

EQUAL INSURANCE COVERAGE OF SUBSTANCE USE AND MENTAL HEALTH DISORDERS

**PARITY AT
10**

IT'S THE LAW.

Parity In Practice: Advocating for Equal Access to
Mental Health and Substance Use Treatment

NAMI-Maryland
Annual Conference
October 18, 2019

Parity In Practice Overview

- Reinforce Knowledge – Parity Protections + Common Violations
- Enforcement Barriers
- Initiatives to Improve Parity Enforcement
 - Education - Individual and Provider Rights
 - Regulatory Activities
 - Legislative Advocacy

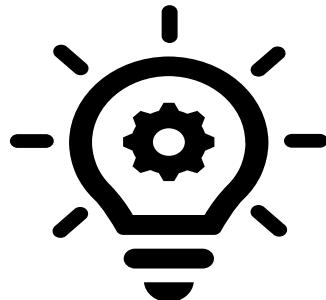
Parity Act – Equal Insurance Coverage

- Mental Health Parity and Addiction Equity Act (2008) – 11th Anniversary
 - Civil Rights Statute - end historic health insurance discrimination against individuals with mental health (MH) and substance use disorders (SUD)
 - Private Insurance and Medicaid/CHIP
- Parity at 10 Campaign (wwwparityat10.org) – Maryland Parity Coalition
 - Parity Act Education and Advocacy → Robust Enforcement
 - Consumers, Providers and Policy Makers



Treatment for Brain Disorders =
Treatment for Physical Health Conditions

Have You Heard About the Parity Act?



- Parity at 10 - 2018 Surveys
- Consumers (Maryland)
 - 50% had not heard of the Parity Act
 - 49% did not know of right to equal MH/SUD coverage (11% not sure)
 - 68% of Maryland providers reported patients face insurance barriers
- Providers (5 states)
 - Key parity standards - less than 50% could select correct responses on questions about key parity standards

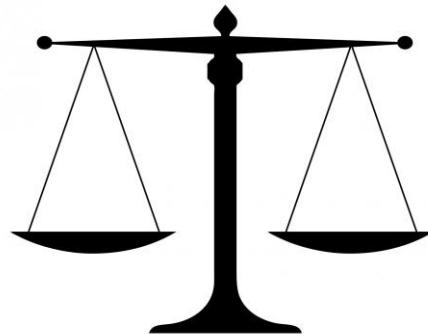
What Does Parity Mean?

- Plans that provide MH/SUD benefits must cover them **at the same level** as medical/surgical benefits.
 - **Equal benefit coverage**
 - **Equal access to MH/SUD benefits**
- Parity Act does not require plans to cover MH/SUD benefits, many other laws do.
 - Affordable Care Act – Essential Health Benefits (individual and small group plans)
 - **Maryland law** mandates benefit coverage for SUD and MH in large group/employer plans, small group, individual plans, and Medicaid/CHIP

Maryland Mandated Benefits and Parity Mandates

Insurance Coverage	Maryland Mandated MH/SUD Benefits	Federal Parity Law
Individual	✓	✓
Small Group (100 or fewer employees)	✓	✓ ACA Plans – 50 or fewer employees
Large Group (101+ employees)	✓ (commercial insurance/fully insured)	✓ (51+ employees fully-insured/self-insured)
Public Employer (self-insured)		✓ State/local plans may opt out
Medicaid (MH/SUD carve-out but enrollees receive MCO medical services)	✓	✓
Medicaid Expansion population	✓	✓
Children's Health Insurance Program (CHIP)	✓	✓
Medicare		Does Not Apply

Out-of-Pocket Costs



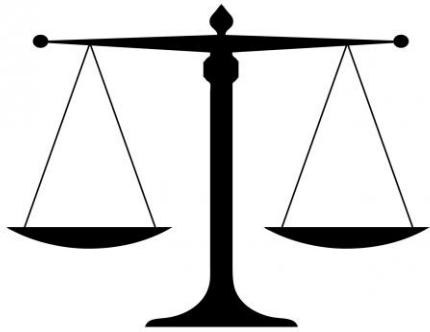
- Deductibles (\$5,000/individual)
- Co-payments (\$30/visit)
- Co-insurance (20% reimbursed amount)
- Out-of-Pocket Maximums

