

# State Strategies to Improve Mental Health and Substance Use Disorder Parity

Part two of a three-part series from the American Medical Association<sup>1</sup>

## Introduction

State and federal authorities have wide authority to enforce mental health and substance use disorder (MH/SUD) parity laws. State departments of insurance, attorneys general, the U.S. Department of Labor (DOL) and the Centers for Medicare and Medicaid Services (CMS), have both the opportunity and the obligation to oversee health plan compliance with MH/SUD parity requirements. Parity enforcement also depends on the type of plan, with the federal government having jurisdiction over self-funded employer plans and state employee benefit plans. State governments are tasked with ensuring that people covered by individual insurance plans, small and large group insurance plans, and Medicaid managed care plans receive fair and comprehensive coverage for MH/SUD services.<sup>2</sup>

Despite the multiple authorities who have the opportunity to enforce MH/SUD parity protections, consistent and meaningful enforcement often presents a challenge for the federal government and state authorities. Effective review and oversight activities demand significant time and resources, straining the capacities of state regulators. The absence of reliable data provided by health insurers further complicates these reviews, leaving states hamstrung in their efforts to evaluate compliance. Compounding these challenges is a general lack of awareness among physicians and patients about state and federal MH/SUD protections, which further undermines the ability of states to identify potential violations.<sup>3</sup> That is, when patients are denied care by their health insurance company, the patient, family and physician/care team understandably focus their efforts to protect the patient rather than file an administrative complaint with a state department of insurance.

And even when there is awareness among regulators, physicians and patients about the important roles that regulators can play in helping intervene, reporting the denial of care or parity violation understandably takes a back seat to trying to secure care. As a result, recent reports highlight that in practice, health plan violations are pervasive, but meaningful MH/SUD parity enforcement has not kept pace, limiting the impact of MH/SUD parity protections on improving access to MH/SUD care.<sup>4, 5</sup> And as recent DOL/HHS/IRS reports to Congress illustrate, federal parity compliance similarly demonstrates health insurers' considerable and long-time failures in complying with MH/SUD parity laws.

### Mental Health Parity Enforcement by Health Plan Type

- **Private Fully Insured Health Plan:** A traditional health insurance product or a health maintenance organization (HMO), in which the state government is the primary source of enforcement and the federal government (CMS or DOL) is a secondary source of enforcement.
- **Self-Funded Employer Plan:** The employer is responsible for paying the medical claims for the employee and their dependents. Self-insured plans are *not* subject to traditional state insurance laws or protections. DOL is responsible for all enforcement efforts.
- **State Plans:** CMS is the primary enforcement entity for State Employee plans. States are responsible for enforcement involving Medicaid Managed Care plans.

### Compliance With Parity Analysis Requirements

In an effort to assess compliance with parity standards in Medicaid Managed Care, New York conducted an in-depth evaluation of mental health benefits administered by 17 MCOs. The [report](#) found that a majority failed to provide fully compliant comparative analyses.

These challenges are further underscored in state Medicaid and Children’s Health Insurance Programs (CHIP). States and managed care organizations (MCOs) are required to document and publish compliance with parity standards through publicly-available parity analyses.<sup>6</sup> Despite this mandate, the Medicaid and CHIP Access Commission found that comparative analysis requirements did not compel states or MCOs to significantly improve behavioral health benefits or markedly improve access to care.<sup>7</sup> A subsequent report from the U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) echoed these findings, highlighting the inadequate impact of parity requirements in Medicaid and CHIP.<sup>8</sup> The report revealed that CMS failed to ensure that selected states complied

with parity requirements, with over one-half of the selected states failing to conduct the required comparative analyses.

This is not to say that states are simply sitting on the sidelines. Efforts have included the use of traditional tools such as market conduct exams, comparative analyses, corrective action plans and fines to enforce MH/SUD parity. States commonly engage with health insurers behind the scenes to encourage compliance. The AMA appreciates these efforts and is publishing this issue brief to call attention to these traditional approaches, as well as additional strategies to enforce MH/SUD parity, improve access to care and identify/enforce parity violations. These other strategies might include enacting laws to bolster regulatory power, setting statewide standards for provider network adequacy, incorporating detailed rate and policy form reviews within annual procedures, and using outcome data to pinpoint gaps in MH/SUD coverage.<sup>9</sup> Strategies also must include continued coordination with state legislatures and the executive branches in state government to ensure sufficient funding for parity enforcement. And the AMA urges continued work among state departments of insurance to rely on each other for data collection templates and other forms that have been validated by their peers. Regardless of which tools may be available to state regulators, however, one of the key elements must be the willingness to use them and hold health plans accountable for their failures. After more than 15 years of health plans largely ignoring and flouting MH/SUD parity laws, the AMA believes that meaningful state enforcement efforts must increase.

