



Background on Mental Health and Substance Use Disorder Legislative Issues *(GBIO, 9/5/2019)*

What Is Mental Health and Substance Use Disorder Care Parity?

Mental health care parity is a requirement that insurance carriers and MassHealth cover treatment for mental health and substance use disorders in the same way they cover all other medical treatment.

Specifics include:

how much carriers pay for mental health and substance use disorder care must be determined in the same manner as how much they pay for other medical and surgical treatment;

carriers must determine the medical necessity of treatment for mental health and substance use disorders in the same manner that they would for medical and surgical treatment; and

the preauthorization process must be equivalent.

The federal government passed The Mental Health Parity and Addiction Equity Act (MHPAEA) in 2008, making parity in health care the law. In 2010, the Affordable Care Act made parity coverage more far reaching.

If We Have Federal Laws For Parity, Why Do We Need More?

Federal law requires insurance companies to provide parity, and it created a set of regulations on how to comply. But there have been problems:

1. The law was written with no way to ensure that insurance companies were complying except to trust their say-so.
2. Insurance companies have found numerous ways to avoid real parity, leaving mental health care and SUD care more expensive and less accessible to insured patients.
3. The federal government has not prosecuted a single case of violation of the MHPAEA in the 10 years since it has been made law.

So the states need to take steps to enact more stringent parity laws.

How are our members impacted by the problems with the current parity laws?

Our members that need mental health care and substance abuse disorder treatment are hurt by this every day. Here are a few examples:

- A therapist prescribes 2-3 sessions per week of psychotherapy to treat your child's severe depression. The insurance company decides, using a different process for determining



“medically necessary treatment” than they use for physical health care, that 2-3 sessions per week are not necessary, and that they will only pay for 1 session per week for 12 weeks. Then, if this treatment fails, you can apply for more. (Imagine your insurance company deciding that they will only cover a low dose of insulin for your diabetic child, and, if that fails, then they will cover a higher dosage.)

- You need a therapist that specializes in PTSD treatment for a specific type of trauma. From the directory that your insurance company provides, or the list provided by MassHealth, you call each therapist and find that half of them no longer take your insurance, only one treats your particular need, and that one therapist can't see you for 6 months.

Your choices are to pay the full cost (more than the insurance company or MassHealth would pay) yourself out-of-pocket for a therapist that you finally found that can treat you right away, and your insurance is of no use to you; or you wait months for an appropriate therapist.

What was the insurance company's defense? They had as many therapists required for their insured population as they had other doctors – so they met parity. (Imagine having a gynecologist in your list of doctors when you needed to see someone for your heart condition.)

- After 2 days in a hospital emergency room, your spouse still can't get into a psychiatric hospital, because you haven't been able to get pre-authorization, or your spouse has used up the number of days for inpatient treatment allowed for the year. So you cannot get them admitted into appropriate care unless you are able to pay the full cost out-of-pocket.

What are we looking for on parity?

We are currently considering Senator Cindy Friedman's and Rep. Balser's bill on parity (S.588, H.910). Senator Friedman wrote S.588 after she learned that an effort to try to enforce parity failed. Currently, insurance companies provide such irregular data on insurance claims that it was impossible for a state agency to analyze the data and determine if insurance companies were complying with the law!

S.588 and H. 910 will require all insurance carriers to provide parity data transparently and consistently, so analysis can actually take place. These requirements are similar to requirements established in seven other states and in the Department of Labor. S.588 and H.910 will provide a necessary foundation to take further steps.