ENFORCEMENT – REQUIRED INSURANCE STANDARDS

- Fix benefit and prescription drug gaps and plan features that limit access to MH/SUD services
  - MH/SUD benefits
  - Prior Authorization Requirements
  - Network Adequacy
- Parity Act guides standard development
IMPROVE PARITY ENFORCEMENT – COMPLIANCE PROCESS

• Adopt effective oversight and compliance strategies
  • Annual compliance reports – Carriers
  • Data audits – State Insurance Department, Medicaid Program, Attorney General
  • Market Conduct Examinations – State Insurance Department
  • Enforcement Reports to State Lawmakers – State Insurance Department and Medicaid Program

• Consumer Assistance
STATES OVERVIEW

Legislation to Fix Benefit Gaps and Access Barriers

• State Insurance Mandates: Ensuring continuum of services for SUD and MH coverage - Ex: IL, MA, MD, NJ, NY

• Limits on Prior Authorization for SUD Treatment Services
  • Private Insurance – DE, IL, MA, NH (initiation of treatment) NJ, NY
  • Medicaid – DE, IL, MA

• Limits on Prior Authorization for SUD and/or OUD Medications
  • Private Insurance
    • Emergency Supply – CO, DE, NY
    • At Least One OUD Drug – AZ, ME, VA, WA (Jan. 2020)
    • All SUD/OUD Drugs – AR, IL, MD, MO, NJ, OR (first 30 days), and WV. Effective Jan. 2020 – CO, DE, MT (oral med.) NY, VT
  • Medicaid
    • Emergency Supply - DE
    • At Least One Form of each OUD Drug – IA, WA
    • Drugs on Preferred Drug List and/or Formulary – AR, MO, NY
    • MCO Covered Drugs – CO (Jan. 2020)
    • All FDA-Approved MAT Drugs – DC, IL, NJ, OR (first 30 days), TX
States Overview

Legislation to Fix Benefit Gaps and Access Barriers

- Network Adequacy Standards: Quantitative measures to regulate provider networks for MH and SUD providers
  - Appointment Wait Time – CA, CO, ME, MD, MO (telephone access to therapist 24/7), NH, TX
  - Geographic Criteria (travel time and/or distance) – CA, CO, DE, MD, MO, NV, NH, NJ, PA, VT
STATES OVERVIEW

• Oversight and Compliance
  • Annual Compliance Reporting and Review – CO, CT, DE, DC, IL, NJ,
  • Annual Data Reporting and Analysis – CT, MA, TN (Medicaid), VT, NY (biennial beginning in 2019), TX (one-time report)
  • Market Conduct Surveys/Exams – NH, MD (surveys), PA
  • Enforcement Reports to Legislators – IL, NJ, OH
  • Ombudsman Program for Behavioral Health – CO, NY, TX
Ellen Weber
eweber@lac.org
202-544-5478 Ext. 307
www.parityat10.org

Sherri Layton
slayton@lahacienda.com
830-238-4222 Ext. 103