## Methodology Overview

To identify MH/SUD parity violations and state enforcement actions, we reviewed publicly available information from the websites of 13 state attorneys general and departments of insurance that were selected to provide a diverse representation of states believed to have actively engaged in parity enforcement.<sup>10</sup> In the information that was readily available online, it was often difficult to identify the specific actions states have taken or enforcement actions and verification of corrective action plans required. While states not listed in this report may have taken similar actions as the snapshot provided below, it was incredibly difficult to find. It follows that the information presented below represents a snapshot of a much larger problem, including the need for increased transparency of health insurer compliance. The AMA has strongly supported efforts, for example, by the National Association of Insurance Commissioners’ Mental Health Parity and Addiction Equity Act [Working Group](#) to hold public hearings and develop resources for state regulators. The Working Group has provided regulators, consumer advocates and health policy stakeholders with invaluable information about the inner workings of parity enforcement and health insurers’ excuses for non-compliance. In addition to the lack of publicly available information on state websites, the NAIC hearings underscore that health plans believe they are successfully increasing access to MH/SUD services while national reports and physician and patient organizations continue to provide evidence demonstrating the opposite.

## MH/SUD Parity Violations and State Enforcement Actions

In this section, we highlight a subset of state best practices from our 13-state review of parity enforcement, addressing the following non-quantitative treatment limitations (NQTLs): treatment exclusions, prior authorization and continuing review, reimbursement rates, network adequacy, and inappropriate medical necessity standards and

review procedures, along with financial requirements. In the 13 states reviewed, we were able to document 31 enforcement actions. Twenty-four enforcement actions in our sample resulted in a fine or penalty, which ranged from \$23,000–\$18 million. For more expansive findings and results from this analysis, please see the Appendix.

### **Treatment Exclusions**

In 2018, Delaware enacted SB230,<sup>11</sup> mandating annual reporting requirements for plans and requiring compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008. The Delaware Department of Insurance (DOI) then began performing compliance reviews as part of annual market conduct exams. The department conducted two rounds of MH/SUD parity examinations in 2020 and 2021, finding, in addition to other violations, that five large insurers—Aetna, Cigna, Highmark BlueCross BlueShield, UnitedHealthcare and Optimum Choice—excluded certain treatment(s) from MH/SUD benefits. For example, auditors found that plans inappropriately limited the quantity, doses and the method of delivery for certain forms of medications for opioid use disorder, including methadone, buprenorphine and Suboxone. The department also noted that plans had different pharmacy benefit structures for MH/SUD, excluding the antidepressant, Pristiq, from cost-savings programs, and placing generic mental health medications, including antipsychotics and antidepressants on lower formulary tiers than comparable forms of medications used for physical health issues, requiring patients to pay more out of pocket for the medicine. As a result of these enforcement actions, plans were fined a total of \$1.3 million.<sup>12, 13</sup>

### **Prior Authorization and Continuing Review**

Several states in our sample took enforcement actions in response to prior authorization and continuing review violations. In these cases, plans had required patients or treating providers to obtain approval in advance of receiving or delivering MH/SUD services. For example, in 2020 the Connecticut Insurance Department (CID) fined Oxford HealthPlans and UnitedHealthcare \$575,000 and mandated that they fund \$500,00 in education programs for parity violations. These violations included excessive fail-first and step therapy requirements, as well as relatively stringent utilization review management for MH/SUD treatment. Additionally, the CID found that insurers required excessive pre-authorizations on MH/SUD drug formularies compared to formularies on the medical/surgical benefits.<sup>14</sup> Similarly, during market conduct exams in 2020 and 2021, the Delaware DOI found that health plans imposed more stringent prior authorization requirements on MH/SUD medications compared to medications for physical health concerns, including stimulant-based medication for attention deficit disorder, smoking cessation medications, buprenorphine for opioid use disorder and medications for binge eating disorders.<sup>15</sup>

### **Financial Requirements**

Colorado has been one of the more active states in terms of the legislature bolstering its MH/SUD statutory parity protections—and providing the state Division of Insurance with resources to review and take enforcement actions. Colorado, for example, is one of many states where the legislature and governor has consistently ensured the DOI has the funding to conduct its investigatory and enforcement obligations under the law. Since 2020, the DOI has issued regular reports detailing health plans' performance across a wide range of MH/SUD parity compliance requirements. Using its enforcement authority on financial requirements (e.g. cost-sharing, co-pays, co-insurance), plans were required to reduce cost-sharing to \$100 or less for in-patient and outpatient—both in-network and out-of-network—care that were found to be thousands of dollars of care. In its 2024 report to the state legislature, the DOI highlighted that 163 plans failed on its financial requirements compliance, but the 2024 report found only 25 plan failures.<sup>16</sup> The AMA strongly urges states to review the comprehensive nature of Colorado's parity protections, transparency actions and funding.

