

Understanding Parity: A Guide to Resources for Families and Caregivers



SAMHSA
Substance Abuse and Mental Health
Services Administration

UNDERSTANDING PARITY: A GUIDE TO RESOURCES FOR FAMILIES AND CAREGIVERS

Acknowledgments

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Disclaimer

This document is a joint product of the Departments of the Treasury (Treasury), Labor (DOL), and HHS, (collectively the Departments). It is intended to give a basic understanding of certain requirements related to the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and claims and appeals procedures under the Public Health Service Act (PHSA), the Employee Retirement Income Security Act (ERISA), and the Internal Revenue Code (the Code). The statute, regulations, and other guidance issued by the Departments should be consulted.

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Introduction

If you care for someone with a mental illness or substance use disorder, this guide can be a helpful resource. There are protections in federal law, collectively known as “parity,” which are designed to ensure that certain types of health plans cover mental health and substance use disorders no less generously than the way they cover other health issues. Health plans are often referred to as “health insurance.”

Caring for a child (or parent, patient or client or family member) takes a lot of dedication of time, resources, and emotions. Struggling to find access to behavioral health services can be frustrating. The full implementation of parity laws not only can provide broader access to services for immediate behavioral health needs but these laws are also important to ensuring a healthy future for people we care about. Early identification and treatment of behavioral health conditions, especially for children and adolescents, facilitated by parity compliance, can prevent behavioral conditions from getting worse and ultimately causing more serious problems later in life. Federal parity protections are therefore truly an investment in the future health of our children and families, and indeed all individuals living with behavioral health conditions. This document aims to provide you as a parent, family member or caregiver with some helpful information and tools necessary to obtain the behavioral health services for the child or family member in your care.

The U.S. Department of Health and Human Services (HHS) has jurisdiction over public-sector group health plans, while the Department of Labor (DOL) and the U.S. Department of the Treasury (Treasury) have jurisdiction over private group health plans. The laws can be complicated, but this resource is intended to guide you to materials and places that can help.¹ It includes an annotated list of materials, websites, and organizations that provide more information about the following:

1. Parity Applies to How You Access Care and What You Pay
2. Most, But Not All, Health Plans Are Covered by Parity Laws
3. Health Plans Must Provide Information About the Mental Health and Substance Use Disorder Benefits They Offer
4. You Have a Right to Appeal a Claim That Is Denied
5. Additional Help Is Available

¹ Throughout this document, we use the term “you” to refer collectively to families and caregivers of people who have mental illnesses and substance use disorders and those for whom they care. This guide is intended to complement SAMHSA’s “Know your Rights: Parity for Mental Health and Substance Use Disorder Benefits” publication. See <https://store.samhsa.gov/product/Know-Your-Rights-Parity-for-Mental-Health-and-Substance-Use-Disorder-Benefits/SMA16-4971>.

1. PARITY APPLIES TO HOW YOU ACCESS CARE AND WHAT YOU PAY

Parity applies to rules related to how mental health and substance use disorder treatment is accessed and under what conditions treatment is covered, whether permission is needed from your health plan. Benefit limitations that are not numeric are called non-quantitative treatment limitations, or NQTLs. There are special parity rules that apply to NQTLs.

Parity also means that financial requirements, such as copayments or deductibles, and numeric treatment limits such as how many visits your coverage will pay for, must be at least as generous for mental health and substance use disorder services as for physical health services. Benefits limitations that are numeric are called quantitative treatment limitations, or QTLs.

Here are some examples of how parity protections are beneficial:

- There can be no limit on the number of visits for in-network outpatient mental health and substance use disorder care, if there is no limit on the number of visits for in-network outpatient physical health care.
- The standard and basis for prior authorization requirements for mental health and substance use disorder services must be comparable to, or less restrictive than, those for physical health services. Prior authorization (sometimes called preauthorization, prior approval, or precertification) means that a health care provider from your plan must confirm that a service is needed before it begins.
- Plans must apply comparable or lower copays for out-of-network inpatient mental health and substance use disorder care than for out-of-network inpatient physical health care.
- A health plan must use a similar or less restrictive process to create and apply medical necessity standards for mental health and substance use services, compared to the process used for physical health services. If your plan denies payment for these services, your plan must give you a written explanation of the reason for the denial and must provide more information upon request.

