AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 222
(A-24)

Introduced by: Resident and Fellow Section

Subject: Studying Avenues for Parity in Mental Health & Substance Use Coverage

Referred to: Reference Committee B

Whereas, the Mental Health Parity Act passed in 1996 and was the first law to impose any sort of parity between mental and physical health care, with an imposition on the annual or lifetime dollar limits on mental health benefits being any less favorable than those imposed on medical/surgical benefits[1]; and

Whereas, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 took this concept further by preventing group health plans and health insurance insurers from imposing less favorable benefit limitations for mental health or substance use disorder benefits than on medical/surgical benefits[1]; and

Whereas, prior to and since the inception of these federal laws, our AMA has been advocating for parity in insurance benefits for those receiving mental health and substance use care (H-185.974, H-168.888); and

Whereas, despite violations being found in every investigation of insurance companies, as well as multiple AMA policies supporting parity and calling for compliance with parity laws (D-180.998, H-185.916, H-185.974), parity still does not exist and health plans are not remotely close to following parity laws regarding mental health/substance use benefits[2,3]; and

Whereas, both the 2022 DOL/HHS/IRS Report to Congress & July 2023 MHPAEA Comparative Analysis Report to Congress showed widespread violations and repeated failure of health plans to provide sufficient, accurate information to regulators to perform the comparative analyses required by law[2,3]; and

Whereas, a 2023 Robert Wood Johnson Foundation Report found that cost-sharing was decreased for mental health when compared to primary care visits, such that 17% of plans required that a deductible be satisfied for mental health visits but not primary care visits, and that despite reporting these deficits year after year, they remain unchanged[4,5]; and

Whereas, in Georgia, 24 health plans provided no information to the state Department of Insurance (DOI) to perform its statutorily-required comparative analyses and of the 28 plans that did submit information, none submitted sufficient information for the DOI to perform the comparative analyses[6]; and

Whereas, lack of compliance occurs at both the federal and the state level, without significant consequences including continuing to allow insurer participation in state-delivered insurance plans[6]; therefore be it

RESOLVED, that our American Medical Association study potential penalties to insurers for not complying with mental health and substance use parity laws. (Directive to Take Action)

Fiscal Note: Modest - between $1,000 - $5,000

Received: 4/24/2024

REFERENCES:

1. The Mental Health Parity and Addiction Equity Act (MHPAEA). CMS.gov. September 6, 2023. Accessed September 25, 2023. https://www.cms.gov/marketplace/private-health-insurance/mental-health-parity-addiction-equity.
2. Realizing Parity, Reducing Stigma, and Raising Awareness: Increasing Access to Mental Health and Substance Use Disorder Coverage. 2022 MHPAEA Report to Congress. 2AD. Accessed September 25, 2023. https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2022-realizing-parity-reducing-stigma-and-raising-awareness.pdf.
3. 2023 MHPAEA Comparative Analysis Report to Congress. 2AD. Accessed September 25, 2023. https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2023-mhpaea-comparative-analysis.pdf
4. Hempstead K. Cost-sharing for mental health services and primary care in the individual and small group markets. is it always the same? RWJF. October 17, 2022. Accessed September 25, 2023. https://www.rwjf.org/en/insights/our-research/2022/10/marketplace-pulse-cost-sharing-for-mental-health-services-and-primary-care-in-the-individual-and-small-group-markets.html.
5. Hempstead K. Differences in cost-sharing for mental health and primary care services persist. RWJF. August 24, 2023. Accessed September 25, 2023. https://www.rwjf.org/en/insights/our-research/2023/08/marketplace-pulse-differences-in-cost-sharing-for-mental-health-and-primary-care-services-persist.html.
6. Jordan Sieder J. Georgia insurance companies flout mental health parity reporting requirements. State Affairs. September 8, 2023. Accessed September 25, 2023. https://stateaffairs.com/georgia/healthcare/georgia-insurance-companies-flout-mental-health-parity-reporting-requirements/.

RELEVANT AMA POLICY:

Expanding Parity Protections and Coverage of Mental Health and Substance Use Disorder Care H-185.916
Our AMA supports requirements of all health insurance plans to implement a compliance program to demonstrate compliance with state and federal mental health parity laws. [Res. 216, I-22]

Parity for Mental Health and Substance Use Disorders in Health Insurance Programs H-185.974
1. Our AMA supports parity of coverage for mental, health, and substance use disorders.
2. Our AMA supports federal legislation, standards, policies, and funding that enforce and expand the parity and non-discrimination protections of the Paul Wellstone and Peter Domenici Mental Health Parity and Addiction Equity Act of 2008 to Medicare (Parts A, B, C and D).
3. Our AMA supports federal legislation, standards, policies, and funding that require Medicare coverage (Parts A, B, C, and D) of all levels of mental health and substance use disorder care, consistent with nationally recognized medical professional organization level of care criteria for mental health or substance use disorders. [Res. 212, A-96, Reaffirmation A-97, Reaffirmed: Res. 215, I-98, Reaffirmation A-99, Reaffirmed: BOT Action in response to referred for decision Res. 612, I-99, Reaffirmation A-00, Reaffirmed: CMS Rep. 9, A-01, Reaffirmation A-02, Reaffirmation I-03, Modified: CMS Rep. 2, A-08, Reaffirmed: CMS Rep. 5, I-12, Reaffirmed in lieu of Res. 804, I-13, Reaffirmation A-15, Modified: Res. 113, A-16, Modified: Res. 216, I-22]