### **Reimbursement Rates**

MH/SUD providers often receive lower reimbursement rates than their medical/surgical peers, which has led to a growing disparity overall in resources for MH/SUD and physical health services.<sup>17</sup> In May 2023, Minnesota imposed a \$150,000 fine on HealthPartners for parity violations, including failure to adequately analyze or justify lower

reimbursement rates for MH/SUD services compared to physical health services. The state discovered that the plan reimbursed physical health providers at higher rates for certain billing codes compared to MH/SUD providers. Additionally, the state found that the plan failed to adequately analyze or justify why MH/SUD services were reimbursed at lower rates than comparable physical health services.<sup>18</sup> The plan agreed to undergo a corrective action plan and will be monitored by the Minnesota Department of Commerce (MDOC) for no less than one year.<sup>19</sup> In a subsequent market conduct exam, the MDOC found that Medica Insurance Company had also committed reimbursement rate violations. As a result, the plan agreed to undergo two years of monitoring and paid a \$300,000 fine to the department.<sup>20</sup>

### **Network Adequacy and Accurate Provider Directories**

The Illinois DOI imposed a \$1.25 million fine on Celtic Insurance Company. In addition to violation of state parity laws, Celtic failed to maintain an accurate provider directory for consumers seeking in-network providers. Additionally, the plan did not adhere to mandated time and distance standards—a clear violation of the state’s Network Adequacy and Transparency Act (NATA). The plan calculated time and distance standards based on straight-line distance as opposed to driving distance, which is required by Illinois law.<sup>21</sup> The market conduct report also highlights that the health plan failed to request exemptions when gaps in coverage were identified.<sup>22</sup>

Under the NATA, plans must ensure their provider directories are current, accurate and complete. Furthermore, they are required to locate preferred providers within reasonable travel time and distance from beneficiaries’ residences and contract with a sufficient number of providers to prevent excessive beneficiary-to-provider ratios.<sup>23</sup> Similar to Colorado, the Illinois legislature has not only enacted some of the nation’s most comprehensive parity protections in statute, the state has ensured that the DOI has the financial resources to implement the law.

### **Medical Necessity Standards and Review Procedures**

The Washington State Office of the Insurance Commissioner received federal grant funding under the Affordable Care Act to evaluate whether Washington health plans provided comprehensive and affordable access to MH/SUD care. Through this project, the insurance commissioner required health plans to respond to a data request. Using the data, the Commissioner’s office determined that a large health plan was violating state and federal parity requirements, prompting a detailed review of the company’s practices.

In October 2023, the Commissioner’s office fined UnitedHealthcare \$500,000 for conducting excessive reviews of MH/SUD inpatient facility care and issuing medical necessity denials more frequently for MH/SUD services than physical health services. The office also found that the insurer failed to address reimbursement rate violations, resulting in a disparity in payments for MH/SUD services.

Half of the \$500,000 fine has been suspended, contingent on the insurer adhering to a compliance plan. Under the compliance plan, the insurer must address its parity violations and regularly report to the Commissioner’s office for two years. This reporting includes prior authorization approval rates for inpatient care, office visit reimbursement rates, out-of-network provider usage, and comparable network adequacy standards for MH/SUD and physical health benefits. The agreement stipulates that if there is a disparity exceeding 10% between MH/SUD and medical/surgical benefits, the plan must demonstrate to the Commissioner’s office how it will resolve the disparity.<sup>24</sup>

### **Compliance With Comparative Analysis Requirements**

The Pennsylvania Insurance Department (PID) fined Highmark for failing to comply with comparative analysis requirements. The department found that complete and timely quantitative and NQTL analyses were unavailable and there was no evidence that NQTL analyses were completed during the evaluation period. Additionally, the PID discovered that some quantitative treatment limits (QTLs) and NQTLs were not applied correctly. The PID also identified issues with the plan failing to deliver timely premium refunds following policy cancellations and problems with claims filing and processing.