ADDITIONAL RESOURCES

Know Your Rights: Parity for Mental Health and Substance Use Disorder Benefits Brochure

This brochure, developed by HHS, DOL, Treasury, and the Centers for Medicare & Medicaid Services (CMS), provides a consumer-oriented overview of Mental

Health Parity and Addiction Equity Act (MHPAEA) (*see discussion pp. 2-3*). It features a list of some of the common limits placed on physical health and mental health and substance use disorder benefits and includes resources for additional information.

Link: <https://store.samhsa.gov/product/Know-Your-Rights-Parity-for-Mental-Health-and-Substance-Use-Disorder-Benefits/SMA16-4971>

Mental Health and Substance Use Disorder Parity Website

This DOL Employee Benefits Security Administration website includes materials on parity such as frequently asked questions (FAQs), fact sheets, publications, and videos. Expand the “For Workers and Families” section for an extensive list of resources.

Link: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity>

Parity of Mental Health and Substance Use Benefits with Other Benefits: Using Your Employer-Sponsored Health Plan to Cover Services – Guide

This DOL and HHS publication explains parity protections, gives examples of ways in which parity applies to mental health and substance use disorder benefits, and includes information about how to appeal a claim that has been denied.

Link: <https://store.samhsa.gov/product/Parity-of-Mental-Health-and-Substance-Use-Benefits-with-Other-Benefits-Using-Your-Employer-Sponsored-Health-Plan-to-Cover-Services/SMA16-4937>

MHPAEA Fact Sheet

This fact sheet from CMS provides an overview of Mental Health Parity and Addiction Equity Act (MHPAEA), including a summary of its protections and links to more information.

Link: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet

2. MOST, BUT NOT ALL, HEALTH PLANS ARE COVERED BY PARITY LAWS

Parity only applies to health plans that provide mental health and substance use disorder benefits. In general parity applies to:

- Private-sector employment-sponsored group health plans with 51 or more workers.

- Private plans of smaller employers that started offering health insurance benefits or made major changes to their health insurance plans after March 23, 2010.
- Plans sponsored by non-federal governmental employers with 51 or more workers (although self-insured non-Federal governmental plans can opt out if they follow certain procedures).
- Most health insurance coverage sold to individuals, including coverage sold through the Health Insurance Marketplace.
- Most, but not all, Medicaid managed care programs and all Children’s Health Insurance Program (CHIP) programs.

APPLICABLE FEDERAL LAWS

Beginning in 1996, Congress enacted several laws designed to improve access to mental health and substance use disorder services under health insurance or benefit plans that provide physical health benefits (also referred to as medical/surgical benefits) and mental health and substance use disorder benefits. There are laws that establish and apply protections to different populations and different plans, including the following:

- The Mental Health Parity Act (MHPA) of 1996 provided that large, employer-sponsored (group) health plans and their insurers cannot impose annual or lifetime dollar limits on mental health benefits that are less favorable than any such limits imposed on physical health benefits.
- The Balanced Budget Act of 1997 applied certain aspects of MHPA to Medicaid managed care organizations and Children’s Health Insurance Program (CHIP) benefits.
- The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) preserved the MHPA protections and added significant new protections, such as extending the parity requirements to substance use disorders. MHPAEA generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations on those benefits than on physical health benefits.
- The Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) applied the mental health and substance use disorder parity requirements of MHPAEA to coverage under CHIP state plans, in the same manner MHPAEA applies to group health plans.
- MHPAEA was amended in 2010 by the Affordable

Care Act (ACA) to also apply to individual health insurance coverage and was extended to the small group market through the ACA rules related to coverage of essential health benefits.

- The ACA also expanded the application of MHPAEA to benefits in Medicaid non-managed care benchmark and benchmark-equivalent state plan benefits. Benchmark plans offer a set of essential health benefits, including mental health and substance use disorder services.
- The 21st Century Cures Act, 2016, required the Departments to issue guidance on parity. HHS was required to produce an action plan for improved federal and state coordination of parity enforcement. Employee Benefits Security Administration (EBSA) and HHS were required to report on closed federal investigations.
- The Consolidated Appropriations Act (CAA), 2021, added a requirement that group health plans and health insurance issuers must perform and document a comparative analysis of the design and application of Non-Quantitative Treatment Limitations (NQTLs). NQTLs include preauthorization for services. The comparative analysis must be made available to state and federal authorities upon request. Participants, beneficiaries, or enrollees (or their authorized representative) may also request an NQTL analysis. The Departments are also required to request analyses if there are potential violations of or complaints about the NQTL requirements of MHPAEA and in any case at least 20 NQTL comparative analyses per year. If sufficient information is not provided, the Departments will specify the additional information that must be submitted by the plan or issuer. After reviewing the comparative analysis and other requested materials, if the Departments determine that the plan or issuer is not in compliance with MHPAEA, the plan or issuer has 45 days to specify corrective action that it will take and to submit additional comparative analyses that demonstrate compliance. If the Departments make a final determination of noncompliance, the plan or issuer has 7 days after the determination to notify all enrolled individuals that the coverage has been determined to be noncompliant. The CAA also requires the Departments to annually report to Congress and the public findings regarding compliance of the analyses that they have requested and reviewed.

