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What To Do with Behavioral Health's Paper Tiger Parity Laws

By Ashleigh Hollowell | July 22, 2026

Since its inception in 2009, the Mental Health Parity and Addiction Equity Act (MHPAEA) has often played the part of a paper tiger more than it has as an enforcement tool for reimbursement parity.

On paper, the law has teeth. But actions to enforce it broadly have been few and far between. The Trump administration has not been keen on enforcing the law as it stands. In the last year, though, some states have taken the lead on large-scale parity enforcement actions. Last summer, the Georgia Office of the Commissioner of Insurance and Safety Fire announced $20 million in fines against insurers over parity violations. Then in February, Nevada followed suit after investigations revealed multiple insurance carriers, including United Healthcare and Aetna, were in violation of federal parity law.

The parity law was designed to prevent health plans and insurers from imposing less favorable benefit limits on mental health and addiction treatment services than those provided for medical and surgical care. Since then, these laws have not been heavily enforced. Part of that comes from limitations across nearly every state. Many do not have a private-right-of-action law, which would allow individual patients to bring lawsuits related to parity to local courts in the first place.

Lacking that, enforcement has largely been left to regulators. At the state level, this is often led by departments of insurance, but those agencies have a history of systemic understaffing and investment constraints. As a result, geography, not federal law, has been the determining factor of how well parity is enforced.

"Laws are helpful, obviously, in and of themselves, but in order for them to really be effective, people need to be able to enforce them in cases in which they aren't enforced," Sara Haviva Mark, a healthcare attorney at Mark Health Law, told Behavioral Health Business. "If most insurance companies are only potentially under scrutiny from regulators and not subject to any lawsuits, the incentive to comply with parity laws is lower."

Future enforcement efforts at this time remain hazy on the federal level. The Trump administration could still rewrite or revise the Biden-era mental health parity regulations before the end of 2026. That update or revision is likely to occur before the end of 2026, but groups like the American Psychiatric Association have come out against broad changes that do not strengthen the existing law.

Rep. Tom Kean Jr. (R-N.J.) also recently introduced a bill that would bolster mental health parity law by handing over authority to the Department of Labor to investigate and hold insurers and health plans accountable if they are found in violation of parity.

Yet, the question from a provider's lens remains: Should behavioral health continue to refine parity rules or has the system behind it reached its limits and now needs something more radical?

Parity as a consumer protection issue

Parity violations today are often most visible in areas like network adequacy, ghost network issues and inferior reimbursement rates as opposed to benefit exclusions or restriction nonquantitative treatment limitations (NQTLs). But even from that perspective, the industry could be overlooking an important tool: consumer protection.

"Mental health parity, at its core, is a consumer protection," Scott Dziengelski, the president and CEO of the National Association of Behavioral Health (NABH), told BHB. "I think the important thing is to be able to document this information, to track it, and then to be able to present it in a workable format to these insurance commissioners and other parties who can actually do the enforcement."

The NABH is a membership organization that represents provider systems that treat behavioral health and substance use disorders across all age groups.

"[Many] consumer protection laws in the United States passed in the first quarter of the 21st century. Mental health parity is by far the most important part of that. It has been an incredible benefit and a paradigm shift in behavioral healthcare. … I think the challenge is that … if our consumer protection laws are no longer protecting consumers the way we want them to, at some point, we have to revisit the fact that we may need new consumer protection laws."

The other side of the industry, the health plan and payer side, actually views this similarly.

Debbie Witchey, president and CEO of the Association for Behavioral Health and Wellness (ABHW), which advocates for policy and education around behavioral health issues for payers, feels that parity regulation "shouldn't be paperwork for paperwork's sake."

"We've said we need a rule, but it needs to be workable," Witchey told BHB. "There needs to be clear guidance on how it works… . It should be about trying to get to a point of having parity and offering better care."

From her vantage point, revising the federal rule to require plans to regularly report denial rates, utilization management practices in behavioral health, standardizing the NQTL analyses and having more consistency in regulatory oversight would be a few places to start. Simplifying and publicizing consumer complaints and appeal pathways could be another important pathway to build as well.

"I would also argue that when states are trying to impose different rules than at the federal level, it does tend to lead… back to that issue of certainty," Witchey said. "At the end of the day, is this really

going to achieve better parity? Is this really going to achieve better care for patients in the behavioral health space?"

Since 2021, around 77,000 plans have achieved compliance without fanfare.

"One of the major issues always is just resources," Haviva Mark said. "Government has limited resources, and so it's going to be way fewer enforcement actions and way fewer cases brought."

One of the other realities that has plagued enforcement of parity is that every single state operates so differently that it's almost like enforcing a different law in a new country.

"If our approach to parity is to have, from now until the end of time, 50 insurance commissioners in 50 states who are dedicated, focused and aggressive on parity enforcement, it's just not going to happen," Dziengelski said. "There's no simple way to enforce it, so you end up in this really complex place of having people spend a lot of time working on it with an uncertainty of success."

The publication of a new Trump-era parity rule is slated to come no later than Dec. 31, 2026. It will be something that providers and payers keep watch for throughout the rest of the year. But in the meantime, state regulators are likely to continue to be at the forefront of enforcement, testing whether the law can work as a real protection rather than merely a promise on paper.