As a result, the PID imposed a \$205,000 fine on the plan and required it to reprocess all incorrect claims, demonstrating proof of payment and restitutions within two years. The plan must also report to the PID quarterly for two years and submit to future reexaminations. The AMA notes that Pennsylvania was one of the country's early leaders at the NAIC in helping identify a need for common templates and other forms to help states.

### **The Role of State Attorneys General**

In addition to the important role that state departments of insurance play to enforce MH/SUD parity laws, state attorneys general also can play a powerful role. Massachusetts and New York provide excellent examples where the state AGs took action. In New York, enforcement actions have taken place—and been publicized—since 2014 against many different health plans. Violations have included a wide range of areas including treatment violations, prior authorization, inappropriate medical necessity standards and review procedures.<sup>25</sup> In Massachusetts, a 2020 settlement occurred between the Commonwealth and five health plans and two behavioral health companies for violations in areas including disparities in reimbursement rates, prior authorization, inadequate networks and other NQTLs.<sup>26</sup> The AMA encourages both state DOIs and state AGs to take increased action to enforce state MH/SUD parity laws.

### **Conclusion**

Without enforcement of MH/SUD parity laws, it is highly unlikely health plans will change their behaviors. This analysis highlights that several states have taken action to enforce MH/SUD parity laws, however substantial challenges remain in the pursuit of MH/SUD parity and improved access to care. As detailed in the first issue brief in this series, health plans have regularly been found to violate parity laws. As this issue brief describes, enforcement actions have occurred, but much more is needed. The AMA supports the need for states to obtain increased resources to conduct investigatory and enforcement actions. The federal government can enhance grant funding and technical support for state enforcement agencies. The AMA also supports the NAIC's MHPAEA Working Group's efforts to build educational resources and bring attention to the practices health insurers use to avoid parity compliance. The AMA urges states to similarly adopt those helpful templates and ensure state laws allow for increased transparency so consumers can see whether their health plan complies with the law. States also may be able to blend and braid funding streams using state opioid litigation settlement funds that can be directed at efforts to increase access to MH/SUD services. And finally, the new MHPAEA final rule contains multiple provisions that states can adopt to bring increased clarity for regulators and health plans to increase compliance with MHPAEA at both the state and federal levels. After more than 15 years of health plans' failures to comply—and patients suffering as a result—the AMA understands the challenges states are facing and urges states to work with the medical and patient community to ensure patients have the protections and care they need.

Appendix. State Mental Health and SUD Enforcement Actions, 2014-2024

State Agency	Date	Health Plan	Action	Fine	Violation
California Department of Managed Health Care <sup>27</sup>	July 2017	<ul style="list-style-type: none"> <li>• Kaiser Permanente</li> </ul>	<ul style="list-style-type: none"> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Network Adequacy and Accurate Provider Directories</li> </ul>
California Department of Managed Health Care <sup>28</sup>	October 2023	<ul style="list-style-type: none"> <li>• Kaiser Permanente</li> </ul>	<ul style="list-style-type: none"> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• \$50 million</li> <li>• \$150 million in behavioral health delivery system investments</li> </ul>	<ul style="list-style-type: none"> <li>• Network Adequacy and Accurate Provider Directories</li> </ul>
Colorado Division of Insurance <sup>29</sup>	June 2024	<ul style="list-style-type: none"> <li>• Aetna</li> <li>• Cigna Health and Life Insurance Company</li> <li>• HMO Colorado Inc (Anthem)</li> <li>• Rocky Mountain Health Maintenance Organization</li> <li>• Rocky Mountain Hospital &amp; Medical Service, Inc., D.B.A. Anthem Blue Cross and Blue Shield</li> <li>• UnitedHealthcare Insurance Company</li> </ul>	<ul style="list-style-type: none"> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>	<ul style="list-style-type: none"> <li>• Disparities in financial requirements</li> </ul>
Connecticut Division of Insurance <sup>30</sup>	July 2020	<ul style="list-style-type: none"> <li>• Oxford HealthPlans</li> <li>• UnitedHealthcare</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• \$575,000</li> <li>• \$500,000 in payments for education programs</li> </ul>	<ul style="list-style-type: none"> <li>• Comparative Analyses</li> <li>• Prior Authorization/Continuing Review</li> </ul>
Delaware Department of Insurance <sup>31</sup>	November 2020	<ul style="list-style-type: none"> <li>• Aetna</li> <li>• Cigna</li> <li>• Highmark BCBSD Inc</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>• \$597,000</li> </ul>	<ul style="list-style-type: none"> <li>• Prior Authorization/Continuing Review</li> </ul>