ADDITIONAL RESOURCES

HealthCare.gov

This HHS website will help to understand and use the individual insurance market. It includes information about

how to enroll in or change your health plan, the essential health benefits that Marketplace and other plans are required to cover (including mental health and substance use disorder services), and how to use your health insurance coverage.

Link: <https://www.healthcare.gov/>

Application of MHPAEA to Medicaid and CHIP – PowerPoint Presentation

This presentation from CMS explains how MHPAEA applies to those who receive coverage under Medicaid and CHIP.

Link: <https://www.medicaid.gov/state-resource-center/state-operations-and-technical-assistance/downloads/february2017.pdf>

Medicaid and Parity Website

This Website explains parity requirements for Medicaid plans.

Link: <https://www.medicaid.gov/medicaid/benefits/behavioral-health-services/parity/index.html>

3. HEALTH PLANS MUST PROVIDE INFORMATION ABOUT THE MENTAL HEALTH AND SUBSTANCE USE DISORDERS BENEFITS THEY OFFER

Health plans subject to MHPAEA and certain other laws must provide information about the mental health and substance use disorder benefits they offer, and you have the right to request this information. Call your health plan administrator or human resources representative for the “summary plan description” and the summary of benefits and coverage” or your insurer for your health insurance policy or certificate. You can usually find your health plan’s telephone number online or on the back of your health coverage I.D. card. You may also be able to check your health plan benefits online to see what mental health and substance use disorder services are covered and to see what mental health and substance use disorder services are covered and to see if they are comparable to physical health benefits.

ADDITIONAL RESOURCES

Consumer Guide to Disclosure Rights: Making the Most of Your Mental Health and Substance Use Disorder Benefits

Published by SAMHSA and DOL, this resource provides a general explanation of the various federal disclosure laws that apply to private-sector, employer-sponsored group health plans and health insurers.

Link: <https://store.samhsa.gov/product/Consumer-Guide-To-Disclosure-Rights-Making-The-Most-Of-Your-Mental-Health-and-Substance-Use-Disorder-Benefits/SMA16-4992>

Roadmap to Behavioral Health

This guide from CMS explains how to use benefits for mental health and substance use provided through your insurance coverage.

Link: <https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Roadmap-to-Behavioral-Health-508-Updated-2018.pdf>

5 Ways to Make the Most of Your Mental Health and Substance Use Disorder Benefits

Link: <https://blog.dol.gov/2021/05/12/5-ways-to-make-the-most-of-your-mental-health-and-substance-use-disorder-benefits>

Mental Health and Substance Use Disorder Parity Webcasts

DOL EBSA provides annual webcasts that are focused on mental health and substance use disorder parity. The topics for such webcasts generally include parity protections and the scenarios in the disclosure guide, the 2020 MHPAEA Self-Compliance Tool and the new provisions of the CAA.

Link: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity>

4. YOU HAVE A RIGHT TO APPEAL A CLAIM THAT IS DENIED

Sometimes health plans deny claims for certain services, meaning they refuse to pay some or all the charges for the services rendered. If your health plan denies a claim for mental health or substance use disorder services, it must provide you with a reason for the denial. You have the right to appeal the denied claim. This means you can ask your health plan to look again at its decision, and perhaps reverse the decision and pay the claim. You also have the right to request all documents that the plan used for the basis of the claim denial and to submit additional documents for the plan to consider in support of your appeal. The documents that you can request include those that indicate the criteria for medical necessity determinations made with respect to mental health and substance use disorder benefits.

Internal appeals are reviewed by people who work for the health plan. As part of internal appeals, you have the

right to obtain, free of charge, copies of all documents, records, and other information relevant to your claim for benefits, including any analysis done to determine compliance with mental health parity rules. If your internal appeal is denied, you may have the right to request an external review. An organization outside the health plan will conduct the external review, and your health plan must accept their decision. Contact your health plan to ask how to submit a request to appeal a claim.

