Behavioral Health is Essential To Health

Prevention Works

Treatment is Effective

People Recover
This webinar was developed [in part] under contract number HHSS283201200021I/HHS28342003T from the Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS). The views, policies and opinions expressed are those of the authors and do not necessarily reflect those of SAMHSA or HHS.
MENTAL HEALTH PARITY

TIM CLEMENT, MPH
POLICY DIRECTOR
PARITYTRACK

The Kennedy Forum
Paritytrack.org
PARITY AS A BASIC CONCEPT

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
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.
COVERED INSURANCE TYPES

The Federal Parity Law applies to:

• All large plans sponsored by an employer (51 or more employees)
• Non-grandfathered small plans sponsored by an employer (50 or fewer employees) and individual plans
• Medicaid managed care and alternative benefit plans
• CHIP
• All Non-federal governmental plans that are purchased from an insurer
PLANS THAT ARE NOT COVERED

The Federal Parity Law does not apply to:

• Medicare
• Medicaid fee-for-service
• Self-insured non-federal government plans with 50 or fewer employees
• Self-insured private employer plans with 50 or fewer employees
• Church-sponsored plans
• Retiree-only plans
• Tricare
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.

- However, amending state laws is an important way of adding additional consumer protections.
EXAMPLES OF NON-COMPLIANCE

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
WHY DOES NON-COMPLIANCE OCCUR?

• Lack of health plan compliance

• Lack of regulatory guidance at the state level

• Lack of regulatory action

• Lack of clarity about enforcement responsibility

• Lack of prioritization by state agencies and legislatures

• Lack of awareness among the public
LEGISLATIVE TRENDS IN STATES

• Bills that require the state insurance department to address parity enforcement and consumer education

• Bills that fill in gaps in state law and augment the federal law

• Bills that require insurance plans to demonstrate how they comply with state and federal law
REGULATORY TRENDS IN STATES

- Regulations and bulletins
- Actively respond to consumer complaints
- Conduct systematic parity investigations of insurance plans
- Fine non-compliant insurance plans
- Proactively look for parity violations in claims denials
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.
Helping Consumers Get Needed Care

Alice Dembner
Program Director, Substance Use Disorders and Justice-Involved Populations
Community Catalyst
Adembner@communitycatalyst.org
About Community Catalyst

- Advocates for high-quality, affordable health care for all
- National partners
- Networks in 40+ states, connect states
- Issue campaigns
- New models of care
The Challenge

- Complex law
- Parity is unfamiliar concept
- Most consumers don’t know their rights
- Most consumers don’t complain / appeal
- Some who explore complaints / appeals are stymied
Formal Means to Get Action

• Appeals to insurance company
• Appeals to a third-party reviewer
• Complaints to state and federal agencies
  – State Department of Insurance
  – State Attorney General
  – US Department of Labor
  – CMS
  – Office of Civil Rights
The Reality

• Many consumers going without needed care
• Absence of good data on the extent of the problem
• Harder to move forward on solutions
• Disproportionate harm to people least able to secure help
  – People with severe mental illness or addiction, newly insured, people with low incomes, people of color, people for whom English is a 2d language
Solutions Needed

- Individualized help, preferably in person
- Easier processes to file complaints / appeals
- And of course, better compliance and enforcement in the first place
  - State and federal regulators require insurers to prove parity compliance before marketing
  - State and federal regulators conduct audits
Current Help for Consumers

- Legal clinics or consumer organizations providing individualized help in some states
- New **federal portal** (in beta) with links to federal and state agencies
- HHS/DOL [Know Your Rights](#) fact sheet
- [WWW.ParityTrack.org](#) – parity explained, links, story collection, from the Kennedy Forum
- Appeals help via [Parity Implementation Coalition](#)
Consumer Complaints Toolkit

FILING A CONSUMER HEALTH INSURANCE COMPLAINT

1. Identify a Health Insurance Issue
2. Collect Necessary Information
3. Appeal to the Insurance Company
4. Determine Where to File the Complaint
5. File a Complaint with State or Federal Agencies
6. Ask Your State to Improve the Consumer Complaints Process

Who can help consumers through the process?

- Consumer Health Advocates
- Health Care Providers
- Navigators and Other Enrollment Assisters
More is Needed

- Widespread multimedia education initiative
- Helpers in every state to walk people through
- Simplification of appeals / complaints process
- Collection / analysis of appeals & complaints to inform action to improve compliance
More Resources

- Community Catalyst: [Mental Health Parity: The Basics](#)
- PIC: [Parity Resource Guide](#)
- SAMHSA: [Consumer Guide to Disclosure Rights](#)
- SAMHSA: [Best Practices from the States](#)
- Model state parity legislation
Behavioral Health is Essential To Health

Prevention Works

Treatment is Effective

People Recover