State Agency	Date	Health Plan	Action	Fine	Violation
		<ul style="list-style-type: none"> <li>• UnitedHealthcare</li> <li>• Optimum Choice</li> </ul>			<ul style="list-style-type: none"> <li>• Treatment Exclusion</li> <li>• Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
Delaware Department of Insurance <sup>32</sup>	July 2021	<ul style="list-style-type: none"> <li>• Aetna</li> <li>• Cigna</li> <li>• Highmark BCBSD Inc</li> <li>• UnitedHealthcare</li> <li>• Optimum Choice</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>• \$735,000</li> </ul>	<ul style="list-style-type: none"> <li>• Prior Authorization/Continuing Review</li> <li>• Treatment Exclusion</li> </ul>
Illinois Department of Insurance <sup>33, 34, 35, 36</sup>	July 2020	<ul style="list-style-type: none"> <li>• Cigna</li> <li>• UnitedHealthcare</li> <li>• Health Care Service Corporation</li> <li>• Celtic Insurance Company</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>• \$2 million</li> </ul>	<ul style="list-style-type: none"> <li>• Prior Authorization/Continuing Review</li> <li>• Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
Illinois Department of Insurance <sup>37</sup>	October 2022	<ul style="list-style-type: none"> <li>• Celtic Insurance Company</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>• \$1.25 million</li> </ul>	<ul style="list-style-type: none"> <li>• Prior Authorization/Continuing Review</li> <li>• Inappropriate Medical Necessity Standards and Review Procedures</li> <li>• Comparative Analyses</li> <li>• Treatment Exclusion</li> </ul>
Illinois Department of Insurance <sup>38</sup>	January 2023	<ul style="list-style-type: none"> <li>• Quartz Health Insurance Corporation</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>• \$500,000</li> </ul>	<ul style="list-style-type: none"> <li>• Inappropriate Medical Necessity Standards and Review Procedures</li> <li>• Treatment Exclusions</li> <li>• Prior Authorization/Continuing Review</li> </ul>
Massachusetts Attorney General <sup>39</sup>	February 2020	<ul style="list-style-type: none"> <li>• Harvard Pilgrim Health Care</li> <li>• United Behavioral Health</li> <li>• Fallon Community Health Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>• \$990,000</li> </ul>	<ul style="list-style-type: none"> <li>• Network Adequacy and Accurate Provider Directories</li> <li>• Reimbursement Rates</li> </ul>

State Agency	Date	Health Plan	Action	Fine	Violation
		<ul style="list-style-type: none"> <li>• Beacon Health Strategies</li> <li>• AllWays Health Partners</li> <li>• Blue Cross Blue Shield of Massachusetts</li> <li>• Tufts Health Plan</li> </ul>			<ul style="list-style-type: none"> <li>• Prior Authorization/Continuing Review</li> </ul>
Minnesota Department of Commerce <sup>40</sup>	May 2023	<ul style="list-style-type: none"> <li>• HealthPartners</li> </ul>	<ul style="list-style-type: none"> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• \$150,000</li> </ul>	<ul style="list-style-type: none"> <li>• Reimbursement Rates</li> <li>• Prior Authorization/Continuing Review</li> </ul>
Minnesota Department of Commerce <sup>41</sup>	July 2023	<ul style="list-style-type: none"> <li>• Medica Insurance Company</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• \$300,000</li> </ul>	<ul style="list-style-type: none"> <li>• Reimbursement Rates</li> <li>• <b>Inappropriate Medical Necessity Standards and Review Procedures</b></li> <li>• Prior Authorization/Continuing Review</li> </ul>
Minnesota Department of Commerce <sup>42</sup>	May 2024	<ul style="list-style-type: none"> <li>• UnitedHealthcare</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> <li>• Corrective Action</li> </ul>	<ul style="list-style-type: none"> <li>• \$450,000</li> </ul>	<ul style="list-style-type: none"> <li>• Reimbursement Rates</li> <li>• Network Adequacy and Accurate Provider Directories</li> <li>• Prior Authorization/Continuing Review</li> </ul>
New Hampshire Insurance Department <sup>43</sup>	February 2020	<ul style="list-style-type: none"> <li>• Anthem</li> <li>• Ambetter by NH Healthy Families</li> <li>• Harvard Pilgrim</li> </ul>	<ul style="list-style-type: none"> <li>• Report of Market Conduct Exam</li> <li>• Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>• NONE</li> </ul>	<ul style="list-style-type: none"> <li>• Reimbursement Rates</li> <li>• Prior Authorization/Continuing Review</li> <li>• Inappropriate Medical Necessity Standards and Review Procedures</li> <li>• Comparative Analyses</li> <li>• Network Adequacy and Accurate Provider Directories</li> </ul>
New York Attorney General <sup>44</sup>	January 2014	<ul style="list-style-type: none"> <li>• Cigna</li> </ul>	<ul style="list-style-type: none"> <li>• Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>• \$23,000</li> </ul>	<ul style="list-style-type: none"> <li>• Treatment Exclusion</li> </ul>



