

# ENFORCEMENT OF MENTAL HEALTH & ADDICTION PARITY AT THE STATE LEVEL

## AUGUST 2020



### BACKGROUND

In 2008, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (“MHPAEA” or “Parity Act”) became federal law. The Parity Act requires that mental health and substance use disorder benefits be no more restrictive than the medical and surgical benefits of the same insurance plan. While the Parity Act originally only applied to large group plans, its application was extended to the individual market by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010 (collectively, the “ACA”). The Parity Act’s requirements are applied indirectly to small group health plans as part of the ACA’s essential health benefit requirements. In 2016, the Centers for Medicare and Medicaid Services issued a final rule applying MHPAEA to Medicaid managed care, CHIP, and Alternative Benefit Plans. Taken together, federal parity laws and regulations aim to prohibit covered insurers from providing inferior benefits for mental health/addiction coverage when compared to medical/surgical benefits. Consistent compliance and enforcement of these laws and regulations, however, have been lacking and disparities remain.

### ASAM POSITION

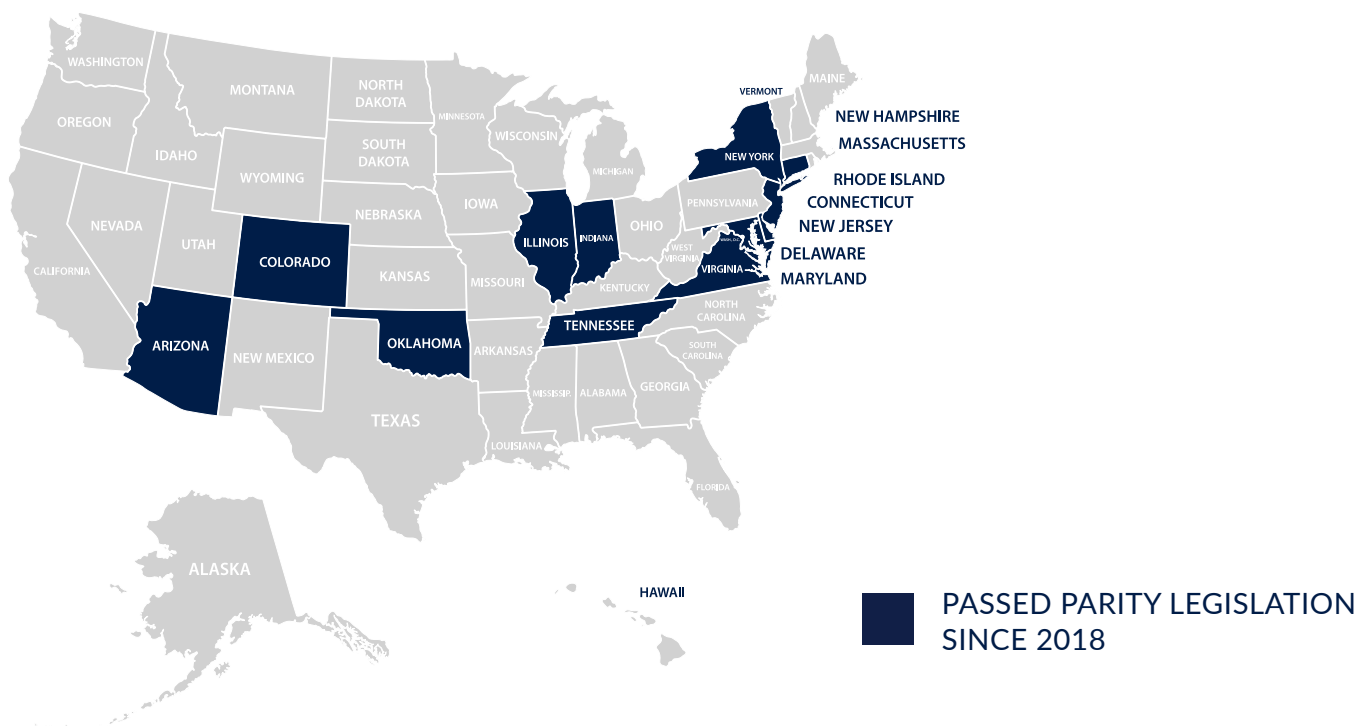
- Adequate parity requirements should be incorporated at the state level.
- All healthcare insurance plans should consider addiction treatment an essential health benefit.
- In both public and private sectors, plans should cover the entire continuum of clinically effective and appropriate services provided by licensed and certified professionals, including all levels of care defined by The ASAM Criteria, and should provide coverage at parity with those benefits covering general medical illnesses, with the same provisions, lifetime benefits, and catastrophic coverage.
- Medical necessity criteria that determine coverage of addiction treatment services should follow generally accepted standards of care as defined by national medical specialty society-developed guidelines. Third-party payers should use nationally recognized addiction treatment and placement criteria such as The ASAM Criteria for medical necessity determinations for addictive, substance-related, and co-occurring conditions so that such treatment is individualized and takes place at the most appropriate level of care (intensity of service) for the most appropriate length of time (duration of services).
- Payers should use the [“Enhanced Attestation”](#) tool guide developed by ASAM, APA, and AMA, or a substantially similar tool, to ensure patients are receiving coverage for mental and substance use disorders at parity.



## FACTS

- Parity is a bipartisan issue. Democratic Congressman Patrick Kennedy championed the MHPAEA, and George W. Bush signed it into law. [The President's Commission on Combating Drug Addiction and the Opioid Crisis](#) identified improved parity enforcement as a key element to combatting the addiction crisis.
- In 2018 [7.4% of the people in the U.S. age 12 or older](#) suffered from a substance use disorder in the past year.
- Out of network utilization rates for inpatient facilities ranged from [2.8 to 5.2 times higher](#) for behavioral healthcare than for medical/surgical services from 2013 to 2017.
- Insurers continue to reimburse behavioral health providers at [significantly lower levels](#) than their primary care and medical/surgical specialist counterparts. This disincentivizes behavioral health providers from joining insurance networks.
- These issues can make addiction treatment prohibitively expensive. Lack of affordability for behavioral health services from poor insurance coverage plans has forced [1 in 5 Americans](#) to decide between treatment for a physical condition and treatment for a mental health condition.

## PROGRESS



## RESOURCES

- [Parity Track State Reports](#)
- [American Psychiatric Association- MH/SUD Insurance Coverage and Model Legislation](#)
- [ASAM's Parity Toolkit](#)
- [National Alliance on Mental Illness](#)
- [CMS- MHPAEA Factsheet](#)
- [Evaluating State Mental Health and Addiction Parity Statutes: A Technical Report](#)