



State Parity Legislative and Regulatory Compliance Workgroup

February 10, 2021

Agenda

- **Federal Parity Update**
- **State Updates**
 - **California**
 - **Connecticut**
 - **Florida**
 - **Georgia**
 - **Illinois**
 - **Iowa**
 - **Kansas**
 - **Kentucky**
 - **Maryland**
 - **Minnesota**
 - **Missouri**
 - **Montana**
 - **Nebraska**
 - **Oklahoma**
 - **Oregon**
 - **Utah**
 - **Washington**
 - **Wyoming**
- **Carter Center Journalism Collaborative**

Budget Reconciliation

- President Biden has called for \$1.9 trillion package
 - \$4 billion for SAMHSA and HRSA (no additional details)
 - Would be on top of \$4.25 in emergency funding SAMHSA received in December's Consolidated Appropriations Act
- Congressional Democrats using Budget Reconciliation to avoid Senate filibuster. Complicated rules on what's allowed
- Budget Resolution (framework for budget) passed last week. Now committees must fill in details
- Additional budget resolution process likely later this year

House E&C Committee Summary:

https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/FC_Markup%20Memo_2021.02.11.pdf

Full instructions:

https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Subtitle%20B_MEDICAL_D_FINAL.pdf

Budget Reconciliation

Key items from House Energy & Commerce Reconciliation Instructions

- \$1.75 billion for each of the Substance Abuse Prevention and Treatment and Community Mental Health block grant programs administered by SAMSHA;
- \$80 million for mental and behavioral health training for health care professionals, para-professionals, and public safety officers;
- \$40 million for grants for health care providers to promote mental and behavioral health among their health professional workforce;
- \$30 million and \$50 million for 2 new grant programs at SAMHSA to help additional entities carry out programs to address substance use and mental health needs (respectively) exacerbated by COVID;
- \$100 million to the Behavioral Health Workforce Education and Training Program, which is administered by HRSA, to expand access to behavioral health services through focused training;
- Allows states, for five years, to extend Medicaid eligibility to women for 12 months postpartum;
- Provides Medicaid eligibility, for five years, to incarcerated individuals 30 days prior to their release – down payment on the Medicaid Reentry Act;
- Enhanced FMAP (85%) to incentivize state Medicaid programs to cover mobile crisis intervention services for individuals experiencing a mental health or substance use disorder crisis;
- An incentive for states to expand Medicaid by temporarily increasing the state's base FMAP by five percentage points (to 95%) for two years for states that newly expand Medicaid;
- Temporary FMAP increase of 7.35 percentage points for states to make improvements to Medicaid home- and community-based services (HCBS) for one year

Reminder: Parity in 2021 Approps Act

- Most health plans subject to MHPAEA (but not Medicaid MCOs) must have conducted parity compliance analysis by **TODAY!**
- Plans supposed to be conducting analyses for years under existing regulations, but this is new strong statutory requirement
- Reminder on provisions:
 - Health plans to perform comparative parity analyses. These are the same NQTL requirements as are in the model legislation from Kennedy Forum and American Psychiatric Association.
 - Plans to make make analyses available to US Dept. of Labor **or a state insurance regulator upon request. DOL must request analysis whenever it receives a complaint.**
 - Informing plan members of noncompliance when DOL deems plan noncompliant with MHPAEA and plan does not remedy violations within 45 days.
 - DOL to send an annual report to Congress that identifies plans that are out of compliance.

Opportunities for Disclosure

- **Complaint Triggers Federal Regulator Request for Analyses**
 - For self-funded ERISA plan, file complaint on denial with USDOL
 - For self-funded state/local government plan, file complaint with HHS (Center for Consumer Information and Insurance Oversight – CCIIO)
 - For state-regulated plans, file complaint and urge state regulator to request analyses (*idea for legislation: require state regulator to request upon complaint*)
- **Use USDOL Disclosure Template to Request Analysis**
 - Plan member or authorized representative can request and plan must respond within 30 days
- **Bring Transparency to Self-Funded State/Local Gov't Plans**
 - State/local government plans often have little oversight. CCIIO lacks resources. Few state DOIs oversee
 - These plans must have done analyses by today (few likely have)
 - Any person can file a Freedom of Information Request (FOIA) for these analyses

California

SB 221

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Sen. Wiener (D)
- **Summary:**
 - Codify regulations adopted by the Department of Managed Health Care and Department of Insurance.
 - Provide access standards for health care services plans and insurers such that:
 - Appointments for MH or SUD services are subject to timely access requirements; and
 - Ensure follow up appointment within 10 business days.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB221

Connecticut

Proposed Bill 217

- **Status:** Introduced, January 22, 2021
- **Sponsor:** Sen. Kelly (R)
- **Summary (Statement of Purpose):**
 - Require health insurance coverage of certain MH screenings;
 - Expand reporting requirements for all-payer claims database;
 - Modify Consumer Report Card on Health Insurance Carriers in Connecticut; and
 - Require health carriers comply with MHPAEA.