<b>State Agency</b>	<b>Date</b>	<b>Health Plan</b>	<b>Action</b>	<b>Fine</b>	<b>Violation</b>
New York Attorney General <sup>45</sup>	March 2014	<ul style="list-style-type: none"> <li>MVP</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$300,000</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> <li>Quantitative Treatment Limitation</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
New York Attorney General <sup>46</sup>	July 2014	<ul style="list-style-type: none"> <li>EmblemHealth</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$1.2 million</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> <li>Quantitative Treatment Limitation</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
New York Attorney General <sup>47</sup>	March 2015	<ul style="list-style-type: none"> <li>Beacon Health Options</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$900,000</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> <li>Quantitative Treatment Limitation</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
New York Attorney General <sup>48</sup>	March 2015	<ul style="list-style-type: none"> <li>Excellus</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$500,000</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> <li>Quantitative Treatment Limitation</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
New York Attorney General <sup>49</sup>	August 2016	<ul style="list-style-type: none"> <li>HealthNow</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>NONE</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> </ul>

State Agency	Date	Health Plan	Action	Fine	Violation
					<ul style="list-style-type: none"> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
New York Attorney General <sup>50</sup>	October 2016	<ul style="list-style-type: none"> <li>Cigna</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>NONE</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> </ul>
New York Attorney General <sup>51</sup>	January 2017	<ul style="list-style-type: none"> <li>Anthem/Empire Blue Cross Blue Shield</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>NONE</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> </ul>
New York Attorney General and U.S. Department of Labor <sup>52</sup>	August 2021	<ul style="list-style-type: none"> <li>UnitedHealthcare</li> <li>United Behavioral Health</li> <li>Oxford Health Insurance</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$18 million</li> </ul>	<ul style="list-style-type: none"> <li>Reimbursement Rates</li> <li>Prior Authorization/Continuing Review</li> </ul>
New York Department of Financial Services <sup>53</sup>	December 2021	<ul style="list-style-type: none"> <li>Aetna</li> <li>Oscar</li> <li>Wellfleet</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$3.1 million</li> </ul>	<ul style="list-style-type: none"> <li>Quantitative Treatment Limitation</li> </ul>
Oregon Department of Consumer and Business Services <sup>54, 55</sup>	March 2017	<ul style="list-style-type: none"> <li>Pioneer Educators Health Trust</li> <li>Regence BlueCross BlueShield of Oregon</li> <li>UnitedHealthcare</li> <li>Kaiser Foundation Health Plan of the Northwest</li> </ul>	<ul style="list-style-type: none"> <li>Settlement of Investigation</li> </ul>	<ul style="list-style-type: none"> <li>\$550,000</li> </ul>	<ul style="list-style-type: none"> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
Pennsylvania Insurance Department <sup>56</sup>	January 2019	<ul style="list-style-type: none"> <li>Aetna</li> </ul>	<ul style="list-style-type: none"> <li>Report of Market Conduct Exam</li> <li>Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>\$190,000</li> </ul>	<ul style="list-style-type: none"> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> <li>Prior Authorization/Continuing Review</li> </ul>
Pennsylvania Insurance Department <sup>57</sup>	November 2019	<ul style="list-style-type: none"> <li>UPMC Health Plans</li> </ul>	<ul style="list-style-type: none"> <li>Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>\$1 million</li> <li>\$800,000 to fund a consumer</li> </ul>	<ul style="list-style-type: none"> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>

