

Behavioral Health Parity Rules and Regulations:
**Opportunity to Submit Comments
to Federal Regulators**

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**Departments of Labor,
Health and Human Services,
and the Treasury – oversee rules
and regs**

**Comments
due
October
2nd**

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Plans to amend both:

**Mental Health Parity and
Addiction Equity Act of 2008
(MHPAEA)**

**Consolidated Appropriations
Act, 2023
(CAA, 2023)**

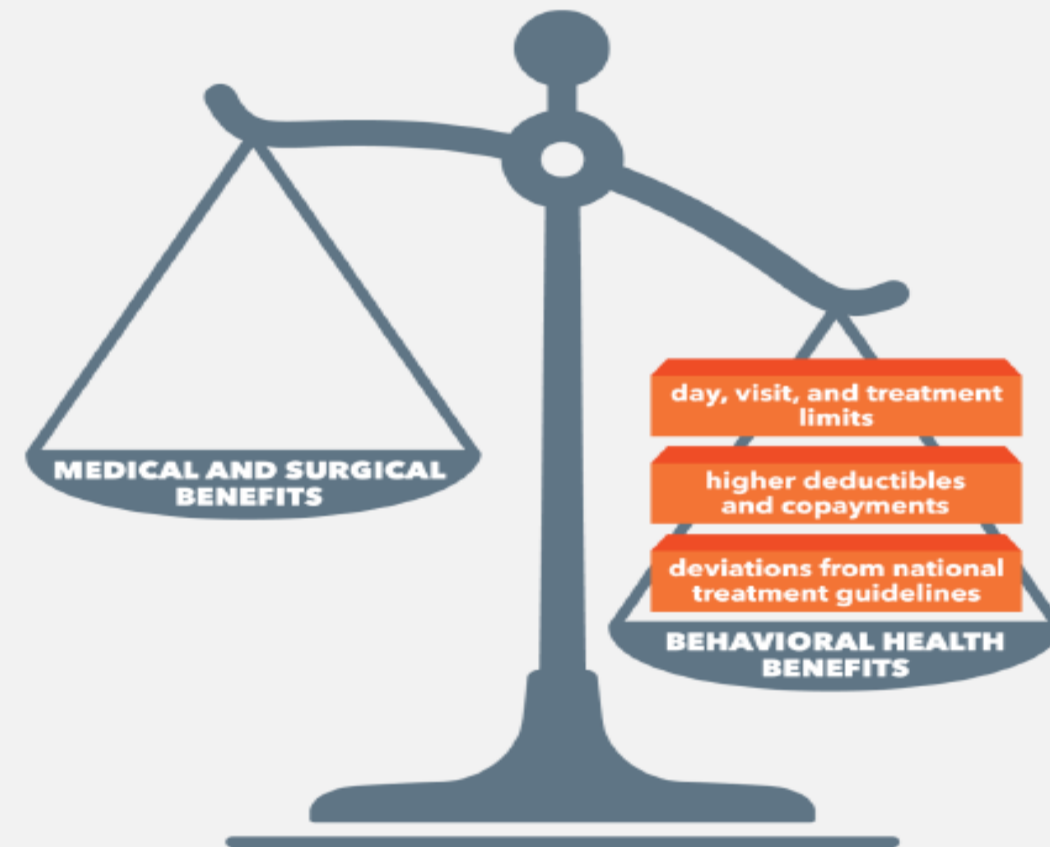
Ways to improve the
coverage of mental health
and substance use disorder
benefits through provisions
of Federal law

**Most
significant
opportunity
since 2013**

A BEHAVIORAL HEALTH PARITY

PLAYBOOK

STRENGTHENING STATE LAWS AND PARTNERSHIPS



JANUARY 2023

WHY DO WE NEED PARITY

To require that insurers/plans administer their policies such that **coverage for behavioral health benefits is no more stringent or restrictive than those for med/surg benefits** covered by the policy

AND

To **improve access** to medically necessary MH/SUD care

**THE
INTERSECTION
OF
FEDERAL
AND STATE
PARITY LAWS**

**Federal parity
laws create a
national floor of
benefit protection
but not a ceiling.**

**States are free to enact
and enforce stricter
requirements.**

Out-of- Network Inconsistencies with In-Network

- **Prior authorization** requirements
- **Out-of-network services available**
- **Concurrent care review**
- **Provider admission standards**
- **Network adequacy**
- **Network utilization**
- **Reimbursement rates, billed charges, payments**
- **Allowed amounts for specific Current Procedural Terminology (CPT) codes** that are reimbursed to specific types of MH/SUD providers; as well as to each other, to Medicare rates, to other insurers/plans, or to a similar benchmark.

