



State Parity Legislative and Regulatory Compliance Workgroup

January 19, 2022

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Agenda

- **State Updates**
- **Federal Updates**
- **Reminder: Parity Disclosure Campaign**



States Updates

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Georgia

SB 342

- **Status:** Introduced, January 14, 2022
- **Sponsor:** Senator Kay Kirkpatrick (13 R's, 6 D's)
- **Summary:**
 - For each insurer's 5 largest plans in the individual, small group, and large group market, insurer must prepare and submit parity compliance analyses annually.
 - Insurer must make summary of analyses available on public website.
 - Requires Commissioner to review each analyses submitted for compliance with MHPAEA.

<https://www.legis.ga.gov/legislation/61158>

Illinois

SB 1623

- **Status:** Introduced last year, likely to move
- **Sponsor:** Senator Doris Turner
- **Summary:**
 - Removes prior authorization, step therapy, and other utilization controls for medications to treat serious mental illness in Illinois' Medicaid program.

<https://ilga.gov/legislation/BillStatus.asp?GA=102&SessionID=110&DocTypeID=SB&DocNum=1623>

Indiana

SB 1623

- **Status:** Introduced, January 4, 2022
- **Sponsor:** Rep. Robin Shackelford (D)
- **Summary:**
 - Prohibits incarceration, hospitalization, or other temporary cessation in substance or chemical use may not be used as a factor in determining the individual's eligibility for coverage in state employee health plan, Medicaid, or commercial insurance coverage.
 - Requires an opioid treatment program to: (1) provide a patient of the facility appropriate referrals for continuing care.
 - Requires state to annually perform an audit of 20% of an opioid treatment program facility's patient plans to ensure compliance with federal and state laws.
 - Requires the division to establish a mental health and addiction program to reduce the stigma of mental illness and addiction.
 - Requires hospitals to establish ED treatment protocols concerning treatment of a patient who is overdosing or has been identified as having an SUDs.

<http://iga.in.gov/legislative/2022/bills/house/1018>

Kentucky

HB 55

- **Status:** Introduced, January 4, 2022
- **Sponsor:** Rep. Roberts (D) (7 D's, 1 R)
- **Summary:**
 - Require certain health insurance policies to provide coverage for an annual mental health wellness examination of at least 45 minutes provided by a mental health professional – coverage must be no less extensive than for medical and surgical benefits
 - Applies to commercial plans, Medicaid, CHIP, state employee health plan, and state university plans.

<https://apps.legislature.ky.gov/record/22RS/hb55.html>

Maryland

Final Reporting Forms

- Maryland Insurance Administration finalized regulation that contains final template reporting forms for:
 - NQTL Analysis Report
 - MHPAEA Data Report
 - Instructions
 - Data Supplements – UR, formulary exceptions, provider credentialing, reimbursement rates

See “Recently Finalized Regulations”:

<https://insurance.maryland.gov/Pages/newscenter/RegulatoryActivity.aspx>

New Jersey

A 680

- **Status:** Introduced, January 11, 2022
- **Sponsor:** Assemblymember Verrelli (2 D's, 1 R)
- **Summary:**
 - Requires health insurance plans and state employee health insurance program to cover counseling and behavioral therapies for any person receiving medication-assisted treatment

<https://www.njleg.state.nj.us/bill-search/2022/A680>

New Jersey

A 1141

- **Status:** Introduced, January 11, 2022
- **Sponsor:** Assemblymember DePhillips (R) – 2 R's, 2 D's
- **Summary:**
 - Requires health insurance plans and state employee health insurance program to cover annual mental health screening.

<https://www.njleg.state.nj.us/bill-search/2022/A1141>

New Jersey

A 1255

- **Status:** Introduced, January 11, 2022
- **Sponsor:** Assemblymembers Stanley and Conaway (D)
- **Summary:**
 - Puts in place AMA/APA definition of medical necessity.
 - Requires at least 60 day notice to in-network health care providers any changes to prior authorization requirements.
 - Prohibits an insurance plan from requiring a step therapy protocol if the provider deems that the step therapy protocol is not in the covered person's best interests.

<https://www.njleg.state.nj.us/bill-search/2022/A1255>

New Jersey

A 2008 / S 352

- **Status:** Introduced, January 11, 2022
- **Sponsor:** Asm. Conaway / Sen. Gopal
- **Summary:**
 - Requires health insurance plans and state employee health insurance program to cover Collaborative Care codes.

<https://www.njleg.state.nj.us/bill-search/2022/A2008>

<https://www.njleg.state.nj.us/bill-search/2022/S352>

New York

A 3276 / S 5909

- **Status:** Reported from Insurance Committee on 1/20/22
- **Sponsor:** Assemblymember Gunther / Senator Kaminsky
- **Summary:**
 - Prohibits insurers from applying fail-first or step therapy protocols to coverage for the diagnosis and treatment of mental health conditions.

https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A3276&term=2021&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y

Oklahoma

SB 1353

- **Status:** Introduced, January 18, 2022
- **Sponsor:** Senator Haste (R)
- **Summary:**
 - Requires insurers to disclose to members their rights under MHPAEA and include link to the OK Insurance Department's parity website.