Limits on Length of Care



- Number of visits (Ex. 15 outpatient visits/year)
- Days of Coverage (Ex. 14 days residential treatment)
- Frequency of Treatment (Ex. 2 episodes of care/year)

Limits on Scope and Access to Care

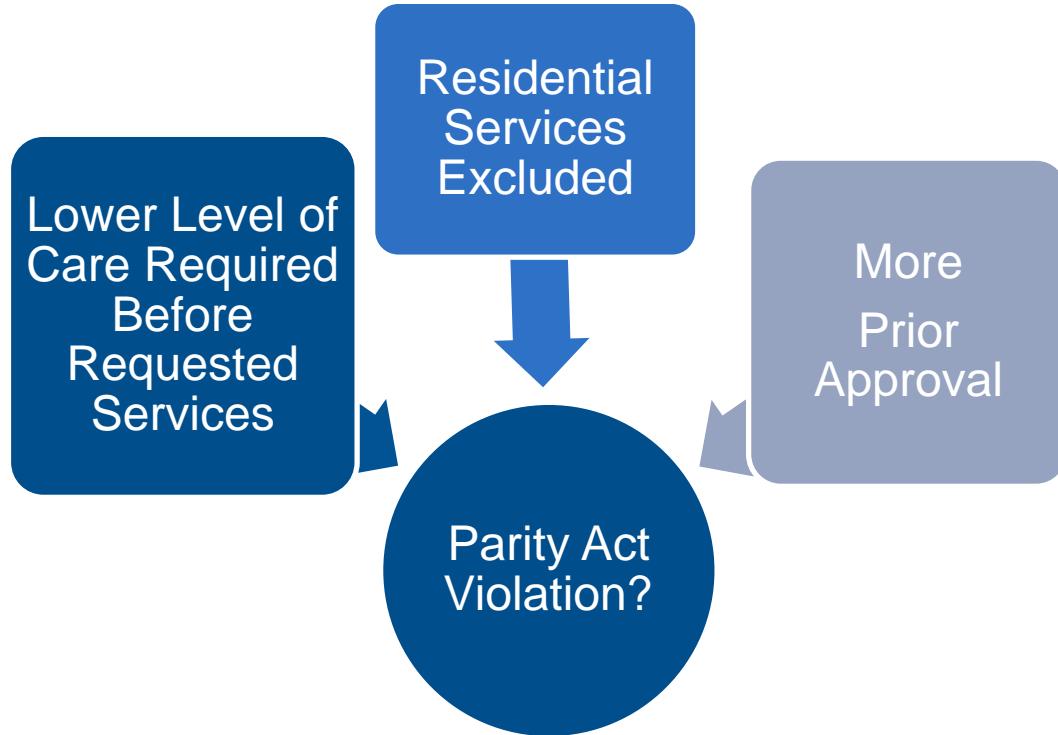


- Covered SUD/MH benefits (excluded benefits)
- Medical Necessity Criteria
- Prior authorization and continuing care requirements
- Step therapy and fail first
- Prescription drug coverage and tiers
- Network adequacy and provider admission to networks
- Provider reimbursement

