

Ohio Mental Health Parity Report

2018



ODI
Ohio Department
of Insurance

Purpose of Report

The purpose of this report is to comply with language that was included in House Bill 49, the state operating budget in the 132nd Ohio General Assembly.

Pursuant to Ohio Revised Code (ORC) 3901.90: “The superintendent of insurance, in consultation with the Director of Mental Health and Addiction Services, shall develop consumer and payer education on mental health and addiction services insurance parity and establish and promote a consumer hotline to collect information and help consumers understand and access their insurance benefits. The Ohio Department of Insurance (ODI) and the Ohio Department of Mental Health and Addiction Services (OhioMHAS) shall jointly report annually on the departments’ efforts, which shall include information on consumer and payer outreach activities and identification of trends and barriers to access and coverage in this state. The departments shall submit the report to the general assembly, the joint Medicaid oversight committee, and the governor, not later than the thirtieth day of January of each year.”

The Law

The primary laws that are used for regulatory and compliance oversight are the Federal Mental Health Parity and Addiction Equity Act (MHPAEA) and Ohio’s Mental Health Law as defined by ORC 1751.01, 3923.28, 3923.281, and 3923.282.

Both MHPAEA and the state law work together to help achieve parity among mental health benefits and medical/surgical benefits.

MHPAEA, often referred to as “mental health parity”, generally requires that mental health conditions and substance use disorders be treated by a health plan in the same or similar manner as the plan treats benefits for medical and surgical conditions and disorders. Financial requirements such as co-pays, deductibles and out of pocket maximums applied to mental health and substance use benefits should not be more restrictive than for medical/surgical benefits. Similarly, any treatment limitations such as prior-authorization requirements, number of permitted visits or restrictions on treatment settings applied to mental health and substance use benefits may be no more restrictive than for medical/surgical benefits.

Overview: Ohio Department of Mental Health and Addiction Services (OhioMHAS)

The mission of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) is to provide statewide leadership of a high-quality mental health and addiction prevention, treatment and recovery system that is effective and valued by all Ohioans. The agency works with community partners to embed behavioral health resources into programs that serve individuals of all ages throughout Ohio. This results in more integrated health care and better-coordinated services that can intervene early to find effective treatments to challenging diseases of the brain.

Overview: Ohio Department of Insurance (ODI)

The Ohio Department of Insurance (ODI) regulates the business of insurance in Ohio. Its mission is to serve and protect Ohio consumers through fair and efficient regulations, provide assistance and education to consumers, and promote a competitive marketplace for insurers. To carry out this mission, it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, examines claims of consumer and provider fraud, investigates consumer complaints, and monitors the financial solvency and market conduct of insurance companies. ODI is also charged with reviewing insurance policies and forms used by insurance companies and the premiums they charge consumers in the life, accident, health, managed care, and property and casualty insurance lines.

ODI's Role in Regulating Mental Health Parity

ODI is tasked with regulating and enforcing laws relating to the business of insurance. ODI oversees insurance policies, premium rates, company solvency and helps consumers that have questions or complaints. Related to mental health parity specifically, ODI reviews health insurance products to ensure that they are complying with applicable mental health law. ODI also helps consumers understand their mental health benefits and helps consumers resolve complaints against insurance companies. Finally, ODI tracks trends in consumer complaints and other data to determine if further investigation of company practices is needed.

ODI Regulation

Oversight of insurer compliance with Ohio insurance law takes many forms, and involves many different divisions of ODI. The most utilized divisions that ensure compliance are Product Regulation and Actuarial Services; Consumer Services; and Market Conduct.

Product Regulation and Actuarial Services

The Product Regulation and Actuarial Services division reviews forms and premium rates used by insurers in Ohio. The division reviews the products to ensure that statutorily mandated benefits are included and that the products are complying with Ohio insurance law. In addition, ODI employs actuaries that review rate submissions to ensure that the premium rates are actuarially sound.

The division first sees a proposed insurance product and reviews it for compliance with mental health parity and other applicable laws to ensure compliance. For all products, this consists of ODI staff reviewing the language in the contract to understand the product. Once the reviewer has read the submitted documents, the reviewer will formulate a list of “objections” for the company to review. The company must then respond to these objections and resolve them to the satisfaction of the reviewer before ODI will approve the product. For mental health parity specifically, it is during this process that the reviewers will note and ask about provisions in the contract, if any, that appear to violate the law and/or mislead or deceive the consumer.

For example, the division reviewed major medical policies from 13 different companies for the 2018 market. On average, ODI reviewers sent 55 objections per review, and of the objections three per review related to Mental Health Parity.

