



State Parity Legislative and Regulatory Compliance Workgroup

March 9, 2022

Agenda

- **Federal Updates**
 - SOTU and White House Fact Sheet
 - Legislation to Phase Out State/Local Opt Outs
- **State Updates**
- **Coverage Survey**



Federal Updates

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President's State of the Union

- President Biden discussed MH/SUD prominently in his SOTU. Here's what he said:
 - “And let's get all Americans the mental health services they need. More people they can turn to for help, and full parity between physical and mental health care.”
- White House Fact Sheet released the same day, highlighted parity:
 - “**Expand and strengthen parity.** The 2008 Mental Health Parity and Addiction Equity Act called for mental health care benefits to be covered at the same level as physical health care benefits. The President's fiscal year 2023 (FY23) budget will propose that all health plans cover robust behavioral health services with an adequate network of providers, including three behavioral health visits each year without cost-sharing.”
- Budget proposal will contain key details on exact proposals. Taken to logical conclusion, parity in all health plans would include traditional Medicaid, TRICARE, and Medicare, as well as ending opt-outs.
- Hopefully, WH will continue to affirm DOL's recommendation for parity fine authority

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/01/fact-sheet-president-biden-to-announce-strategy-to-address-our-national-mental-health-crisis-as-part-of-unity-agenda-in-his-first-state-of-the-union/>

Bill to Phase Out State/Local Opt Outs

- Bill being introduced soon (likely this week) to phase out self-funded non-federal government plan opt outs
- Senators Murphy & Stabenow / Congresswomen Porter / Dingell
- There are nearly 35,000 self-funded non-federal government plans. 180 have opted out of parity, or only 0.5%. BUT these 180 plans include very large ones:
 - States of Michigan and Mississippi
 - City of Chicago
 - University of Texas and University of Virginia
 - Milwaukee Public Schools'
- Public workers (including first responders) and family members in these plans have no right to equitable mental health or addiction coverage. Public workers are disproportionately BIPOC
- Bill would also end opt outs from requirements relating to discharge after childbirth, reconstructive surgery after mastectomies, and coverage of dependent students

<https://www.cms.gov/files/document/hipaaoptouts03182021.pdf>



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<https://www.thekennedyforum.org/blog/these-major-employers-have-opted-out-of-providing-adequate-mental-health-addiction-coverage/> 5



State Updates

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Update on Pima County, Arizona Opt Out

- MHA Arizona has been leading
- Met with key County Supervisor, who was concerned (and unaware) of opt out
- County has said it is not going to renew opt out
- 1 down, 179 to go!
- ***If you would like template letter that MHA Arizona sent to opted-out Arizona plans, let me know.*** You might be able to convince government to end its opt out simply by raising the issue.

California

SB 1337

- **Status:** Introduced February 18, 2022
- **Sponsor:** Senator McGuire (D)
- **Summary:**
 - Requires coverage of coordinated specialty care for early psychosis.
 - Department of Managed Health Care and the Department of Insurance, in collaboration with the State Department of Health Care Services, would establish guidelines via a working group.
 - Requires use of Healthcare Common Procedure Coding System (HCPCS) T1024 billing code. (Recommended by Meadows Mental Health Policy Institute)
 - CA SB 855 already likely requires coverage, so also pursuing that avenue

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1337

Meadows Paper: <https://mmhpi.org/wp-content/uploads/2020/10/CoordinatedSpecialtyCare-PaymentStrategies.pdf>

Georgia

HB 1013

- **Status:** Passed House 169-3 on March 8, 2022
- **Sponsor:** Speaker Ralston (4 R's, 2 D's)
- **Summary:**
 - Large bill that includes requirements that insurers must follow generally accepted standards of mental health and substance use disorder care.
 - Includes AMA/APA definition of medical necessity.
 - Defines MH/SUD as current versions of DSM or BH Chapter of ICD.
 - Submit parity compliance analyses required by MHPAEA annually.
 - Submit data on NQTLs annually. If data suggests potential violations, the department shall initiate a market conduct examination, with parity being examined in an exam at least ever 5 years.
 - The Commissioner shall submit report to GA Data Analytic Center and General Assembly annually.
 - Institutes Medical Loss Ratio of 85% consistent with 42 CFR Section 438.8.
 - Defines MH/SUD as current version of DSM or ICD.
 - Removes antiquated code language.
 - Establishes loan forgiveness program for MH/SUD professions serving underserved areas/populations.
 - Civil commitment provisions are updated.
 - Various MH/SUD criminal legal system provisions and reforms. And more!

