

What is Mental Health Parity?

According to the U.S. Department of Labor¹, the “Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires group health plans and health insurance issuers to ensure that financial requirements (such as co-pays, deductibles) and treatment limitations (such as visit limits) applicable to mental health or substance use disorder (MH/SUD) benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical/surgical benefits. MHPAEA supplements prior provisions under the Mental Health Parity Act of 1996 (MHPA), which required parity with respect to aggregate lifetime and annual dollar limits for mental health benefits.”

According to the Substance Abuse and Mental Health Services Administration² (SAMHSA), “MHPAEA requires that plans make certain information available with respect to mental health and substance use disorder benefits. Insurers typically make decisions to cover or deny coverage for specific mental health and substance use disorder services based on whether that service is ‘medically necessary’ for the patient. These insurers must share the criteria that they use to make these medical necessity determinations with any current or potential participant, beneficiary, or contracting provider upon request. MHPAEA also provides that insurers must explain the reason for any denial of reimbursement or payment for services for mental health and substance use disorder benefits to the participant or beneficiary upon request, or as otherwise required.

A number of state and federal agencies share oversight and enforcement of parity. Enforcement varies based on the type of insurance plan. State insurance commissioners oversee individual and employer-funded plans of less than 51 insured employees, as well as fully insured large group plans. However, the following states have determined that their insurance commissioner lacks the authority under their current state laws to enforce MHPAEA: Alabama, Oklahoma, Missouri, Texas, and Wyoming. In these states, HHS exercises enforcement authority.

Under a “fully insured” plan, enrollees pay premiums to an insurance company that must pay for the cost of covered health care services. In contrast, a “self-funded” or “self-insured” plan is one where the employer sets aside funds to pay for the full cost of employees’ health care. These plans typically hire an insurance company to help with claims processing. Cost-sharing requirements such as deductibles, copays, and coinsurance may apply under both types of plans.

The Department of Labor (DOL) and the Internal Revenue Service generally have enforcement authority over self-insured private sector employment-based plans that are subject to the Employee Retirement Income Security Act (ERISA). HHS has direct enforcement authority with respect to self-funded non-federal governmental plans.

Employees with questions about the MHPAEA or complaints about compliance by their employment-based group health plans can contact any of the departments. The departments will work together and, to the extent an insurer is involved, will work with the states, as appropriate, to ensure parity violations are corrected.

¹ <http://www.dol.gov/general/topic/health-plans/mental>

² <http://www.samhsa.gov/health-financing/implementation-mental-health-parity-addiction-equity-act>

Some state laws provide even stronger consumer protections than the federal parity requirements. In those cases, the MHPAEA permits the state to enforce the law's stricter requirements, generally through the state's insurance commissioner."

For Complaints, Concerns and Questions about Mental Health Parity in West Virginia

A number of federal helplines are available to field questions and comments from consumers with questions about federal parity requirements. Consumers should also contact their state insurance commissioner or the appropriate health insurance oversight authority in their state.

General Questions and Comments

CMS Health Insurance Helpline

877-267-2323 Extension 6-1565

phig@cms.hhs.gov (link sends e-mail)

DOL Employee Benefits Security Administration Consumer Assistance

866-444-3272

Questions about Self-Funded State and Local Plans and Church Plans

CMS Health Insurance Helpline

877-267-2323 Extension 6-1565

phig@cms.hhs.gov

For Specific Complaints and Questions about West Virginia Health Plans

West Virginia Office of the Insurance Commissioner

The Consumer Service Section is available to assist all West Virginia consumers, insurance companies, and their agents with insurance questions or complaints.

Telephone	Toll Free 1-888-TRY WVIC (888-879-9842) TTY 1-800-435-7381
Facsimile	304-558-4965
Email	
Correspondence	West Virginia Offices of the Insurance Commissioner ATTN: Consumer Service Division PO Box 50540 Charleston, West Virginia 25305-0540
Physical Address	1124 Smith Street, Rm 309 Charleston, West Virginia 25301

<http://www.wvinsurance.gov/ConsumerServices/ConsumerServices.aspx>

For More Information about Mental Health Parity Laws and Regulations

American Psychological Association:

<http://www.apa.org/helpcenter/parity-law-resources.aspx>

Centers for Medicaid and Medicare Services:

https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet.html

Judge David L. Bazelon Center for Mental Health Law:

<http://www.bazelon.org/>

Mental Health America:

<http://www.mentalhealthamerica.net/issues/parity-federal-legislation>

National Alliance on Mental Illness (NAMI):

<https://www.nami.org/Find-Support/Living-with-a-Mental-Health-Condition/Understanding-Health-Insurance/What-is-Mental-Health-Parity>

National Council for Behavioral Health:

<http://www.thenationalcouncil.org/topics/parity/>

Substance Abuse and Mental Health Services Administration (SAMHSA):

<http://www.samhsa.gov/health-financing/implementation-mental-health-parity-addiction-equity-act>

U.S. Department of Labor:

<https://www.dol.gov/general/topic/health-plans/mental>

Mental Health Parity and Substance Use Disorder Parity Compliance Assistance:

- U.S. Department of Labor News Release 10.23.2020:
<https://www.dol.gov/newsroom/releases/ebsa/ebsa20201023>
- Preface to 2020 MHPAEA Self-Compliance Tool available at:
<https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool-preface.pdf>
- 2020 Mental Health Parity and Addiction Equity Act (MHPAEA) Self-Compliance Tool available at: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf>