A Parity Framework

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Disclosures

- Ellen Weber, JD; Sara Howe, MS, CHES; Rocky Schwartz; and Daniel Blaney-Koen, JD, have disclosed no relevant, real, or apparent personal or professional financial relationships with proprietary entities that produce healthcare goods and services.
Disclosures

- All planners/managers hereby state that they or their spouse/life partner do not have any financial relationships or relationships to products or devices with any commercial interest related to the content of this activity of any amount during the past 12 months.

- The following planners/managers have the following to disclose:
  - Kelly J. Clark, MD, MBA, FASAM, DFAPA – Consulting fees: Braeburn, Indivior
Learning Objectives

- Define the obstacles for Parity Act enforcement on the state level.
- Identify solutions to overcome obstacles to the enforcement of the Parity Act.
- Outline actions to help enforce the Parity Act and promote increased access to addiction treatment.
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- Ellen Weber, JD, Legal Action Center
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- Rocky Schwartz, New Jersey Parity Coalition
Objectives

- Describe Parity Act protections and identify the obstacles for enforcement

- Identify solutions to overcome obstacles to Parity Act enforcement

- Outline actions to help enforce the Parity Act and promote increased access to addiction and mental health treatment
Parity Act Overview

- Mental Health Parity and Addiction Equity Act (2008) (Parity Act)
  - End historic health insurance discrimination against individuals with mental health (MH) and substance use disorders (SUD)

- 10th Anniversary – How to achieve the promise of the law?
Parity Act – Equal Insurance Coverage

- Plans that provide MH/SUD benefits must cover them “equally” (at “parity”) with medical/surgical benefits
  - Equal benefit coverage
  - Equal access to benefits

- Federal Parity Act does not require plans to cover MH/SUD benefits, but many other laws do
  - Affordable Care Act – Essential Health Benefits
  - State law mandated benefits for SUD and MH
Parity Act – Who Must Comply?

- Most health plans must comply
  - Large group (employers with 51+ employees) – fully insured and self-funded
  - Individual policy
  - Small group (employers with 50 or fewer employees) – fully insured
  - Most state & local government health plans
  - Medicaid managed care plans, Children’s Health Insurance (CHIP), Medicaid expansion

- **Medicare not subject to the Parity Act**
Insurance Plan Features
What Must Comply with Parity?

- **Cost Sharing (Financial Requirements)**
  - Deductibles ($2,500 for individual)
  - Co-payments (e.g. $30/visit)
  - Co-insurance (e.g. 20% cost)
  - Out-of-pocket maximums

- **Limits on Duration of Care (Quantitative Limitations)**
  - Number of visits (15 outpatient visits/year)
  - Days of coverage (14 days residential treatment)
  - Frequency of treatment (2 episodes of care/year)

- **Other Limits on Scope or Duration of Care (Non-quantitative Limitations)**

- **Prescription Drugs**
Consumer Rights
Did You Know?

- Parity Act requires **equality** for:
  - Covered SUD/MH benefits (continuum of care)
  - Medical necessity criteria
  - Prior authorization and continuing care requirements
  - Step therapy and fail first requirements
  - Prescription drug formulary
  - Network adequacy and provider admission to networks
  - Provider reimbursement
Barriers to Substance Use Disorder and Mental Health Care

- Benefit Limits & Exclusions
  - Limited Network Providers
  - Burdensome Prior Authorization

Parity Act Violation?
Parity Act
Non-Discrimination Standards

Quantitative Features
No separate or more restrictive financial requirements or quantitative treatment limitations for mental health and substance use disorder benefits than medical/surgical benefits

Non-Quantitative Plan Features
The “rules” for imposing and applying a non-quantitative treatment limitation on the MH or SUD benefit must be comparable to and applied no more stringently than the rules for imposing and applying the NQTL on medical/surgical benefits both as written and in operation
Transparency
What Information Must Plans Disclose to You?

- Medical Necessity Criteria – both MH/SUD and medical (you and your provider)
- Reasons for any denial of coverage or reimbursement (you)
- Parity compliance documents (you or provider as authorized representative)
- Insurer cannot withhold plan documents based on proprietary information
Barriers to Parity Act Enforcement
Parity Act
Enforcement Obstacles

- **Regulators – Insurance Department**
  - Do not get plan information needed to evaluate parity compliance before the plan is approved for sale
  - Investigation strategies – time consuming + delays in fixing violations

- **Consumers**
  - Do not receive complete information about benefits, medical necessity and care authorization requirements, or Parity Act rights
  - Do not receive plan information when requested
  - Unable to conduct complex analysis, particularly in crisis
  - Individual complaints do not address systemic plan violations
Improve Parity Enforcement

