The Mental Health Parity Act: Updates, Enforcement and Taking Action
Parity Act: Legislative Briefing

- Key Parity Standards & What it Means for Families
- Enforcement Barriers & Impact on Families
- Maryland Enforcement Efforts
- Legislative Action
Parity Act – Equal Insurance Coverage

- Mental Health Parity and Addiction Equity Act (2008) – 11th Anniversary
  - Civil Rights Statute - end historic health insurance discrimination against individuals with mental health (MH) and substance use disorders (SUD)
  - Private Insurance and Medicaid/CHIP

- Parity at 10 Campaign (www.parityat10.org) – Maryland Parity Coalition
  - Parity Act Education and Advocacy → Robust Enforcement
  - Consumers, Providers and Policy Makers
What Does Parity Mean?

- Plans that provide MH/SUD benefits must cover them at the same level as medical/surgical benefits.
  - Equal benefit coverage
  - Equal access to MH/SUD benefits
- Parity Act does not require plans to cover MH/SUD benefits, many other laws do.
  - Maryland law mandates benefit coverage for SUD and MH in individual plans, small and large employer commercial plans, Medicaid and Children’s Health Insurance Program (CHIP).
  - Inpatient, residential, partial hospitalization, intensive outpatient, outpatient, opioid treatment services, crisis services, prescription drugs and emergency care.
Insurance Coverage for Brain Disorders = Insurance Coverage for Physical Health Conditions
Out-of-Pocket Costs

- Deductibles ($5,000/individual)
- Co-payments ($30/visit)
- Co-insurance (20% reimbursed amount)
- Out-of-Pocket Maximums
Limits on Length of Care

- Number of visits (Ex. 15 outpatient visits/year)
- Days of Coverage (Ex. 14 days residential treatment)
- Frequency of Treatment (Ex. 2 episodes of care/year)
Limits on Scope and Access to Care

- Covered SUD/MH benefits (excluded benefits)
- Medical Necessity Criteria
- Prior authorization and continuing care requirements
- Step therapy and fail first
- Prescription drug coverage and tiers
- Network adequacy and provider admission to networks
- Provider reimbursement
Information Insurance Plans Must Disclose

- Medical Necessity Criteria – both MH/SUD and medical (patient and provider)
- Reasons for any denial of coverage or reimbursement (patient)
- Parity compliance documents (patient or provider as authorized representative – self-insured plans upon request; other health plans if denial of coverage or services)
- Insurer cannot withhold plan documents based on claims of proprietary information
Insurance Barriers to MH/SUD Services and Barrier to Parity Enforcement
What Do Parity Protections Mean for Families

Covered Services and Medications

Out-of-Network Treatment and High Out-of-Pocket Costs

In-Network Provider Reimbursement and Timely Access to Treatment

Lower Level of Care Before Prescribed Rx

Medically Necessary Services – Prior Authorization and Continuing Care
Maryland Network Adequacy Data – 2019

Satisfaction of Appointment Wait Time Metric

- Urgent Care – MH, SUD and Medical – within 72 hours for 95% of Enrollees

- 2 of 16 Carriers Satisfied
  - CareFirst Blue Choice
  - Kaiser Foundation Health Plans

- Non-Urgent – MH and SUD – Appointment within 10 days for 95% of Enrollees
  - Aetna – 89%
  - CareFirst – 57%
  - Cigna – 76%
  - Kaiser Foundation Health Plans – 84%
  - Kaiser Permanente Insurance Co – 28%
  - United Health – 96%
Carrier Network Violations

- **Cigna** – Excluded 5 of 13 SUD providers based on “no network need” but did not exclude any of the 122 med/surg facilities for this reason. (2019)
- **Aetna** – Required detailed Personnel Review assessments for MH/SUD facilities that work with youth, but not required for med/surg facilities. (2018)
- **CareFirst** – Inaccurate and incomplete listing of MH hospital and non-hospital facilities in Directory. (2018)
- **UnitedHealthcare** – Required review of 5 years of malpractice history for all MH/SUD facilities seeking credentialing, but not required for med/surg facilities. (2017)
- **CareFirst** – No opioid treatment programs in network. (2015).

Other MIA Findings

- Carriers do not conduct complete parity compliance analyses and do not have protocols for review and documentation.
- 1 carrier denied inpatient SUD services at a higher rate than med/surg inpatient services.
- 1 carrier had authorization guideline that limited inpatient MH care authorization to 7 days per utilization review; no similar guideline for med/surg services.
- All carriers reported higher utilization of out-of-network services for MH/SUD than med/surg services.
- Reimbursement Rates - Psychiatrists reimbursed up to 130% less than medical providers for same code (2017).
Consumers, Have You Heard About the Parity Act?