Consumer Services

The Consumer Services division is the first contact most consumers will make with ODI if the consumer has a question about their insurance plan, is filing a complaint, or has a general insurance inquiry. In addition to assisting consumers, the division also serves to monitor companies’ compliance with Ohio insurance laws and regulations.

Representatives assist Ohio insurance consumers through a toll-free hotline, educational materials, social media, community outreach and counseling. Representatives respond to a wide variety of insurance inquiries and investigate insurance complaints against companies and agents. There are different reasons why a consumer may contact Consumer Services regarding their insurance benefits, including:

- Help navigating their certificate of coverage
- Questions about claim delays, denials and policy recessions
- Filing a complaint
- Questions about rate increases
- Educational information about insurance benefits

When a consumer contacts the Consumer Services division, they will speak with representatives that are well versed in the applicable type of insurance, including the mental health parity requirements, and Ohio statutes and regulations. They have experience handling a variety of health benefit matters to ensure the consumer is receiving the best possible assistance. In addition to assisting consumers, the division also reviews overall complaints to identify ways to improve consumer education, tracks and reports on trends in complaints, and ensures complaints are resolved.

In 2017, the division handled 5,874 complaints, and 2,517 of them were specific to accident and health insurance. Seven of the accident and health insurance complaints pertained to coverage for mental health services and those break down as follows:

- 2 – outside of ODI’s jurisdiction based on plan type. Consumers were provided additional information on where to take their case.
- 2 – found no apparent MHPAEA violation
- 1 - insufficient for ODI to pursue due to the consumer not providing the insurance company name following ODI’s request for additional information
- 1 – ODI sent to an independent review organization (IRO) for review. The IRO overturned the insurer’s denial and claims were paid.
- 1 – currently under active review for a potential MHPAEA violation

Market Conduct

The Market Conduct division monitors insurers’ compliance with Ohio insurance laws and regulations by examining insurance companies’ business practices, such as underwriting, marketing and claims handling. The division is responsible for gathering industry information from a variety of sources, including consumer complaints, company filings and the National Association of Insurance Commissioners (NAIC).

The Consumer Services division may refer a pattern of complaints from consumers on a particular industry segment or company to the Market Conduct division. Additionally, if the Consumer Services division is unable to resolve a complaint, the Market Conduct division may be utilized to resolve the issue directly with the insurer. A wide variety of data is analyzed to determine if a particular company or issue is in need of further scrutiny. ODI – through Market Conduct – can request additional reporting, can require companies to take corrective action, and can issue fines or penalties.

Ongoing Efforts

Mental Health Parity FAQ

Working in conjunction with OhioMHAS, ODI updated the consumer frequently asked questions (FAQs) on the ODI website under the Mental Health Parity Toolkit. In order for the consumer to better understand and navigate the mental health parity law, changes were made to the layout, content and language of the FAQs. The departments will continue to take feedback and update these FAQs as necessary.

Layout

The original FAQs had no specific organization or format. The revised FAQs are formatted into an infographic that breaks down the information and questions into sections to help the consumer navigate the information more easily.

Content

The original FAQs were text heavy and the language used could be confusing if one had no background on the topic. The revised FAQs are broken down into key sections, such as definition of the laws, coverage, costs, red flags and a clearer understanding and pathway to contact ODI for assistance is provided.

Language

The revised FAQs have simplified some language surrounding mental health parity by providing definitions of terms and examples of benefits, costs and coverage.

The revised FAQs are attached in the appendix and can be found under the Mental Health Parity Toolkit:

<http://insurance.ohio.gov/Consumer/Pages/MHParity.aspx>

The consumer FAQs presence has been elevated on both the ODI and OhioMHAS websites. OhioMHAS will include ODI's consumer hotline information on the new addiction treatment and recovery website at TakeChargeOhio.org. The Ohio Department of Health along with the partnership of several state agencies and boards have launched the campaign "Take Charge Ohio: Manage Pain and Prevent Medication Abuse." Take Charge Ohio campaign is a public awareness campaign directed at opioid prescribers, their patients and the general public. The FAQs will also be publicized throughout 2018 via radio, print, television, and social media.

Plan Coverage Chart

In 2017, ODI began revising the Ohio Mental Health Benefit Comparison chart in the Mental Health Parity online toolkit to make the information more consumer friendly and easier to navigate. The plan coverage chart will provide a technical overview of which types of health plans have to comply with MHPAEA and state laws and which plans do not. This coverage chart will help consumers have a better understanding of their plan type and the differences in coverage requirements. ODI plans to publish the coverage chart in the spring of 2018 as a part of the online Mental Health Parity Toolkit.

