State Parity Legislative and Regulatory Compliance Workgroup

January 23, 2019
Agenda

• State Legislative Updates -- NY, NJ, CA, and MD
• State Enforcement Updates – PA and MA
• Walk-Through 2019 State Model Parity Legislation
• “Don’t Deny Me” Parity Education Materials
• Reminder: Google Group, Google Drive, and Slack
• Other Business?
Gov. Cuomo Signed Data Reporting Bill in December

- A.3694-C
- Signed with unique statement
  - Gov. Cuomo said he only signed because he has agreement with legislators to pass bill in 2019 that amends what he signed
- Bill as signed has reporting provisions comparing MH/SUD and med/surg claims data that begin Sept. 1, 2019 and annually thereafter
  - Including utilization review, prior/concurrent authorization requests, in- and out-of-network data, network adequacy, and cost sharing
- Gov. Cuomo provided text for agreed-upon amendment (see Google Drive)
  - Starts July 1, 2019 and then every other year
  - Minor tweaks to requirements
New Jersey Parity Bill Continues Progress

- A.2031
  - [https://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=A2031](https://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=A2031)
- Passed NJ Assembly last year (73-2), now must go through Senate Budget Committee (NJ legislative session is 2018-19)
  - Passed Senate Committee unanimously on January 17th
- Primary provisions:
  - Broadens definitions of MHSUD covered by state parity law.
  - Requires insurers to meet requirements of Federal Parity Act and federal guidance / regulations.
  - Requires health plans to submit detailed analysis demonstrating compliance.
  - Requires regulators to conduct parity enforcement activities and report on those activities.
State Legislative Update – California

New California Bill Filed in December for 2019

• SB11
  o https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB11

• Primary provisions:
  o Requires health insurers to report on parity compliance, particularly non-quantitative treatment limitations (NQTLs).
  o State regulators report on plans’ submissions and on parity enforcement activities the regulators have conducted.
  o For FDA-approved SUD medications, plans shall not:
    o Put medications on tier other than lowest tier of prescription formulary
    o Put in place prior authorization or step-therapy requirements
    o Exclude MAT treatment based on fact it is court-ordered
State Legislative Update – Maryland

Maryland Bill Would Require that Short-Term, Limited-Duration Plans Cover MHSUD Benefits

- Trump Administration put in place final rule expanding STLD plans, which can refused to cover MHSUD and discriminate against people with MHSUD
- National organizations have sued, including NAMI, MHA and American Psychiatric Association
- Maryland bill (SB28) requires MHSUD coverage in state law for these plans:

MD, MO, and Others Planning to Introduce Parity Legislation Soon

- Updates will come as bills introduced!
Pennsylvania fined Aetna $190,000 for numerous violations

- PA Insurance Department found violations included incorrect application of copays, coinsurance, and visit limits, as well as more than a dozen discriminatory nonquantitative treatment limitations, included prior authorization and step therapy requirements
- Policies contained confusing SUD policy language
- Insurance Department noted, even if plans written policies were compliant, they “lack of appropriate administrative oversight or other operational problems have led to mishandling of these important consumer protections.”
Massachusetts Attorney General Reached Settlement with Aetna

• Assurance of Discontinuance reached in December; $75,000 fine
• Misleading online directories for behavioral health providers
• Violations of state laws requiring insurers to cover substance use disorder treatment without prior authorization
• Mass. AG requires Aetna to disclose to its members that it does not require prior authorization before routine behavioral health visits
• Requires Aetna to keep records to allow for monitoring of compliance with parity laws
2019 Model State Parity Bill

Significantly Expanded 2019 Model Bill

• Thank you to volunteers from Workgroup who assisted!
• Modular approach -- new titles give advocates more tools to advance parity based on state contexts & tightened existing language
• Feel free to share with state-based advocates who might benefit from text
  o Let me know if you share it
• **Please do NOT share more broadly or post where non-parity advocates can find**
• If you have questions about content or sharing, let me know
Reminder: Parity Communications Channels

Join Parity Google Group or Google Drive

• Email me at David@thekennedyforum.org, and I can add you to Google Group directly.
• If you are having difficulty accessing Drive, let me know – everyone should have gotten invitation prior to holidays

Join ‘State Parity Workgroup’ Slack Channel

• Simply click within next month: https://join.slack.com/t/stateparityworkgroup/shared_invite/enQtNTI4ODc3MDYzMTM5LTY3ZTE1Zjk4OWQwNjk3OGUyMWMymMdhZGNjMWIyNmJmNGU4OTg3Y2NjMTEyNmIyYzc1ZDAwYjc1YWYyZTkyN2M
Questions or Other Business?

