

Mental Health and Substance Use Disorder Parity Task Force
Listening Session
White House, Eisenhower Executive Office Building
September 26, 2016, 8:30 am

Opening Remarks

On September 26, 2016, the White House Domestic Policy Council hosted the seventh and final listening session for the interagency Mental Health and Substance Use Disorder Parity Task Force (Parity Task Force). The session focused on listening to stakeholders from mental health and substance use disorder treatment advocacy organizations, consumer advocacy groups, mental health and substance use disorder providers. Federal staff attending included Carole Johnson of the White House Domestic Policy Council; Michael Botticelli, Director of the Office of National Drug Control Policy; Kathryn Martin, Acting Assistant Secretary of Planning and Evaluation at the Department of Health and Human Services (HHS); Amy Turner, Director of the Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Department of Labor (DOL); David DeVoursney, Chief of Policy Analysis Branch, Office of Policy, Planning, and Innovation at the Substance Abuse and Mental Health Services Administration (SAMHSA); and William Trefzger, Deputy Director of Digital Communications at the Office of the Assistant Secretary for Public Affairs in HHS.

Carole Johnson opened the listening session by thanking the attendees and Parity Task Force members for their continued support for parity implementation. More than 1,100 public comments were received regarding parity since May, and the final report is in progress. Beyond the valuable comments and final report, the Parity Task Force has also taken several steps to address parity issues. These steps and relevant activities are summarized below, along with a few key issues raised by stakeholders during the listening session.

Parity Task Force Activities

Ms. Johnson noted that the Department of Defense finalized parity-related rules for TRICARE this month. Assistant Secretary Martin noted the wide range of parity information provided through the Parity Task Force, including the SAMHSA best practices brief highlighting activities of state insurance commissioners, the DOL/SAMHSA parity rights consumer brochure, DOL's brief on warning signs related to non-quantitative treatment limits (NQTLs), and the Centers for Medicaid & Medicare Services final rule and Frequently Asked Questions (FAQs) for Medicaid parity. In addition, parity-related information and resources have been collected and centrally located at the HHS parity webpage (www.hhs.gov/parity).

Director Botticelli emphasized that parity implementation is a priority for the Obama administration. Achieving equitable access to substance use disorder treatment is critical, and current efforts to increase access include President Obama’s request for \$1.1 billion for new and increased funding to address the prescription opioid and heroin epidemic by increasing the number of buprenorphine prescribers, increasing patient limits for these providers, and expanding the availability of mental health substance use disorder treatment in community health centers. Secretary Vilsack of the U.S. Department of Agriculture has been exploring ways to increase the behavioral health workforce in rural areas. Dr. Botticelli remarked that this meeting was a great opportunity to talk about what the Parity Task Force has done and to see whether there are additional issues we need to consider to fulfill the promise of parity as we move forward with issuing a final report.

Director Turner highlighted additional activities from the Parity Task Force in terms of clarifying parity requirements. DOL and HHS recently released a “Warning Signs” document¹ with examples of potential red flags in plan or policy NQTLs that could indicate a parity violation and require additional analysis to determine compliance with the Mental Health Parity and Addiction Equity Act. The document provides 21 examples of NQTLs that could be a warning sign for noncompliance. Documenting these real-world examples has helped bring additional issues with NQTLs to light, and DOL is considering releasing a second document with additional warning signs. It is important to note that the examples listed are not indications of per se parity violations, but are NQTLs that need to be justified by the insurer to determine compliance. New York State has distributed this document to insurance providers, which supports DOL’s goal of helping to educate insurers on NQTLs so that they can address the issue before violations occur. Similarly, DOL has released multiple FAQs related to parity, including the recently released FAQs on Affordable Care Act Implementation Part 31,² to clarify specific parity issues related to quantitative treatment limits, book of business, and disclosures. These FAQs are useful for educating insurers and consumers. DOL is considering additional FAQs that are more focused on consumer issues, particularly with regard to disclosure. Working with SAMHSA, DOL is also creating a consumer-friendly guide to requesting insurance plan documents, especially for when a consumer thinks a parity violation has occurred.

Ms. Johnson introduced another Parity Task Force accomplishment: a SAMHSA report on state model practices for parity implementation.³ Much of what is in the report also complements the stakeholder comments shared during the National Association of Insurance Commissioners Parity Task Force listening session in August.