Mental Health Parity Toolkit

ODI will review and revise the online tool-kit through 2018 and continue to engage with OhioMHAS, stakeholders and others on mental health parity.

Training

In an effort to ensure all ODI staff handling mental health parity related issues continue to be well educated on both state and federal law and regulations, ODI will work to identify new and ongoing training opportunities within the department.

ODI will continue to improve consumer and payer education and outreach efforts by continuing to monitor and identify any potential trends and barriers to access and coverage in the state. ODI and OhioMHAS will continue to partner to develop and promote materials and resources targeting both consumers and payers.

Below is a list of resources that were taken into consideration while implementing the statutory requirement related to producing this report:

- Impact of Mental Health Parity and Addiction Equity Act, By Stephen P. Melek, Daniel J. Perlman, Stoddard Davenport, Katie Matthews, Michael Mager | 11/22/2017
- Approaches in Implementing the Mental Health Parity and Addiction Equity Act: Best Practices from the States, Substance Abuse and Mental Health Services Administration | 08/08/2016
- What is Mental Health Parity infographic by The National Alliance of Mental Illness | 04/1/2016
- Maryland Parity Project, Mental Health Association of Maryland
- What is the Mental Health Parity and Addiction Equity Act, Frequently Asked Questions, by the Centers for Medicare & Medicaid Services (CMS)
- Ohio Mental Health Parity Final Bill Analysis, Am. Sub. S.B. 116, by the Legislative Service Commission | 2006
- Implementation of the Mental Health Parity and Addiction Equity Act and The Final Rule by the Substance Abuse and Mental Health Services Administration (SAMHSA) | 01/24/2017

- Mental Health Parity Frequently Asked Questions by The Connecticut Department of Insurance, Pennsylvania Department of Insurance, Illinois Department of Insurance, Maryland Insurance Administration

Appendix

MHPAEA Regulations

Under MHPAEA, there is a regulatory framework to help determine the compliance of health plans by classifying benefit types, and analyzing the quantitative treatment limitations and non-quantitative treatment limitations (NQTLs) applied to those benefit types within the categories of medical/surgical benefits as compare to mental health and substance use disorder benefits. The following six benefit classifications are outlined in federal regulations and are used by regulators to enforce mental health parity:

1. Inpatient, in-network
2. Inpatient, out-of-network
3. Outpatient, in-network
4. Outpatient, out-of-network
5. Emergency Care
6. Prescription Drugs

MHPAEA prohibits plans and issuers from imposing financial requirements, or quantitative treatment limitations on mental health and substance abuse benefits that are more restrictive than the predominant financial requirement or quantitative treatment limitations that applies to substantially all medical/surgical benefits in the same classification.

Non-quantitative treatment limitations (NQTLs) are not expressed numerically, however they are defined as treatment limits such as scope or duration of benefits for treatment, such as prior authorization, and geographic location. NQTLs cannot be more restrictive for mental health and substance abuse benefits than for medical/surgical benefits within the same classification.

Plan Compliance

Many, though not all, health insurance plans are subject to MHPAEA.

The following plans must comply with MHPAEA:

- Large Group Plans – employers with 51 or more employees
- Non-grandfathered Small Group Plans – employers with 51 or less employees that were not in existence on March 23, 2010
- Individual Plans – plans sold through the individual exchange, through an insurance agent or directly through the insurer

As noted, MHPAEA has exceptions to coverage. Small group plans in existence on or before March 23, 2010 that have had no significant changes made to the plan are “grandfathered plans” and do not have to comply with MHPAEA. Mental health parity laws do not apply to Medicare, hospital indemnity, Medicare supplement, long-term care, disability income, one-time-limited duration policies of no longer than six months (short-term), supplemental benefit plans or other policies that provide coverage for specific diseases or accidents only, workers’ compensation or any federal health care program.

Approach to Identifying Consumer Education Opportunities

In response to the legislative requirement, OhioMHAS solicited input from several stakeholders to better gauge their understanding of the requirements and benefits provided under federal mental health parity. This outreach included in-person meetings with OhioMHAS’ legislative liaison, Stephen Wilson.

The following stakeholders provided input on this topic:

- Joint Medicaid Oversight Committee
- National Alliance on Mental Illness
- Ohio Council of Behavioral Health & Family Services Providers
- Ohio Alliance of Recovery Providers
- Disability Rights Ohio
- Ohio Psychiatric Physicians Association
- Ohio Psychological Association
- Ohio State Medical Association
- Ohio Osteopathic Association
- Health Policy Institute of Ohio
- Ohio Association of Health Plans
- Molina Healthcare of Ohio
- Buckeye Health Plan
- National Federation of Independent Business

In addition to stakeholder engagement, OhioMHAS completed a literature review, and reviewed parity materials from ODI and several other states.