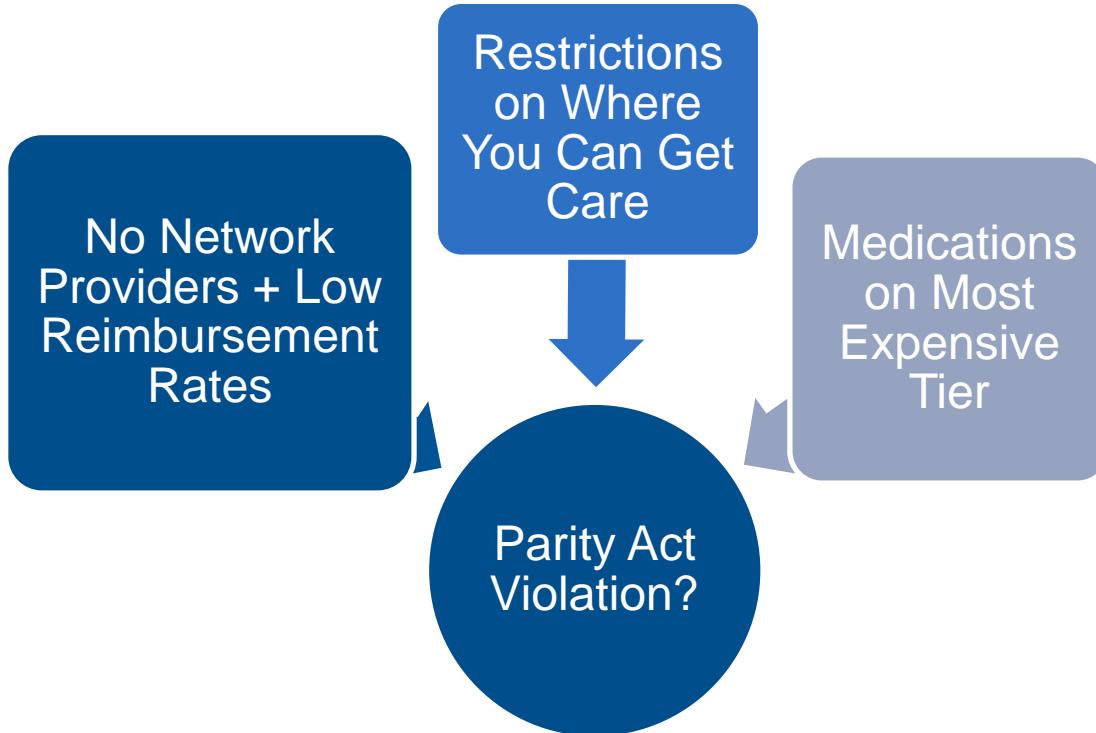
Numerical Quantity Limits



- \$40 co-pay for outpatient mental health visits but \$20 co-pay for visit to primary care doctor
- 15 visit limit for outpatient counseling but no limit on annual visits to primary care doctor.
- One counseling session per week but no limit on frequency of doctor visits for diabetes treatment.



Warning Signs for Parity Violations – Access to Care



Warning Signs for Parity Violations – Access to Care

Parity Violations – Treatment Access

Federal Guidance

- **Benefit Exclusions**
 - Methadone covered for pain treatment, but Opioid Treatment Programs excluded from benefit coverage.
 - Out-of-network residential services excluded for eating disorders, but not for medical conditions.
- **Prior Authorization:** Inpatient medical services approved for 7 days with additional care based on treatment plan, but inpatient MH care approved for 1 day with additional care based on treatment plan.
- **Step Therapy Requirements:** 2 unsuccessful attempts at MH/SUD outpatient treatment before residential treatment allowed, but 1 unsuccessful attempt at outpatient treatment for medical conditions before inpatient allowed.
- **Dosage Limits** for buprenorphine less than recommended national guidelines, but limits on medications to treat medical conditions consistent with national guidelines.

Parity Violations – Provider Reimbursement + Networks

Federal Guidance

- **Reimbursement Rate Setting:** Plan reduces reimbursement for every CPT code by set percent for non-physician MH/SUD providers, but does not reduce rate for non-physician medical providers.
- **Carrier Networks:** Plan increases reimbursement rates for medical providers to increase network to meet wait time metric, but not for MH/SUD providers.
- **Provider Directories:** out-of-date and inaccurate provider information violates federal law.

Maryland Violations

- **Cigna** – Excluded 5 of 13 SUD providers based on “no network need” but did not exclude any of the 122 med/surg facilities for this reason. (2019)
- **Aetna** – Required detailed Personnel Review assessments for MH/SUD facilities that work with youth, but not required for med/surg facilities. (2018)
- **CareFirst** – Inaccurate and incomplete listing of MH hospital and non-hospital facilities. (2018)
- **UnitedHealthcare** – Required review of 5 years of malpractice history for all MH/SUD facilities seeking credentialing, but not required for med/surg facilities. (2017)
- **CareFirst** – No OPT providers in network. (2015).