Fix benefit and prescription drug gaps and plan features that limit access to SUD/MH services

- Parity Act can guide standard development
- Legislative and regulatory responses
Adopt effective oversight and compliance strategies

- Plans must prove parity compliance before allowed to sell plan

- Data auditing – Insurance Dept. and State Attorney General
Legislation to Fix Benefit Gaps and Access Barriers

- **State Insurance Mandates**: Ensuring continuum of services for SUD and MH coverage - Ex: IL, MD, NJ, NY
- **Limits on Prior Authorization for benefits and/or medications** – Ex: DE, NY, MD, NJ, IL
- **Network Adequacy Standards**: quantitative measures to regulate provider networks for SUD and MH providers
  - Appointment Wait Times – CA, CO, ME, MD, TX, VT
  - Geographic Criteria (travel time and/or distance) – CA, CO, DE, MD, MN, MO, NV, NH, NJ, VT, WA
Strategies to Improve Oversight/Compliance

- **Prospective Plan Compliance Review** – CA
  - Legislative proposals – introduced in IL, MD, NJ and other states

- **Annual Data Reporting and Analysis** – CT, MA, TN (Medicaid), VT

- **Medicaid Managed Care Contracting** – Parity Act compliance requirements and opportunity for data collection under contracts
Parity at 10 State Campaigns

- 10 States (3 years) – address key barriers to accessing SUD/MH services through robust Parity Act enforcement
  - 5 launch states – IL, NJ, MD, OH, NY
- Establish more effective compliance standards – Plans prove parity compliance
- National and local advocates uniting to achieve equity through education and advocacy.
Parity at 10 Campaign

- National Campaign, State Specific Outcomes
- Illinois Anchor Organization and Parity Coalition
- Develop & Implement Three-Year Action Plan
- Illinois:
  - Legislative
  - Regulation & Enforcement
  - Education
- Legal Action Center & Partners:
  - Technical Assistance
  - Communications
Consumer and Family Member Advocacy

- Stigma
- Create Unified Voice – Language, education
- Power in Numbers – Coalitions
- Constituency of Consequence
COALITIONS

- National Alliance on Mental Illness
- Behavioral Health Planning Council
- New Jersey Parity Coalition
- NCADD-NJ Advocacy Leader
- Family Support Center Coordinator
RESOURCES

- National Alliance on Mental Illness - nami.org
- National Council on Alcoholism and Drug Dependence – ncadd.org
- Behavioral Health Planning Council - samhsa.gov/grants/block-grants/mhbg
- Kennedy Forum – parityregistry.org
  - Guide to appeal process, sample letters, insurance denial registry
- The Addicts Mom – addictsmom.com, TAM facebook state and advocacy groups (private)
LEGISLATIVE ADVOCACY

- **New Jersey** – parity bill (A.2031/S.1339)
  - Passed in state assembly only 2/2017 – will reintroduce in Spring 2018

- **Illinois** – parity law (99-480)
  - Mandated coverage and minimum requirements for all insurance policies and Medicaid managed care
  - Passed & signed into Law September 2016
  - HB 68 introduced to amend law for stricter enforcement

  - Referred to Senate Comm. on Health, Education, Labor and Pensions; House Health Subcomm.
ENFORCEMENT STRATEGIES

- **New Jersey** – Attorney General agreed to pursue consumer complaints (3/9/18) – Denied Treatment Group from Parity Coalition
  - **New York** – Attorney General enforcement actions

- **Illinois** – Multiple pressure points:
  - Two recent hearings on parity (Mental Health Comm.)
  - Meeting with Illinois Attorney General
  - On-going meetings with IL Dept. of Insurance and IL Dept. of Health and Family Services
Enforcement Strategies

- **Nationwide Litigation**
  - Class Action Suits: Ex. Wit v. United Behavioral Health (denial of residential, intensive outpatient and outpatient treatment based on standards that were more restrictive than “generally accepted standards of care” for MI/SUD (Services from 5/2011 – 6/2017)

- **Federal Enforcement**
  - Department of Labor: insurance appeals for ERISA (employer-sponsored) plans
  - Centers for Medicare and Medicaid Services: Medicaid managed care plans and Medicaid expansion plans
Take-Away Thoughts

- Parity is confusing. Don’t try to handle it all yourself – utilize resources and use the law to put the burden on the insurer to establish compliance.
- Silence is consent – once a consumer is educated, you are empowered to protect your rights!
- You are a constituent – our state legislators, senators and members of Congress work for you!
- Document everything when speaking with insurance companies!
- Policy advocacy is a marathon! Celebrate little victories and keep your eye on the end goal.
Advocacy Track

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THANK YOU

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