<https://www.legis.ga.gov/legislation/61365>

Louisiana

HB 278

- **Status:** Introduced, January 28, 2022
- **Sponsor:** Rep. Michael Echols (R)
- **Summary:**
 - Requires coverage of Psychiatric Collaborative Care Model.

<http://www.legis.la.gov/Legis/BillInfo.aspx?s=22RS&b=HB278>

Minnesota

HF 3717

- **Status:** Introduced on February 24, 2022 and passed by Health Finance and Policy Committee March 7, 2022
- **Sponsor:** Rep. Zack Stephenson (D)
- **Summary:**
 - Along with other non-parity provisions, creates a Mental Health Parity and Substance Abuse Accountability Office within the Dept. of Commerce (regulates health insurance).
 - Charged with creating and implementing “effective strategies” for implementing MHPAEA, ACA, and other relevant laws.
 - May oversee compliance reviews, conduct and lead stakeholder engagement, review consumer and provider complaints, and serve as a resource for ensuring health plan compliance with mental health and substance abuse requirements.

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF3717&ssn=0&y=2021>

New Jersey

S 1609

- **Status:** Introduced, Feb. 14, 2022 (hearing 2/23 and 2/22), respectively
- **Sponsor:** Senator Greenstein (D)
- **Summary:**
 - Requires all commercial plans to cover Medication-Assisted Treatment, which is defined both as medications in combination with counseling / behavioral therapies

<https://www.njleg.state.nj.us/bill-search/2022/S1609>

Oklahoma

SB 1413

- **Status:** Introduced, January 19, 2022
- **Sponsor:** Senator Montgomery (R)
- **Summary:**
 - Amends parity NQTL reporting requirements to emphasize need for "detailed, written, and reasoned" comparative analysis.
 - Adds provision explicitly requiring sufficient detail in parity analyses.
 - The Commissioner shall promulgate rules and standardized reporting templates, and issue guidance consistent with CMS and DOL.
 - Deleted provisions that direct Insurance Department to conduct a market conduct examination to analyze NQTLs compliance with parity.

<http://www.oklegislature.gov/BillInfo.aspx?Bill=SB1413&session=2200>

Utah

HB 358

- **Status:** Passed House 65-1-9, Passed Senate Committee, but died due to lack of supporting appropriation (\$5 million fiscal note)
- **Sponsor:** Rep. Brian King (D)
- **Summary:**
 - Would have required plans that opted out of the Federal Parity Act to nonetheless follow some parity requirements.
 - Would have allowed coverage restrictions on residential treatment (which exist currently).
 - Didn't receive appropriation to fund, so it died.

<https://le.utah.gov/~2022/bills/static/HB0358.html>

Virginia

SB 434

- **Status:** Passed Senate 40-0 on February 7, 2022 and House 98-0 on March 8, 2022
- **Sponsor:** Senator Barker (D)
- **Summary:**
 - Originally required insurers to submit parity compliance reports required by 42 U.S.C. § 300gg-26(a)(8) to the Bureau of Insurance annually.
 - Amended to only require Bureau of Insurance to report a summary annually of the parity compliance analyses that they collected during the previous year.

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

Virginia

SB 321 / HB 225

- **Status:** SB 321 Passed Senate 39-0 on 1/28/22 and House 100-0 on 3/4/22; HB 225 Passed House 98-0 on 2/2/22 and senate 40-0 on 2/24/22
- **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

HB 1688

- **Status:** Passed House 67-30 on 2/11/22, Senate 49-0 on 3/3/22, and concurred with in House 88-10 on 3/7/22
- **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 distinctions). BH emergency services provider may not balance bill.
 - Modifies dispute resolution process between insurers and providers.

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



Other Updates?