



State Parity Legislative and Regulatory Compliance Workgroup

April 14, 2021

Agenda

- **Federal Update – USDOL Guidance**
- **Texas Proposed Regulations**
- **State Bill Updates**
- **Presentation – Medicare Coverage for SUD Care**

US Dept. of Labor Guidance

DOL Issued Guidance Relating to MHPAEA Amendments

- Update after passage of the Consolidated Appropriations Act, 2021 (the end-of-year COVID-19 package).
- CCA put in place explicit requirements that plans conduct NQTL parity compliance analyses. Requirements took effect February 10, 2021.
- DOL explains new requirements and makes strong statement on enrollee rights:
 - “plans and issuers should now be prepared to make their comparative analyses available upon request [to DOL, HHS, Treasury and to applicable state regulator].”
 - “Plans and issuers should ensure that comparative analyses are sufficiently specific, detailed, and reasoned to demonstrate” NQTL compliance...”a general statement of compliance, coupled with a conclusory reference to broadly stated processes, strategies, evidentiary standards, or other factors is insufficient to meet this statutory requirement.”
 - List of common practices in analyses that plans should avoid.
 - “for plans subject to ERISA, plans and issuers must make the comparative analyses and other applicable information required by the Appropriations Act available to participants, beneficiaries, and enrollees upon request. If a provider or other individual is acting as a patient’s authorized representative, the provider or other authorized representative may request these documents.”

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-45.pdf>

Texas Proposed Regulations

Strong Proposed Regs

- Texas has proposed detailed MHPAEA regulations that includes reporting on quantitative treatment limits, financial requirements, and NQTLs. Also includes other data reporting metrics.
- Previously, had put out an informal “draft proposed rule.”
- Kennedy Forum and others submitted comments in early April.

<https://www.tdi.texas.gov/rules/2021/index.html>

California

SB 221

- **Status:** Passed Senate Health Committee 9-0 on March 17, 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

Florida

SB 1024

- **Status:** Passed Appropriations Subcommittee on 3/24/21, full hearing tomorrow
- **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://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=71189&SessionId=90>

Florida

HB 701

- **Status:** Passed Health & Human Services Committee on 3/18/21
- **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

SB 80

- **Status:** Passed both houses, sent to governor 4/7/21
- **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

HB 2595 / SB 697

- **Status:** HB2595 passed House Mental Health Committee 16-0
- **Sponsor:** Rep. Deb Conroy (D) / Sen. Laura Fine (D) -- over 35 cosponsors on bills
- **Summary:**
 - Contains provisions from the Ramstad State Model Bill;
 - Requires insurers to provide coverage for the diagnosis and medically necessary treatment of mental health and substance use disorders, as defined by the most recent edition of the ICD or DSM.
 - Defines "medically necessary" and mandates that plan medical necessity determinations be consistent with Generally Accepted Standards of Care.
 - Requires the use of non-profit clinical specialty association criteria (e.g. ASAM).
 - Prohibits an insurer from limiting benefits or coverage to short-term or acute treatment.

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=2595&GAID=16&DocTypeID=HB&LegId=131415&SessionID=110&GA=102>

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=697&GAID=12&DocTypeID=SB&LegId=70078&SessionID=85&GA=98>

Illinois

SB 471

- **Status:** Passed Senate Insurance Committee 4/14/21
- **Sponsor:** Laura Fine (D)
- **Summary:**
 - Puts in place timely and proximate access to treatment for mental, emotional, nervous, or substance use disorders or conditions;
 - Requires insurers to provide exceptions to its network if in-network services cannot provide timely access to treatment.

<https://www.ilga.gov/legislation/billstatus.asp?DocNum=471&GAID=16&GA=102&DocTypeID=SB&LegID=132865&SessionID=110>

Kentucky

HB 50

- **Status:** Enacted March 12, 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 KF / APA model reporting bill
 - Adds that only a “willful” violation is an unfair trade practice under section

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

Maryland

SB3 / HB 123

- **Status:** Signed by Governor April 13, 2021
- **Sponsor:** Heather Bagnall (D) / Malcolm Augustine (D)
- **Summary:**
 - Large telehealth bill
 - Includes strong telehealth bill supported by Legal Action Center
 - Includes MH/SUD parity protections

<http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0003?ys=2021RS>

Missouri

SB 521

- **Status:** Passed Health and Pensions Committee on March 24, 2021
- **Sponsor:** Steve Roberts (D)
- **Summary:**
 - Requires that the Department of Corrections and other state entities responsible for the care of persons detained or incarcerated shall :
 - Ensure that all such persons are assessed for SUDs;
 - Make available certain medication-assisted treatments (but Committee amendment removed reference to extended-release injectable naltrexone); and
 - Not impose arbitrary limitations.

https://www.senate.mo.gov/21info/BTS_Web/Bill.aspx?SessionType=R&BillID=58814611

Montana

SB 216

- **Status:** Passed both houses April 12, 2021
- **Sponsor:** Mark Blasdel (R), Jason Small (R)
- **Summary:**
 - Aligns with KF/ APA Model Parity Reporting Bill.
 - Requires health insurers to submit an annual compliance report.
 - Uses new provisions of Federal Law.
 - Makes effective date contingent on regulators or guidance relating to federal Consolidated Appropriations Act.

[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TY_P_CD=SB&P_BILL_NO=216&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TY_P_CD=SB&P_BILL_NO=216&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

Montana

SB 217

- **Status:** Sent to Governor April 13, 2021
- **Sponsor:** Mark Blasdel (R), Jason Small (R)
- **Summary:**
 - Requires coverage of services provided through the psychiatric collaborative care model.

[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TY P_CD=SB&P_BILL_NO=217&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TY P_CD=SB&P_BILL_NO=217&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

New York

S 5909 / A 3276

- **Status:** Referred to Insurance Committees, 3/22/21
- **Sponsor:** Sen. Kaminsky
- **Summary:**
 - Prohibits prior authorization or fail-first protocols on mental health medications.

<https://www.nysenate.gov/legislation/bills/2021/S5909>

https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=S5909&term=2021&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y

Oklahoma

SB 674

- **Status:** Passed Senate 42-1 on March 10, 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:** Passed Behavioral Health Committee 9-0 on 4/12/21
- **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

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

Pennsylvania

SB 225

- **Status:** Introduced March 18, 2021
- **Sponsor:** Sen. Phillips-Hill (15 other cosponsors, including 9 R's)
- **Summary:**
 - Larger bill on prior authorization;
 - Includes provision prohibiting prior authorization of Medication Assisted Treatment (MAT).

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?synd=0&body=S&type=B&bn=225>

Rhode Island

SB 591

- **Status:** Introduced, March 11, 2021
- **Sponsor:** Sen. Miller
- **Summary:**
 - Requires increase in BH reimbursement rates of 23.4% over five years.
 - Applies to both commercial and Medicaid plans.

<http://webserver.rilin.state.ri.us/BillText/BillText21/SenateText21/S0591.pdf>

Washington

HB 1086

- **Status:** Passed both Houses 4/13/21
- **Sponsor:** Tarra Simmons (D)
- **Summary:**
 - Creates a state office of behavioral health consumer advocacy, responsible for:
 - Coordinating activities of advocates throughout the state;
 - Establishing a toll-free telephone number and website for access to services;
 - Establishing a statewide reporting system;
 - Monitoring the implementation of new policies; and
 - Reporting all complaints or quality of services to legislature.

<https://app.leg.wa.gov/billssummary?BillNumber=1086&Year=2021&Initiative=false>

Wyoming

SF 52

- **Status:** Signed by Governor April 5, 2021
- **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>