- Consumers don’t get complete information about MH/SUD benefits, medical necessity criteria, standards for authorization or parity protections.

- Consumers (2018 Consumer Survey - Maryland)
  - 50% had not heard of the Parity Act
  - 49% did not know of right to equal MH/SUD coverage (11% not sure)
  - 53% did not know health plan must give a reason for denial of services (11% not sure)
  - 40% did not know can appeal plan denial or limitation (14% not sure)
Knowledge Limitations: Less than 50% of providers (5 states) could select correct response to key parity standards.

Barriers to assisting patients with insurance denials (5 State Data)

- Too time-consuming (40%); lack of resources (32%)
- Not area of expertise (35%); don’t know what to do (25%)
- Past efforts not successful (25%)

Provider actions after service denial (MD)

- Filed appeal with carrier (31%); encouraged patient to file complaints (28%)
- Attempted negotiation with carrier (28%)
- Used other resources to provide requested level of care (28%)
- Accepted authorized care (28%)
- Filed complaint with MIA or Medicaid (8%)
Enforcement Obstacles: Private Insurance Regulators

- **Limited Transparency**: Don’t get plan information needed to evaluate parity compliance *before* the plan is approved for sale.
  - Financial requirements (cost-sharing) - Regulators look for and can usually identify problems
  - Plan design standards without quantitative limits – not identified in plan documents and compliance information not provided

- **Consumer Complaints**: Complaints not filed in midst of crisis and don’t address systemic problems.

- **Post-Sale Investigations**: Important but time consuming → delay fixing violations. Maryland Insurance Administration market conduct surveys have taken 18-25 months.
Enforcement Obstacles: Medicaid Regulators

- **Key Outstanding Issues**
  - Reimbursement Rate Setting & Billing for Multiple Services on Same Day
  - Prior Authorization Requirements
  - Benefit Coverage – Family Counseling (SUD) and Care Coordination

- **Medicaid Enforcement Requirements**
  - Compliance report filed 18 months after deadline and failed to address all issues.
  - Centers for Medicare and Medicaid Services has required corrective action by Oct. 1, 2020.
Advocating for Parity Rights
Maryland Parity at 10 Campaign

- National and local advocates uniting to achieve parity enforcement through education and advocacy. www.parityat10.org
- Maryland Parity Coalition – state-wide organizations and individuals (Jan. 2018)
- Key Strategies – Building on 7+ years of parity enforcement work
  - Education – Consumers, Providers and Policymakers
  - Advocacy – Legislative and Regulatory
  - Communications
Consumer and Provider Education

- **Your Insurance Rights** – 5 Tips to help consumers understand their MH/SUD insurance rights
- **Parity Warning Signs** - 3 differences that signal possible Parity violation
- **Filing an Insurance Appeal** – Steps to file a Medicaid and private insurance appeal in Maryland and resources that can help
- **Provider Tips** – How to help patients with denials and track problems with complaint tracker tool at [www.parityat10.org](http://www.parityat10.org)
What Can Legislators Do?

- Attend An Information Session
- Hold Listening Sessions In Your District
- Ask Constituents To Share Their Stories Privately & On Social Media With #ParityAt10
Educate and Inform Regulators

● Maryland Insurance Administration
  ○ Market Conduct Surveys of Parity Compliance – Data Used To Improve Enforcement Strategies
  ○ Enforcement of Network Adequacy Standards: monitor carrier performance and update regulations
  ○ Implementation of American Society of Addiction Medicine (ASAM) Criteria for SUD treatment

● Maryland Department of Health
  ○ Medicaid System of Care Redesign – Workgroup and Parity Discussion Group
Advocate with Legislators – 2020 Agenda

● Parity Enforcement – Private Insurance
  ○ Require annual parity compliance and data report by private carriers → Catch violations before plan is sold.
  ○ Remedial Action - Require Maryland Insurance Administration to identify violations, impose corrective measures to promptly fix plan standards, and compensate consumers for unlawfully denied treatment services and impose significant penalties for violations.

● Consumer Payment Protection
  ○ Require carriers to inform members of right to request non-network services if network services are not available “without unreasonable delay or travel”
  ○ Ensure consumers pay no more for services obtained from non-network providers than for network services if network not adequate.
How to Get Involved

● Join Maryland Parity Coalition – Meets 1st Tuesday each month 1:00 – 2:30. Join us in person or by teleconference.

● Consumer Story Banking – Share Your Story (www.parityat10.org)

● Identify and report insurance barriers to treatment
  ○ Providers – track patterns in service denials/decisions, burdensome utilization management, and provider network participation barriers (reimbursement and contracting practices), report problems to regulators.
  ○ Consumers – understand parity rights; report denials of care to providers, State regulators and Maryland Parity Coalition.

● Your stories are needed & your ideas are welcome!