Insurance Parity for Mental Health and Psychiatry D-180.998
Our AMA in conjunction with the American Psychiatric Association and other interested organizations will develop model state legislation for the use of state medical associations and specialty societies to promote legislative changes assuring parity for the coverage of mental illness, alcoholism, and substance abuse. [Res. 215, I-98, Reaffirmation I-03, Reaffirmed in lieu of Res. 910, I-06, Reaffirmation A-15]

Maintaining Mental Health Services by States H-345.975
Our AMA:
1. supports maintaining essential mental health services at the state level, to include maintaining state inpatient and outpatient mental hospitals, community mental health centers, addiction treatment centers, and other state-supported psychiatric services;
2. supports state responsibility to develop programs that rapidly identify and refer individuals with

significant mental illness for treatment, to avoid repeated psychiatric hospitalizations and repeated interactions with the law, primarily as a result of untreated mental conditions;
3. supports increased funding for state Mobile Crisis Teams to locate and treat homeless individuals with mental illness;
4. supports enforcement of the Mental Health Parity Act at the federal and state level; and
5. will take these resolves into consideration when developing policy on essential benefit services.
[Res. 116, A-12, Reaffirmation A-15, Reaffirmed: Res. 414, A-22]

Evaluating Health System Reform Proposals H-165.888
1. Our AMA will continue its efforts to ensure that health system reform proposals adhere to the following principles:
A. Physicians maintain primary ethical responsibility to advocate for their patients' interests and needs.
B. Unfair concentration of market power of payers is detrimental to patients and physicians, if patient freedom of choice or physician ability to select mode of practice is limited or denied. Single-payer systems clearly fall within such a definition and, consequently, should continue to be opposed by the AMA. Reform proposals should balance fairly the market power between payers and physicians or be opposed.
C. All health system reform proposals should include a valid estimate of implementation cost, based on all health care expenditures to be included in the reform; and supports the concept that all health system reform proposals should identify specifically what means of funding (including employer-mandated funding, general taxation, payroll or value-added taxation) will be used to pay for the reform proposal and what the impact will be.
D. All physicians participating in managed care plans and medical delivery systems must be able without threat of punitive action to comment on and present their positions on the plan's policies and procedures for medical review, quality assurance, grievance procedures, credentialing criteria, and other financial and administrative matters, including physician representation on the governing board and key committees of the plan.
E. Any national legislation for health system reform should include sufficient and continuing financial support for inner-city and rural hospitals, community health centers, clinics, special programs for special populations and other essential public health facilities that serve underserved populations that otherwise lack the financial means to pay for their health care.
F. Health system reform proposals and ultimate legislation should result in adequate resources to enable medical schools and residency programs to produce an adequate supply and appropriate generalist/specialist mix of physicians to deliver patient care in a reformed health care system.
G. All civilian federal government employees, including Congress and the Administration, should be covered by any health care delivery system passed by Congress and signed by the President.
H. True health reform is impossible without true tort reform.
2. Our AMA supports health care reform that meets the needs of all Americans including people with injuries, congenital or acquired disabilities, and chronic conditions, and as such values function and its improvement as key outcomes to be specifically included in national health care reform legislation.
3. Our AMA supports health care reform that meets the needs of all Americans including people with mental illness and substance use / addiction disorders and will advocate for the inclusion of full parity for the treatment of mental illness and substance use / addiction disorders in all national health care reform legislation.
4. Our AMA supports health system reform alternatives that are consistent with AMA principles of pluralism, freedom of choice, freedom of practice, and universal access for patients.
[Res. 118, I-91, Res. 102, I-92, BOT Rep. NN, I-92, BOT Rep. S, A-93, Reaffirmed: Res. 135, A-93, Reaffirmed: BOT Reps. 25 and 40, I-93, Reaffirmed in lieu of Res. 714, I-93, Res. 130, I-93, Res. 316, I-93, Sub. Res. 718, I-93, Reaffirmed: CMS Rep. 5, I-93, Res. 124, A-94, Reaffirmed by BOT Rep.1- I-94, CEJA Rep. 3, A-95, Reaffirmed: BOT Rep. 34, I-95, Reaffirmation A-00, Reaffirmation A-01, Reaffirmed: CMS Rep. 10, A-03, Reaffirmed: CME Rep. 2, A-03, Reaffirmed and Modified: CMS Rep. 5, A-04, Reaffirmed with change in title: CEJA Rep. 2, A-05, Consolidated: CMS Rep. 7, I-05, Reaffirmation I-07, Reaffirmed in lieu of Res. 113, A-08, Reaffirmation A-09, Res. 101, A-09, Sub. Res. 110, A-09, Res. 123, A-09, Reaffirmed in lieu of Res. 120, A-12, Reaffirmation: A-17]