<http://www.oklegislature.gov/BillInfo.aspx?Bill=SB1353&session=2200>

Virginia

SB 434

- **Status:** Introduced, January 12, 2022
- **Sponsor:** Senator Barker (D)
- **Summary:**
 - Requires insurers to submit parity compliance reports required by 42 U.S.C. § 300gg-26(a)(8) to the Bureau of Insurance annually.
 - Requires the Bureau of Insurance to report on its parity enforcement activities each year and summarize any market conduct exams and findings.

<https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB434>

Virginia

SB 321 / HB 225

- **Status:** Introduced, January 12, 2022
- **Sponsor:** Senator Vogel (R) / Delegate Coyner (R)
- **Summary:**
 - Amends autism spectrum disorder mandate section to explicitly tie definition to the most recent edition of the DSM.
 - Adds language to existing definition of medical necessity that references “generally accepted standards of mental disorder or condition care.”

<https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB321>

<https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB225>

Washington

SB 5618 / HB 1688

- **Status:** Senate hearing scheduled 1/21/22; House hearing on 1/12/22
- **Sponsor:** Sen. Cleveland (D) / Rep. Cody (D) – Insurance Commissioner Requested
- **Summary:**
 - Aligns state law with federal No Surprises Act.
 - Defines “behavioral health emergency services provider” to include mobile crisis response team and crisis stabilization.
 - Amends requirement for coverage of “emergency services” to include “behavioral health emergency services provider” (i.e. not just hospitals).
 - Insurers must reimburse (no in-network vs. out-of-network distinction. BH emergency services provider may not balance bill.
 - Modifies dispute resolution process between insurers and providers.

<https://app.leg.wa.gov/billsummary?BillNumber=5618&Year=2021&Initiative=false>

<https://app.leg.wa.gov/billsummary?BillNumber=1688&Chamber=House&Year=2021>

West Virginia

SB 80

- **Status:** Introduced, January 12, 2022
- **Sponsor:** Senator Caputo (D) – All D's
- **Summary:**
 - Increased minimum allowable cap on Applied Behavioral Analysis (autism) benefits from \$2,000 to \$6,000 per month and from \$30,000 to \$90,000 per year.
 - Applies to commercial insurance, CHIP, state employee health plan.

http://www.wvlegislature.gov/Bill_Status/Bills_history.cfm?input=80&year=2022&sessiontype=RS&btype=bill

West Virginia

HB 3091

- **Status:** Introduced, January 12, 2022
- **Sponsor:** Rep. Fleischauer (D) – 8 D's, 1 R
- **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 for level of care determinations (e.g. ASAM and LOCUS).
 - Prohibits an insurer from limiting coverage to short-term or acute treatment.

http://www.wvlegislature.gov/Bill_Status/Bills_history.cfm?input=3091&year=2022&sessiontype=RS&btype=bill



West Virginia

HB 3276

- **Status:** Introduced, January 12, 2022
- **Sponsor:** Rep. Bates (R)
- **Summary:**
 - Applies model reporting provisions to Medicaid managed care organizations
 - Requires managed care organizations to provide out-of-network coverage at in-network cost sharing if it cannot provide in-network coverage within time and distance standards.

http://www.wvlegislature.gov/Bill_Status/Bills_history.cfm?input=3276&year=2022&sessiontype=RS&btype=bill



Federal Updates

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Quick Federal Parity Updates

- While DOL civil monetary penalty authority was included in House-passed Build Back Better Act, the entire BBB Act is in serious doubt. CMP authority depends on a reconciliation package moving forward.
- Still looking to introduce legislation to end self-funded non-federal government plan (i.e. state and local government plans) opt outs of MHPAEA.
- Waiting for now-overdue DOL/HHS/Treasury parity report that was required one year after new MHPAEA amendments were enacted as part of Consolidated Appropriations Act (enacted December 27, 2020). Will cover plans' compliance with new required NQTL analyses.



Parity Analysis Request Project

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Testing Health Plan Compliance

- **Goal:** Have individuals (or their authorized representative) send parity disclosure requests to their health plan to test whether plans are conducting NQTL parity compliance analyses required by recent amendment to MHPAEA
- **Requests:** Send one or more parity disclosure requests using a template letter
- **Documentation:** After 30 days, tell us whether you got a response
- **Analysis:** The Center for Health Law & Policy Innovation at Harvard Law School will help analyze the results
- **Advocacy:** We will work key policymakers to highlight the need for more transparency and disclosure by health plans

Reach out to David Lloyd if you or your organization is interested in participating.



Other Updates?