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB00217&which_year=2021

Florida

SB 1024

- **Status:** Introduced, February 2, 2021
- **Sponsor:** Sen. Brodeur (R)
- **Summary:**
 - Establishes a system for tracking and monitoring complaints made regarding coverage and access to MH services.
 - Requires report to Governor and legislature on number of complaints, their nature, and how they were resolved.
 - Requires insurers and health maintenance organizations provide written notices to insurers, subscribers, and enrollees detailing federal and state requirements for coverage of MH services.

<https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= s1024 .DOCX &DocumentType=Bill&BillNumber=1024&Session=2021>

Florida

HB 701

- **Status:** Introduced, February 2, 2021
- **Sponsor:** Rep. Stevenson (R)
- **Summary:**
 - Very similar to SB 1024, with slight differences.
 - Establishes a system for tracking and monitoring complaints made regarding coverage and access to **behavioral health** services.
 - Requires Department of Financial Services and Agency for Healthcare Administration submit a report containing complaints made by insureds to the Governor and Legislature.

<https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h0701 .docx&DocumentType=Bill&BillNumber=0701&Session=2021>

Georgia

HB 49

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Shelly Hutchinson (D), Calvin Smyre (D), Matthew Wilson (D), Jasmine Clark (D), Kim Schofield (D), James Beverly (D)
- **Summary:**
 - Prohibits exclusions for any SUD medications and requires placement on lowest formulary tier
 - Prohibits prior authorization and step therapy on SUD medications
 - Requires use of ASAM Criteria for SUD
 - Requires that plans follow MHPAEA
 - Requires annual NQTL reporting consistent with KF / APA Model Reporting Bill and new federal requirements
 - Requires reporting on MH/SUD vs. med/surg coverage metrics (e.g. denial rates)
 - Requires Department to conduct parity market conduct examinations.

<https://www.legis.ga.gov/legislation/58841>

Georgia

SB 80

- **Status:** Introduced, Feb. 2, 2021
- **31 sponsors**
- **Summary:**
 - Comprehensive rules relating to prior authorization for all health care services (including MH/SUD)
 - Important provision that if insurers do not abide by rules, claim will be automatically authorized.

<https://www.legis.ga.gov/legislation/59240>

Illinois

- **Status:** SB 202
- **Sponsor:** Sen. Julie Morrison (D)
- **Summary:**
 - Bill to amend Illinois Human Rights Act;
 - Provides that it is a civil rights violation for insurance policies (including disability insurance) to not provide equal terms and conditions coverage for MH/SUD;
 - Would effectively outlaw discrimination in disability insurance policies -- where discrimination is rampant (usually limited to 24 months for MH/SUD, with no limitations on disability do to physical health conditions.

[Just filed, no link yet.]

Iowa

HF 88 / HF 89

- **Status:** Introduced, January 15, 2021
- **Sponsor:** Rep. Fry (R)
- **Summary:**
 - Requires telehealth reimbursement of MH conditions on same basis and at same rate as would reimburse for other health care services in-person;
 - Includes audio-only.

<https://www.legis.iowa.gov/legislation/BillBook?ba=HF88&ga=89>

<https://www.legis.iowa.gov/legislation/BillBook?ba=HF89&ga=89>

Kansas

SB 82 / HB 2073

- **Status:** Introduced, January 29, 2021
- **Sponsor:** Senate Committee on Federal and State Affairs / Committee on Insurance and Pensions
- **Summary:**
 - Requires MH/SUD coverage for health plans that offer medical coverage. Coverage must include inpatient or outpatient care (*silent on intermediate services*).
 - Prohibits utilization review for patients with SUD or who are “afflicted with suicidal ideation or are actively suicidal” for the first:
 - 14 days of medically necessary inpatient treatment
 - 180 days of medically necessary outpatient treatment
 - Medical necessity to be determined by patient’s provider
 - Requires inpatient coverage out-of-network within 24 hours if in-network inpatient treatment is not available

http://www.kslegislature.org/li/b2021_22/measures/sb82/

Kentucky

HB 50

- **Status:** Passed 95-0 through Senate on February 9, 2021
- **Sponsor:** Kim Moser (R), Deanna Frazier (R), Kim Banta (R), Tina Bojanowski (D), Adam Bowling (R), Derek Lewis (R), Ed Massey (R), Shawn McPherson (R), Ruth Palumbo (D), Melinda Prunty (R), Rachel Roberts (D), Nancy Tate (R), Susan Westrom (D), Lisa Willner (D)
- **Summary:**
 - Amends reference of DSM from 4th to “most recent version”
 - Requires compliance with MHPAEA
 - Includes annual reporting requirements from model bill
 - Adds that only a “willful” violation is an unfair trade practice under section