UNDERSTANDING YOUR MENTAL HEALTH AND SUBSTANCE ABUSE DISORDER BENEFITS

A Guide To
Understanding Your Benefits.



WHAT DOES THE LAW SAY?

- Insurers must treat mental health and substance abuse disorder benefits generally in the same manner as other health benefits.
- Financial limitations such as copays, deductibles, and coinsurance for mental health and substance abuse disorder benefits cannot be more restrictive than for other health benefits.
- Treatment limitations such as number of visits, geographic location, or facility type cannot be more restrictive than for other health benefits.

KNOW YOUR PLAN

Some plans are required to provide mental health and substance abuse disorder benefits. Other plans are required to ensure that if they do offer mental health and substance abuse disorder benefits, they are similar to other health benefits.

How do I know what my plan is required to cover?

Most plans you buy directly for yourself or your family (not provided through an employer) - including those sold through healthcare.gov - are required to provide mental health and substance abuse disorder benefits and ensure that those benefits are similar to other health benefits covered by the plan. Many plans provided through an employer provide mental health and substance abuse disorder coverage, but not all are required to do so.



CHECK TO SEE IF YOU HAVE Mental Health/Substance Abuse Disorder Coverage



- ✓ Check your certificate of coverage issued by your insurer or provided by your employer.
- ✓ Contact your employer's human resources office.
- ✓ Contact your health insurer directly.
- ✓ Contact your insurance agent.
- ✓ Contact the Ohio Department of Insurance at 800-686-1526.

Federal and state mental health laws do not provide a specific definition of what mental health and substance abuse disorder benefits or services must be covered in a health plan or insurance contract. However, see examples below of benefit categories where coverage provided for physical and mental health and substance abuse disorder benefits should be similar:

- **Inpatient** If a plan covers a medically managed hospital stay for a medical condition such as a seizure disorder, then a medically managed stay for active withdrawal and stabilization of mental health condition should be similarly covered.
- **Outpatient** If a plan covers an office visit to the cardiologist, it should also cover an office visit to the psychiatrist.
- **Emergency Care** If a plan covers emergency treatment for a broken arm, it should also cover emergency treatment after a suicide threat or for an unintended overdose.
- **Prescription Drugs** If a plan covers maintenance medication for diabetes, it should similarly cover maintenance medication for depression and medicated assisted therapies for addiction.

IS MY MENTAL HEALTH CONDITION COVERED?

— KNOW YOUR COSTS —

Just like your other health benefits (doctors visits, prescription drugs, physical therapy), your mental health and substance abuse disorder benefits are subject to copays, coinsurance, deductibles and other out-of-pocket costs.



Understanding the costs associated with your plan:

- **Co-payment** = the dollar amount the patient is expected to pay at the time of service.
- **Deductible** = the amount you pay for health care expenses before insurance covers the costs. Often, health insurance plans have an annual deductible amount.
- **Co-insurance** = usually a % of the total cost you are responsible for after services have been provided.
- **More insurance definitions** = click [here](#) for additional health insurance terms.

YOU CAN CHECK THE ESTIMATED COST OF YOUR OUT-OF-POCKET EXPENSES IN THE FOLLOWING WAYS:

- Check your Summary of Benefits and Coverage (SBC) in your insurance paperwork
- Contact your insurer directly



KNOW Your Rights

- It is important that you are familiar with your plan and the type of benefits and coverages that are offered for mental health and substance abuse disorder conditions. Knowing your plan can help you determine the costs you will pay and help you identify any questions you may need to ask.
- If your insurer denies your claim or takes any other adverse action regarding your benefits, you have the right to ask that your claim be reviewed again.
- If your insurer continues to deny your claim, you have the right to request an independent review through the Ohio Department of Insurance.



If you believe that your plan has violated the law, you need more information about requesting an independent review or help filing a complaint, please call the Ohio Department of Insurance's CONSUMER HOTLINE at 800-686-1526.

John R. Kasich
Governor

Jillian Froment
Director



For additional information on how to file a consumer complaint with the Ohio Department of Insurance Consumer Services Division click [here](#).

Additional resources to help you navigate your mental health benefits:

- [Ohio Mental Health Parity Law](#)
- [The Mental Health Parity and Addiction Equity Act \(MHPAEA\)](#)
- [Your Guide to Health Insurance](#)
- [Ohio Mental Health and Addiction Services](#)
- [Interactive Coverage Chart](#)



ODI
Ohio Department
of Insurance