State Agency	Date	Health Plan	Action	Fine	Violation
				education campaign	
Pennsylvania Insurance Department <sup>58</sup>	December 2021	<ul style="list-style-type: none"> <li>UPMC Health Plans</li> </ul>	<ul style="list-style-type: none"> <li>Report of Market Conduct Exam</li> <li>Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>\$250,000</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
Pennsylvania Insurance Department <sup>59</sup>	February 2023	<ul style="list-style-type: none"> <li>Highmark</li> </ul>	<ul style="list-style-type: none"> <li>Report of Market Conduct Exam</li> <li>Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>\$205,000</li> </ul>	<ul style="list-style-type: none"> <li>Comparative Analyses</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>
Rhode Island Office of the Health Insurance Commissioner <sup>60</sup>	September 2018	<ul style="list-style-type: none"> <li>BlueCross BlueShield of Rhode Island</li> </ul>	<ul style="list-style-type: none"> <li>Report of Market Conduct Exam</li> </ul>	<ul style="list-style-type: none"> <li>\$5 million was directed into a fund at the RI Foundation, which is used for prevention of mental health problems and intervention</li> </ul>	<ul style="list-style-type: none"> <li>Prior Authorization/Continuing Review</li> </ul>
Washington Office of the Insurance Commissioner <sup>61</sup>	October 2023	<ul style="list-style-type: none"> <li>UnitedHealthcare</li> </ul>	<ul style="list-style-type: none"> <li>Corrective Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>\$500,000</li> </ul>	<ul style="list-style-type: none"> <li>Reimbursement Rates</li> <li>Inappropriate Medical Necessity Standards and Review Procedures</li> </ul>

<sup>1</sup> The second publication in our three-part series, this brief highlights MH/SUD parity violations, primarily nonquantitative treatment limitations (NQTLs), and lifts up state best practices and enforcement actions in response to these issues (*see part 1 of this series for more information on NQTLs*). While this second publication showcases numerous parity violations and state enforcement actions, it is not intended to be a comprehensive review of all violations or state best practices (*see Appendix A for a more expansive set of findings and results from this analysis*).

<sup>2</sup> Kaye Pestaina, Mental Health Parity at a Crossroads, Table 2: MHPAEA Enforcement. Aug 18, 2022. Available at: <https://www.kff.org/mental-health/issue-brief/mental-health-parity-at-a-crossroads/>.

<sup>3</sup> Robert Wood Johnson Foundation, States Struggle to Ensure Equal Access to Behavioral Health Services Amid Mental Health Crisis. October, 1, 2022. Available at: <https://www.rwjf.org/en/insights/our-research/2022/10/states-struggle-to-ensure-equal-access-to-behavioral-health-services-amid-mental-health-crisis.html>.

<sup>4</sup> United States Government Accountability Office, GAO-20-150, Mental Health and Substance Use State and Federal Oversight of compliance with Parity Requirement Varies. (December 2019), Available at: <https://www.gao.gov/assets/gao-20-150.pdf>.

<sup>5</sup> MHPAEA Comparative Analysis Report to Congress. U.S. Department of the Treasury. U.S. Department of Labor. U.S. Department of Health and Human Services. July 2023. Available at: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2023-mhpaea-comparative-analysis.pdf>.

<sup>6</sup> Medicaid and CHIP Payment and Access Commission. Implementation of the Mental Health Parity and Addiction Equity Act in Medicaid and CHIP. July 2021. Available at: <https://www.macpac.gov/wp-content/uploads/2021/07/Implementation-of-the-Mental-Health-Parity-and-Addiction-Equity-Act-in-Medicaid-and-CHIP.pdf>

<sup>7</sup> IBID.

<sup>8</sup> U.S. Department of Health and Human Services Office of Inspector General. CMS Did Not Ensure that Selected States Complied with Medicaid Managed Care Mental Health and Substance Use Disorder Parity Requirements. March 2024. Available at: <https://oig.hhs.gov/documents/audit/9831/A-02-22-01016.pdf>.

<sup>9</sup> Commonwealth Fund, Enforcing Mental Health Parity: State Options to Improve Access to Care. August 2024. Available at: <https://www.commonwealthfund.org/publications/issue-briefs/enforcing-mental-health-parity-state-options-improve-access-care>.

<sup>10</sup> The 13 states were California, Colorado, Connecticut, Delaware, Illinois, Massachusetts, Minnesota, New Hampshire, New York, Oregon, Pennsylvania, Rhode Island and Washington. To complete the search, researchers visited the website of each state Attorney General and Department of Insurance and searched for the following key terms: “parity”, mental health parity”, “behavioral health”, and “mental health.”

<sup>11</sup> Delaware Senate Bill 230; Available at: <https://legis.delaware.gov/BillDetail?legislationId=26758>.

<sup>12</sup> Delaware.gov, Press Release. Delaware’s First Mental Health Parity Examinations Complete. November 19, 2020. Available at: <https://news.delaware.gov/2020/11/19/delawares-first-mental-health-parity-examinations-complete/>.