Transparency – Information Plans Must Disclose

- Medical Necessity Criteria – both MH/SUD and medical (patient and provider)
- Reasons for any denial of coverage or reimbursement (patient)
- Parity compliance documents (patient or provider as authorized representative – self-insured plans upon request; other health plans if denial of coverage or services)
- Insurer cannot withhold plan documents based on **proprietary information**

Barriers to Parity Act Enforcement



Enforcement Obstacles: Consumers

- Don't get complete information about MH/SUD benefits, medical necessity criteria, care authorization, or parity rights
- Lack of awareness of appeal rights (2018 Consumer Survey)
 - 53% did not know health plan must give reason for denial (11% not sure)
 - 40% did not know they can appeal plan denial or limitation (14% not sure)
- Need assistance particularly in a crisis (2018 Consumer Survey)
 - 52% wanted to know what to do if insurance rights violated and what to ask insurance company if it denies treatment

Enforcement Obstacles - Providers

2018 Provider Survey

- **Barriers to assisting patients with insurance denials (5 State Data)**
 - Too time-consuming (40%)
 - Not area of expertise (35%)
 - Lack of resources (32%)
 - Past efforts not successful (25%)
 - Don't know what to do (25%)
- **Provider actions after service denial (MD)**
 - Filed appeal with carrier (31%); encouraged patient to file complaints (28%)
 - Attempted negotiation with carrier (28%)
 - Used other resources to provide requested level of care (28%)
 - Accepted authorized care (28%)
 - Filed complaint with MIA or Medicaid (8%)

Enforcement Obstacles: Private Insurance Regulation

- **Limited Transparency:** Don't get plan information needed to evaluate parity compliance *before* the plan is approved for sale.
 - Cost-sharing - can usually identify problems
 - Non-quantitative treatment limitations (NQTLs) – not identified and compliance information not provided
- **Consumer Complaints:** Complaints not filed in midst of crisis and don't address systemic problems.
- **Post-Sale Investigations:** Important but time consuming → delay fixing violations. Maryland Insurance Administration market conduct surveys have taken 18-25 months.

Enforcement Obstacles: Medicaid Regulators

- **Medicaid Enforcement Requirements**
 - Compliance report filed 18 months after deadline and failed to address all issues.
 - Data collection from MCOs incomplete.
 - Centers for Medicare and Medicaid Services has required corrective action by Oct. 1, 2020.
- **Process to Address Outstanding Issues**
 - Reimbursement Rate Setting + Billing for Combination of Services
 - Prior Authorization Requirements
 - Benefit Coverage



Advocating for Parity Rights

Maryland Parity at 10 Campaign

- National and local advocates uniting to achieve parity enforcement through **education and advocacy**. wwwparityat10.org
- Maryland Parity Coalition – state-wide organizations and individuals (Jan. 2018)
- Key Strategies – Building on 7+ years of parity enforcement work
 - Education – Consumers, Providers and Policymakers
 - Advocacy – Legislative and Regulatory
 - Communications

Consumer and Provider Education

- *Your Insurance Rights* – 5 Tips to help consumers understand their MH/SUD insurance rights
- *Parity Warning Signs* - 3 differences that signal possible Parity violation
- *Filing an Insurance Appeal* – Steps to file a Medicaid and private insurance appeal in Maryland and resources that can help
- *Provider Tips* – How to help patients with denials and track problems with complaint tracker tool at wwwparityat10.org

Regulatory Advocacy

- Maryland Insurance Administration
 - Market Conduct Surveys of Parity Compliance
 - Implementation of ASAM Criteria
 - Network Adequacy Standards: monitor carrier performance, reimbursement rate data and updating regulations
- Maryland Department of Health
 - System of Care Redesign – Workgroup and Parity Discussion Group

Legislative Agenda – 2020 Session

- **Parity Enforcement – Private Insurance**
 - Annual parity compliance and data reporting by private carriers
 - Remedial Action - Require Maryland Insurance Administration to identify violations, require carriers to promptly correct plan standards and compensate consumers for unlawfully denied treatment services
- **Consumer Payment Protection**
 - Require carriers to inform members of right to request non-network services if network services not available “without unreasonable delay or travel”
 - Ensure consumers pay no more for services obtained from non-network providers than for network services if carriers approve non-network services.

Getting Involved

- Join Maryland Parity Coalition – Meets 1st Tuesday each month 1:00 – 2:30.
- Consumer Story Banking – Share Your Story (wwwparityat10.org)
- Identify and report insurance barriers to treatment
 - Providers – track patterns in service denials/decisions, burdensome utilization management, and provider network participation barriers (reimbursement and contracting practices), report problems to regulators.
 - Consumers – understand parity rights; report denials of care to providers, State regulators and Maryland Parity Coalition.
- Your ideas are welcome!

Ellen Weber, JD
Legal Action Center
eweber@lac.org
202-544-5478 Ext. 307