You can always email David Lloyd,

david@thekennedyforum.org
Don’t deny me...
the ability to sustain long-term recovery
DontDenyMe.org
Don’t deny me...

a better future for my children

DontDenyMe.org
Don’t deny me...

the help I need to rebuild my life

DontDenyMe.org
Don’t deny me...

a chance to reach my full potential

DontDenyMe.org
Don’t deny me...

the opportunity to give back

DontDenyMe.org
Don’t deny me...

hope

DontDenyMe.org
“We must break the silence and bring transparency to a system that oppresses those with mental health and substance use disorders.”

Don’t Deny Me

• Launched in recognition of the 10th anniversary of the Mental Health Parity and Addiction Equity Act (MHPAEA).
Don’t Deny Me

• A first-of-its-kind consumer and provider action campaign to empower American families to fight back against illegal insurance denials of mental health and substance use disorder treatment services.

• Designed to spark a movement that pressures elected officials, insurance commissioners, and attorneys general to enforce parity laws.

• More than 20 national partner organizations.
Consumer Resources – Understanding Parity Rights

Don't Be Denied
Your Right to Mental Health and Addiction Treatment

What is the Mental Health Parity and Addiction Equity Act (MHPAEA)?
Passed on October 3, 2008, also known as the FEDERAL PARITY LAW, requires most insurers to cover illnesses of the brain, such as depression or addiction, no more restrictively than illnesses of the body, such as diabetes and cancer.

It's been 10 years since MHPAEA was signed into law, but insurance companies continue to use old tricks to deny coverage or limit treatment options. Common violations of the Federal Parity Law include:

- Separate deductibles or higher copays for behavioral health services
- Limits on how many days a patient can stay in a treatment facility or how many times they can see a behavioral health provider
- Higher costs for prescription medication for behavioral health treatment
- Narrow networks of behavioral health providers
- Requirements for prior authorization before starting and/or continuing treatment

What Can You Do Now?
Hold insurance companies accountable. Learn to file an appeal with your health plan. Register a complaint against your health plan so we can hold insurers accountable. Visit Don'tDenyMe.org to get started.

Coverage denials or inadequate treatment can result in:
People trying to navigate a confusing insurance system while in the middle of a personal crisis;
Family members sacrificing retirement or college savings, or declaring bankruptcy, to pay for treatment their insurance plan won’t cover;
People ultimately dying from overdoses or suicides due to lack of treatment.

We must break the silence and bring transparency to a system that oppresses those with mental health and substance use disorders.
—Former Congressman Patrick J. Kennedy

www.DontDenyMe.org

Where Are We Now?
How Do These Violations Affect Families?

Where can you find more information about the MHPAEA?

Campaign Fact Sheet

- What is the Don't Deny Me campaign?
- What is parity?
- What are some common violations of the Federal Parity Law?
- What are your rights to mental health and addiction treatment services?
- Why was the Don't Deny Me campaign started?
- What happened during the Don't Deny Me campaign?
- How can you hold your insurance company accountable?
- How do these violations affect families?
- How Do These Violations Affect Families?
- What Can You Do Now?

K E N N E D Y  F O R U M
Consumer Resources – *Taking Action*

DontDenyMe.org...

- Connects consumers with resources for learning to file an appeal.
- Connects consumers with resource to register a complaint against their health plan.
- Connects consumers with social media toolkit to spread the word and empower others.
Provider Resources

GOAL: Educate providers and encourage them to display Don’t Deny Me brochures and posters in patient settings.
Partner Engagement

Sharable message points and imagery based on relevant studies, events, and observances.

Mental Health America
November 19 at 6:54 PM

46.6 million of us experienced a mental illness in 2017, but less than half received care. If your health insurance covers mental health or "behavioral health" services, by law, it cannot cover them any more restrictively than physical health services, such as treatment for diabetes or cancer. Equal access to mental health and addiction treatment services is your right. Health care open enrollment runs until December 15. NOW is the time to check your policy and learn about your rights. Visit Don'tDenyMe.org to get started.

The Reality:
Less than half of us who experienced mental illness in 2017 received care.

The Opportunity:
Don'tDenyMe.org is working to change that.

www.DontDenyMe.org
When people make the decision to get help, nothing should stand in their way.