STATE MENTAL HEALTH PARITY LAWS

hopeful futures campaign

The federal Mental Health Parity and Addiction Equity Act of 2008 reduced, but did not eliminate, inequities in health plan coverage of mental health and substance use conditions. As a result, **many are still denied mental health and substance care when they need it the most.** When care recommended by clinicians is denied, people often experience worsened conditions, sometimes ending up in jails, on the streets, and in emergency departments, with harm to individuals and communities and higher costs to taxpayers.

A study of commercial health plan claims data for 37 million employees and dependents found that, in 2017, reimbursements of primary care providers were 23.8% higher than for behavioral health care providers for the same billing codes.[1] The same study revealed that 17.2% of behavioral health office visits were to an out-of-network provider compared to 3.2% for primary care providers – more than 5 times more often – and the out-of-network utilization rate for behavioral health residential treatment facilities was over 50%.[2] Meanwhile, expenditures for mental health and substance use conditions, including prescription drugs, represented just 5.2% of health plan costs, despite growing mental health and addiction needs.[3]

Policy Goal:

- Enact legislation that results in equitable coverage of mental health and substance use conditions.

Recent Legislation: Mental Health and Substance Use Parity

Increasingly, states are seeking to amend laws to better achieve the intent of parity. For example, Arizona passed legislation prohibiting plans from denying coverage of behavioral health services provided in schools or ordered by a court, if they would otherwise be covered. Washington passed a bill that ensures health plans cover emergency services for behavioral health just like they cover emergency services for physical health. California, Oregon, Georgia, and Illinois have passed bills to require plans to put patients' interests ahead of their own financial interests by making decisions on whether to pay for recommended treatment in a manner consistent with generally accepted standards of care.

Additional Policy Resources:

Subject matter experts on state parity legislation:

- David Lloyd, Senior Policy Advisor, david@thekennedyforum.org, The Kennedy Forum
- Tim Clement, Director of Legislative Development, tclement@psych.org, American Psychiatric Association

1 Melek S, Davenport S, Gray TJ. "Addiction and mental health vs physical health: Widening disparities in network use and provider reimbursement. November 19, 2019. Milliman Research Report. Retrieved from https://assets.milliman.com/ektron/Addiction_and_mental_health_vs_physical_health_Widening_disparities_in_network_use_and_provider_reimbursement.pdf
2 *Ibid.*
3 *Ibid.*

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Recent Legislation: Mental Health and Substance Use Parity

State	Bill Number	Description	Author	Year
 Arizona	SB1523	"Jake's Law" requires health insurance plans to comply with federal parity law and submit parity compliance analyses on their nonquantitative treatment limitations; requires consumer-friendly information on parity and rights to appeal or file a complaint. Prohibits health insurers from denying coverage for services delivered in an educational setting or ordered by a court, if otherwise covered. Establishes a mental health parity advisory committee. Contains provisions to cover behavioral health services for uninsured or underinsured children.	Sen. Kate Brophy McGee (R)	2020
 California	SB855	Requires health plans and disability insurers to cover medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions; requires plans and insurers to cover basic, intermediate, and acute treatment and prescription drugs; requires plans to base medical necessity determinations and utilization review criteria on generally accepted standards of mental health and substance use disorder care; authorizes penalties for violations; and bans discretionary clauses in health plan contracts.	Sen. Scott Wiener (D)	2020
 Georgia	HB1013	Requires annual plan data and reviews to ensure compliance with parity; permits monetary penalties; requires reimbursement for mental health and primary care services provided in the same day; requires repository for parity complaints; appoints a mental health parity officer; requires plans to use generally accepted standards of mental health and substance use disorder care; defines medically necessary services; sets medical loss ratios for Medicaid; updates appeals process; requires study comparing Medicaid, CHIP and state health benefit plan with other states' benefits and reimbursement rates.	Reps. David Ralston (R), Todd Jones (R), Mary Oliver (D), Don Hogan (R), Sharon Cooper (R), James Beverly (D), and Sen. Brian Strickland (R)	2022
 Illinois	HB2595	Requires health insurance and health plans to provide medically necessary treatment of mental health and substance use conditions; requires that medical necessity determination and utilization review criteria be in accordance with generally accepted standards of mental health or substance use disorder care; requires education of insurer's staff and contracted providers and plan beneficiaries; requires documentation of interrater reliability testing and remediation actions; allows for monetary penalties.	Rep. Deb Conroy (D) and Sen. Laura Fine (D)	2021
 Washington	HB1688	Aligns state law with federal No Surprises Act and expands definition of covered emergency services to include post-stabilization services and emergency services provided by behavioral health emergency services provider, including crisis stabilization units, evaluation and treatment facilities, certified outpatient crisis services agency, triage facilities, agencies certified to provide medically managed or monitored withdrawal management services, and mobile crisis response teams.	Rep. Eileen Cody (D) by request of Insurance Commissioner	2022