<https://apps.legislature.ky.gov/record/21RS/hb50.html>

Maryland

HB 551 / SB 393

- **Status:** Hearing today at 1:30 p.m. (Legal Action Center testifying)
- **Sponsor:** Heather Bagnall (D) / Malcolm Augustine (D)
- **Summary:**
 - Strong telehealth bill
 - Applies to Medicaid and commercial insurance
 - Revises existing requirements to make much stronger (e.g. include audio-only)
 - Requires reimbursement parity

<http://mgaleg.maryland.gov/mgawebwebsite/Legislation/Details/HB0551?ys=2021rs>

Minnesota

HF 415 / SF 377

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Heather Edelson (D), Hodan Hassan (D) / Karla Bigham (D), John Hoffman (D), Jim Abeler (R)
- **Summary:**
 - A health plan shall not impose a cost-sharing requirement greater than \$25 per visit for the first four outpatient mental health service visits that occur within a contract year.

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF%20415&ssn=0&y=2021>

Missouri

HB 383 / HB 889 (Basically same bill text) and SB 80

- **Status:** Introduced, January 6 / January 26, 2021
- **Sponsor:** Bill Kidd (R) / Patty Lewis (D) / Sen. Razer (D)
- **Summary:**
 - Applies federal NQTL standards to state-regulated insurance plans.
 - Clarifies all health insurance policies covering state employees must include coverage of mental health conditions.

<https://www.house.mo.gov/Bill.aspx?bill=HB383&year=2021&code=R>

<https://www.house.mo.gov/Bill.aspx?bill=HB889&year=2021&code=R>

https://www.senate.mo.gov/21info/BTS_Web/Bill.aspx?SessionType=R&BillID=54105575

Montana

LC 759

- **Status:** Introduced, January 25, 2021
- **Sponsor:** Mark Blasdel (R)
- **Summary:**
 - Requires reimbursement for Collaborative Care Model

http://laws.leg.mt.gov/legprd/LAW0210w%24BSIV.ActionQuery?P_BILL_DFT_NO5=LC0759&Z_ACTION=Find&P_SESS=20211

Nebraska

LB 413

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Anna Wishart (D)
- **Summary:**
 - Amends Medical Assistance Act (Medicaid) to reflect federal requirements to cover medications for SUD treatment;
 - Puts in place requirements for Medicaid MCOs on coverage of MAT and X-waivered providers;
 - Prohibit prior authorization for MAT.

https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=44005

Oklahoma

SB 674

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Sen. McCortney (R)
- **Summary:**
 - Requires telehealth coverage;
 - Cannot exclude services solely because provided via telehealth for services appropriately provided through telemedicine;
 - Require reimbursement parity with in-person services;
 - No separate / additional cost-sharing or lifetime/annual limits;
 - Cannot restrict to particular vendor;
 - No additional utilization review for telehealth services.

<http://www.oklegislature.gov/BillInfo.aspx?Bill=SB674&Session=2100>

Oregon

HB 3046

- **Status:** Introduced, January 28, 2021
- **Sponsor:** Rob Nosse (D)
- **Summary:**
 - Aligns with new Ramstad state model bill;
 - Applies to both commercial and Medicaid plans;
 - Requires compliance with 8 Generally Accepted Standards of Care (identified in Wit);
 - Puts in place definition of medical necessity;
 - Prohibits limiting coverage to short-term treatment;
 - Puts in place requirements relating to utilization review criteria
 - Prohibits discretionary clauses
 - And more!

<https://olis.leg.state.or.us/liz/2021r1/Measures/Overview/HB3046>

Utah

HB 130

- **Status:** Introduced, January 19, 2021
- **Sponsor:** Chris Watkins (D)
- **Summary:**
 - The KF / APA model reporting bill
 - Includes requiring MAT coverage on lowest tier of formulary and prohibiting prior authorization and step therapy

<https://le.utah.gov/~2021/bills/static/HB0130.html>

Wyoming

SF 52

- **Status:** Passed Labor, HHS Committee 4-1 on Feb. 3
- **Sponsor:** Joint Committee on Labor, Health and Social Services
- **Summary:**
 - Requires MH/SUD telehealth services be reimbursed including audio-only;
 - Prohibits higher cost-sharing for MH/SUD telehealth services than for in-person services;
 - Requires MH/SUD telehealth services be reimbursed the same as in-person services.

<https://wyoleg.gov/Legislation/2021/SF0052>

Carter Center

Rosalynn Carter Mental Health Journalism Fellows



<https://www.cartercenter.org/news/pr/2020/mhj-fellows-2020-2021.html>