¹ This document is available at <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/mental-health-parity/warning-signs-plan-or-policy-nqtl-that-require-additional-analysis-to-determine-mhpaea-compliance.pdf>.

² These are available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/faq-aca31.pdf>.

³ This report is available at <http://store.samhsa.gov/product/SMA16-4983>.

David DeVoursney, with SAMHSA, gave an overview of the report and shared five key strategies to implement parity effectively based on interviews with insurance commissioners from California, Connecticut, Maryland, Massachusetts, New York, Oregon, and Rhode Island:

1. Maintain open channels of communication within state departments and across insurance carriers, and coordinate efforts to understand the parity regulations. Creating actionable guidance is best achieved when all parties involved are cooperating.
2. Standardize terms of coverage and develop a shared understanding of the terminology used in insurance plan and compliance documents. States worked with insurance carriers through an iterative process to standardize terms used by regulatory staff, insurers, and providers to discuss parity.
3. Standardize materials for assessing parity. Some states have developed templates, workbooks, and other tools to share with insurers to ensure parity compliance in the form filing process and in practice.
4. Administer market conduct examinations, including network adequacy assessments. These exams are an important way to increase compliance. The states stressed that the exams should include specific questions about provider availability and workforce issues to address to improve the behavioral health delivery system.
5. Coordinate the actions of all relevant state agencies and stakeholder groups. Coordinating enforcement strategies among state behavioral health departments, providers, and consumer advocacy groups is important for ensuring that parity compliance is effective.

Disclosure

Stakeholders and the Parity Task Force discussed the issues of disclosure and parity awareness that were related to the various reports, documents, and FAQs that were released. Specifically, attendees discussed how and what type of information should be released by insurers. Stakeholders representing mental health and substance use disorder treatment and legal advocacy groups noted that this document provides a nice overview but ultimately fails to address actual operational issues that occur in practice, such as systematically excluding methadone treatment coverage through prior authorization or the use of strict medical necessity criteria.

Another concern regarding insurance disclosure is the quality and timeliness of the information. Some states have aggressively addressed disclosure and require that information be provided up front, and this can be very beneficial. One stakeholder shared how insurers provided Summary of Benefits forms that frequently did not match the coverage legally outlined in their contracts. In that example, it took insurers 18 months to provide the information requested by a state insurance regulatory agency, and parity analyses were still incomplete due to insufficient information. Here, consumer advocacy and legal action groups could use additional support from SAMHSA and DOL in supporting efforts by state insurance regulators and consumer groups to enforce parity provisions.

For consumers, stakeholders agreed that meaningful disclosure would require guidance and simplification. Simplifying the disclosure process is key. Guidance on the type of information to request regarding their mental health and substance use treatment coverage, and a single point of contact that is easy to direct patients to for this guidance, would be a helpful support for consumers.

Parity Awareness

The issue of consumer awareness of mental health and substance use parity was discussed by William Trefzger of the HHS Office of the Assistant Secretary for Public Affairs. He shared the initial results of an analysis into the search terms used to reach HHS hosted sites, such as the Parity Task Force webpage. "Parity" was not found to be a common term used by those who came to these websites; instead, search terms focused on mental health conditions and substance use disorders. There was a wide array of search terms without many commonalities, indicating that searches were more specific to an individual's concerns. Even terms focusing on insurance, such as searching for "claim denials," were not particularly common. Stakeholders expressed that these results are not surprising, as there is not a broad understanding of what "parity" is among consumers. One stakeholder noted that an American Psychiatric Association study showed that only 4% of patient respondents were aware of the parity law. In contrast, some highly technical terms, such as Health Insurance Portability and Accountability Act (HIPAA) protections, are commonly used in health care and have high awareness among consumers. One suggestion was for the government to undertake a public education campaign similar to education campaigns conducted to educate consumers about the implementation of the Affordable Care Act and Healthcare.gov.

Ms. Johnson closed the listening session and thanked attendees for their participation. Director Botticelli noted that the session had been valuable in identifying a series of possible next steps to explore to help improve access to mental health and substance use care and long-term support. This discussion and the report will help identify areas that require additional attention and action, such as standardizing terms, understanding the types of care patients need, and other aspects of parity.