

THE BEHAVIORAL HEALTH COVERAGE TRANSPARENCY ACT

Senator Elizabeth Warren & Representative Joe Kennedy III

Insurance coverage for behavioral health services is critical to the health of all Americans and to our ability to address the opioid crisis devastating communities across the country. The Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008 and the Affordable Care Act require that insurance coverage for behavioral health care services is equivalent to the coverage that insurers provide for physical health care services.

However, surveys of beneficiaries and reports from patients tell a very different story. According to 2017 data from the Substance Abuse and Mental Health Services Administration, almost 19 percent of adults in the United States (U.S.) have some type of mental illness, yet less than half of these individuals receive mental health services.ⁱ Lack of coverage for mental health services and weak enforcement of existing parity laws are a key cause of this gap in treatment. Alarming, a 2015 survey from the National Alliance on Mental Illness found that nearly twice as many respondents had been denied coverage for mental health services as for general medical care.ⁱⁱ Another study found that patients in 2015 sought mental health and substance use disorder treatment out-of-network almost three to six times more often than they sought physical care out-of-network.ⁱⁱⁱ

Patients often find it difficult to navigate the process of appealing coverage denials and reporting problems. The lack of robust data regarding denial rates, reasons for denials, and insurance plan design further complicates enforcement of mental health parity. Parity is the law of the land, but we need more transparency and better tools to enforce these laws and empower patients and their families.

Behavioral Health Coverage Transparency Act

The Behavioral Health Coverage Transparency Act establishes a Consumer Parity Portal that gives patients a single place to get information about their rights, the information submitted by insurers about how they make parity decisions, and results of audits. Importantly, the Consumer Parity Portal will take consumer parity complaints with the assurance of timely responses, and it will track the complaints and responses received, increasing transparency around the issues consumers face and better informing regulators as they enforce the current laws. This Consumer Parity Portal will ensure that health care consumers receive the protections they are guaranteed by law.

In addition, the Act requires insurance companies to disclose how they are making parity decisions, their denial rates for mental and physical health claims, and the reasons they deny mental health claims compared to physical health claims. The Act also encourages compliance with existing parity laws by ensuring that the Department of Health and Human Services, Department of Labor, and Department of the Treasury perform no fewer than 12 random audits of health plans per year.

ⁱ Substance Abuse and Mental Health Services Administration, “Key Substance Use and Mental Health Indicators in the United States: Results from the 2017 National Survey on Drug Use and Health,” September 2018, <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHF2017/NSDUHF2017.htm#mhuse5>.

ⁱⁱ National Alliance on Mental Illness (NAMI), “A Long Road Ahead – Achieving True Parity in Mental Health and Substance Use Care,” April 2015, <https://www.nami.org/About-NAMI/Publications-Reports/Public-Policy-Reports/A-Long-Road-Ahead/2015-A-Long-Road-Ahead.pdf>.

ⁱⁱⁱ Milliman, “Addiction and mental health vs. physical health: Analyzing disparities in network use and provider reimbursement rates,” December 2017, <http://us.milliman.com/uploadedFiles/insight/2017/NQTLDisparityAnalysis.pdf>.