<sup>13</sup> Delaware.gov, Press Release. Mental Health Parity Examinations Find Inequities in Insurer Behavior. July 2021. Available at: <https://news.delaware.gov/2021/07/26/mental-health-parity-examinations-find-inequities-in-insurer-behavior/>.

<sup>14</sup> Kennedy Forum. State Parity Regulatory Enforcement Actions. Available at: <https://www.paritytrack.org/resources/state-parity-enforcement-actions/>.

<sup>15</sup> Kennedy Forum. State Parity Regulatory Enforcement Actions. Available at: <https://www.paritytrack.org/resources/state-parity-enforcement-actions/>.

<sup>16</sup> Mental Health Parity: Implementation and Enforcement by the Colorado Division of Insurance. June 1, 2024. Available at <https://drive.google.com/file/d/1tne95PNZAiiq085NLCsGBEG0we18WEnl/view>

<sup>17</sup> Steve Melek et al., Additional and mental health vs. physical health: Widening disparities in network use and provider reimbursement, at 6 (Nov. 19, 2019). Available at: <https://www.milliman.com/-/media/milliman/importedfiles/ektron/addictionandmentalhealthvsphysicalhealthwideningdisparitiesinnetworkuseandproviderreimbursement.ashx>.

<sup>18</sup> Minnesota Commerce Department. Consent Order Requires HealthPartners to Revamp Processes for Mental Health Coverage to Comply with Parity Laws. May 2023. Available at: <https://mn.gov/commerce/news/?id=17-576476>.

<sup>19</sup> Star Tribune. Minnesota fines HealthPartners \$150K over alleged mental health parity violations. Available at: <https://www.startribune.com/healthpartners-insurer-fined-150k-over-alleged-mental-health-parity-violations-in-minnesota/600272382/?refresh=true>.

<sup>20</sup> ABC5. Medica to pay \$300,000 fine for violating mental health parity laws. Available at: <https://kstp.com/kstp-news/local-news/medica-to-pay-300000-fine-for-violating-mental-health-parity-laws/>.

- <sup>21</sup> Illinois.gov, Press Release. Pritzker Administration Announces a \$1.25 million fine for Celtic Insurance Company for Violation of the Mental Health Parity and Addiction Equity Act and the Network Adequacy and Transparency Act, October 18, 2022. Available at <https://doi.illinois.gov/news/press-release.25578.html>.
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- <sup>23</sup> 215 ILCS 124—Network Adequacy and Transparency Act; Available at <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3824&ChapterID=22>.
- <sup>24</sup> Washington, OIC Press Release. Kreidler fines UnitedHealthcare \$500,000 for not demonstrating compliance with mental health parity laws, October 2023. Available at: <https://www.insurance.wa.gov/news/kreidler-fines-unitedhealthcare-500000-not-demonstrating-compliance-mental-health-parity-laws>.
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- <sup>26</sup> Massachusetts Office of the Attorney General, Press Release. AG Healey Announces Groundbreaking Agreements that Expand Access to Behavioral Health Services for More Than One Million Residents. February 27, 2020. Available at: <https://www.mass.gov/news/ag-healey-announces-groundbreaking-agreements-that-expand-access-to-behavioral-health-services-for-more-than-one-million-residents>.
- <sup>27</sup> Department of Managed Health Care 2017 Annual Report. Available at: <https://dmhc.ca.gov/Portals/0/Docs/DO/2017-Annual-Report-web.pdf>.
- <sup>28</sup> Department of Managed Health Care Press Release. DMHC, Kaiser Permanente Reach Settlement Agreement to Transform Plan’s Behavioral Health Care Delivery System and Improve Behavioral Health Statewide. October 2023. Available at: <https://www.dmhc.ca.gov/Resources/Newsroom/October12,2023.aspx#:~:text=The%20settlement%20agreement%20includes%20a,behavioral%20health%20care%20to%20enrollees>.
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<sup>45</sup> IBID.

<sup>46</sup> IBID.

<sup>47</sup> IBID.

<sup>48</sup> IBID.

<sup>49</sup> IBID.

<sup>50</sup> IBID.

<sup>51</sup> IBID.

<sup>52</sup> New York State Office of the Attorney General, Press Release. Attorney General James and U.S. Department of Labor Deliver \$14 Million to Consumers Who Were Denied Mental Health Care Coverage. August 12, 2021. Available at: <https://ag.ny.gov/press-release/2021/attorney-general-james-and-us-department-labor-deliver-14-million-consumers-who>.

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