Treatment Exclusions/ Requirements

Impermissible **exclusions of key
treatments** for MH/SUDs



Financial Requirements

- Deductibles
- Copays
- Coinsurance
- Fail first policies



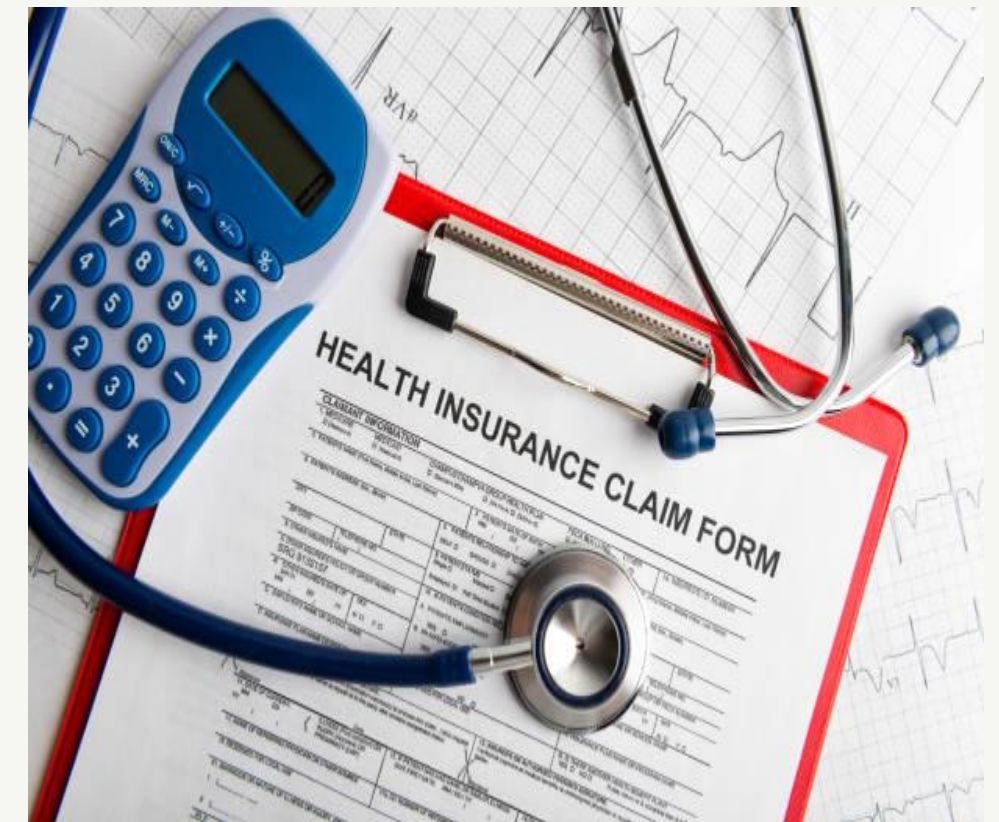
Meaningful benefits for treatment



- Applied behavioral analysis therapy (ABA) (also called behavioral engineering)
- Nutrition counseling for eating disorders
- Autism spectrum disorders (ASD)

Adequacy of provider networks

- **cannot access** an in-network MH/SUD provider **due to limited options**
- **time/travel distance**
- **scheduling** challenges
- provider **NOT accepting new patients**
- **reimbursement rates** including as compared to billed charges
- percentage of **in-network providers who submitted no in-network claims**
- or the percentage of in-network providers who submitted claims for **fewer than five unique participants/beneficiaries/enrollees** during a period.



Too Many Restrictions



- **ICD or DSM conditions**
- **geographical location**
- provider specialty, facility type, and on other criteria that **limit scope or duration of care**
- **concurrent review** standards
- requirements for periodic **medical necessity review**
- **residential care** for MH or SUD
- following **failure to complete course of treatment**
- **copayments and pre-authorization** requirements
- **allowed amounts for specific CPT codes** that are reimbursed to MH/SU disorder providers and medical/surgical providers, as compared to each other as well as to Medicare rates or a similar benchmark.

If Commenting and If Possible

- Include **DATA and EXAMPLES** -- they are **very powerful**.
- Follow the slides above and report on trends that you see in any category using your data or by insurer/plan and be specific about the trend
- e.g.
 - % of claims rejected by CPT or DSM code
 - names of insurers/plans where you see repeated violations
 - Insurers/plans with Inadequate provider networks (location)
 - amount reimbursed as a percentage of amount billed

SUBMIT COMMENTS:

- 1. Electronically.** You may submit electronic comments on this regulation to <https://www.regulations.gov>. Follow the “Submit a comment” instructions.
- 2. By mail.** You may mail written comments to the following address **ONLY**:
Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: 1210–AC11.

NOTE: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the internet

Comments due October 2nd