

Summary of Model State Parity Legislation

The purpose of this model legislation is to facilitate implementation and enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA) and strengthen parity provisions within state law. Each title of this model legislation targets critical areas that must be addressed to ensure that coverage for mental health conditions and substance use disorders (MH/SUD) is equal to coverage for other medical conditions. These titles represent a basic approach to enhancing parity implementation and can be tailored and adjusted for the needs of any state (see the accompanying information sheet or contact ParityTrack Policy Director, Tim Clement at tim@paritytrack.org).

Below, each title is summarized and explained in terms of what it attempts to do and why it is necessary.

Title I

Sec. 101: This section codifies MHPAEA within state law. This is necessary because some state regulatory agencies are reluctant or unable to enforce MHPAEA unless it is incorporated into state law.

Sec. 102: This section requires plans to submit information that is needed to check for compliance with MHPAEA and relevant sections of state law. This is necessary because determining parity compliance for certain medical management practices is impossible without this information.

Sec. 103: This section requires relevant state regulatory agencies to enforce MHPAEA and any similar sections of state law. It also specifies how the agencies may do this. This is necessary in order to prioritize parity enforcement for state regulatory agencies and to provide guidance as to how that process should work.

Sec. 104: This section directs regulatory agencies to request interpretive opinions from state attorneys general if there is disagreement between an agency and plans regarding MHPAEA. While most state regulatory agencies can already do this, this section is necessary in order to clarify that this option is available and should be pursued.

Sec. 105: This section requires regulatory agencies to submit annual reports that describe how they are implementing MHPAEA and similar sections of state law in addition to educating the public about MH/SUD coverage laws. This is necessary to keep state governments and the public informed about the progress of parity implementation from year to year.

Sec. 106: This section addresses appropriations. This is necessary to ensure that state regulatory agencies have the needed resources to perform their obligations under this title.

Title II

Sec. 201: This section defines mental health conditions and substance use disorders as they are defined in the International Classification of Disease or the Diagnostic and Statistical Manual of Mental Disorders. This is necessary because neither MHPAEA nor its final regulations specifies a definition for mental health conditions and substance use disorders and leaves this to the states.

Title III

Sec. 301: This section prohibits plans from imposing non-quantitative treatment limitations (NQTLs) on MH/SUD benefits that are designed or applied more stringently than those in place for other medical benefits. This section is necessary because most state laws do not require NQTLs for MH/SUD benefits to be comparable to and applied no more stringently than those in place for other medical care.

Sec. 302: This section defines some examples of NQTLs. This is necessary to provide clarity.

Sec. 303: This section is modeled on nearly identical sections from laws in Illinois, Connecticut, and Rhode Island and requires plans to follow the most widely used criteria for treatment of substance use disorders. This is necessary to ensure uniformity in benefit determinations for substance use disorder coverage.

Title IV

Sec. 401: The primary objective of this title is to apply relevant parity sections of state law to Medicaid plans. This is necessary because MHPAEA does not apply to fee-for-service Medicaid plans. This also is relevant for other Medicaid plans in states that have parity laws that are stronger than MHPAEA.

Title V

Sec. 501: This section requires state agencies to educate consumers and providers about parity and establishes systems to support consumers with parity appeals and complaints. It is necessary to not only increase awareness about parity, but also to ensure that consumers can effectively exercise their right to submit appeals and complaints.

Sec. 502: This section addresses appropriations. This is necessary to ensure that state agencies have the resources to perform their obligations under this title.

Title VI

Sec. 601: This requires plans to cover life-saving opioid antagonists. This is necessary to eliminate or reduce preventable deaths.

Sec. 602: This section requires plans that cover prescriptions to cover FDA-approved medications for the treatment of substance use disorders, if such medications are medically necessary. This is necessary to ensure that recovery is possible for individuals living with substance use disorders.

Sec. 603: This section requires plans to use similar policies and procedures for placement of substance use disorder medications on their formularies as they do for other medications. This is necessary to ensure that substance use disorder medications are accessible and affordable for those who need them.