Not all denials are violations of parity, but there are some warning signs to watch out for. As noted in the document highlighted below, you may need to investigate further if, for example, your coverage requires:

- Preauthorization for all mental health and substance use disorder services.
- Evidence that a treatment your doctor recommends will likely result in improvement.
- A written treatment plan.

ADDITIONAL RESOURCES

Warning Signs: Plan or Policy Non-Quantitative Treatment Limitations (NQTLs) that Require Additional Analysis to Determine Mental Health Parity Compliance – Document

This document published by DOL and SAMHSA highlights language concerning an NQTL that may not be allowed by law. Further review will be required to determine parity compliance. Note that presence of the highlighted plan/policy terms does not automatically violate the law, but the plan or issuer may need to provide evidence to prove compliance.

Link: <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/mental-health-parity/warning-signs-plan-or-policy-nqtl-that-require-additional-analysis-to-determine-mhpaea-compliance.pdf>

Parity of Mental Health and Substance Use Benefits with Other Benefits: Using Your Employer-Sponsored Health Plan to Cover Services – Guide

This DOL and SAMHSA publication explains parity protections and gives examples of ways in which one can appeal a denied claim.

Link: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/parity-of-mental-health-and-substance-use-benefits-with-other-benefits.pdf>

Affordable Care Act Implementation Frequently Asked Questions – Website

This website includes a set of FAQs compiled by DOL, HHS, and the Treasury about ACA and MHPAEA implementation. Part 34 answers a series of questions that address situations potentially encountered in using the health care and parity laws; Part 38 clarifies MHPAEA's application to eating disorders. The responses will help to understand the laws and benefit from them as intended. All Implementation FAQs, including any additional MHPAEA FAQs that may be issued by the Departments, will become available here as well. Part V, VI, VII, VIII, XXIX, and 31 address FAQs on mental health parity as well.

Link: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act-for-employers-and-advisers/aca-implementation-faqs>

The Center for Consumer Information & Insurance Oversight Website

Many states offer help to consumers with health insurance problems through Consumer Assistance Programs (CAPs). State CAPs help to learn how to obtain or use your insurance effectively. If your state doesn't have a CAP, the map will direct you to other resources that can help. There is also a state listing available.

Link: <https://www.cms.gov/ccio/resources/consumer-assistance-grants/>

Filing a Claim for Your Health or Disability Benefits — Guide

This DOL publication will help to understand how to file a claim for health and disability benefits, recognize different types of claims and appeal a denied claim.

Link: <https://www.dol.gov/sites/dolgov/files/legacy-files/ebsa/about-ebsa/our-activities/resource-center/publications/filing-a-claim-for-your-health-or-disability-benefits.pdf>

5. ADDITIONAL HELP IS AVAILABLE

Obtaining Assistance

Employees (or their dependents) of private employers with questions about the MHPAEA or complaints about compliance by their employment-based group health plans are encouraged to contact the DOL. However, inquiries can be directed to DOL, HHS, or the IRS/Treasury. The Departments work together and, to the

extent an insurer is involved, will work with the states, as appropriate to ensure parity violations are corrected. Individuals can also contact state insurance departments about insurance plans over which states have enforcement authority. Some state laws provide even stronger consumer protections than the federal parity requirements. In those cases, MHPAEA permits the state to enforce the law's stricter requirements, generally through the state's insurance commissioner.

For more information or help with problems you may have, see the following:

Consumer Information on Health Plans – Website

This DOL EBSA webpage provides health benefits education focusing on life and work events and the benefit decisions they impact. It offers information on the federal health benefits laws related to employment-based group health plans to help employees and their families make informed decisions.

Link: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity>

<https://www.dol.gov/general/topic/health-plans/consumerinhealth>

EBSA – Website

This DOL EBSA webpage features common questions about health insurance and includes a section for you to Request Assistance from a Benefits Advisor. You can also call toll free at 1-800-444-EBSA (3272).

Link: <https://www.dol.gov/agencies/ebsa/about-ebsa/ask-a-question/ask-ebsa>

National Association of Insurance Commissioners – Website

This website can direct you to your state insurance department. If you hover over your state on the site's interactive map, you will find contact information for your state insurance commissioner. Click on your state to be directed to information about health insurance availability and assistance in your state.

Link: <https://www.naic.org/>

Contact Your State Medicaid Agency

For more information about how parity applies to Medicaid or CHIP benefits in your state, contact your state Medicaid agency.

Link: <https://www.medicaid.gov/about-us/contact-us/contact-state-page.html>

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