

HOW STATE LEADERS CAN IMPROVE ACCESS TO BEHAVIORAL HEALTH CARE

THE
CARTER CENTER



Federal and state laws require that most health insurance plans' coverage for behavioral health care be *no more restrictive* than coverage for physical health care. But Georgians often have more difficulty getting coverage for their mental health conditions and substance use disorders than they do accessing other medical care.

For example, Georgians may be:

- Unable to get urgent treatment due to prior authorization delays or denials.
- Required to pay higher co-pays or a larger share of the treatment cost for mental health services than for other kinds of health care.
- Limited to fewer visits for care.
- Denied coverage for mental health services because they are deemed “not medically necessary,” without being given an explanation.

A [study](#) showed that in 2017, Georgians were 4.2 times as likely to have to go out of network for an office visit for behavioral health services, as compared to primary care.

Without parity, people in Georgia are:

- Forced to navigate a confusing insurance system in the middle of a crisis.
- Unable to access early treatment for themselves or their children that can prevent a more costly crisis down the road.
- More likely to become jobless, homeless, or incarcerated, or even die from overdoses or suicide, due to lack of treatment.

Parity is fundamental to the ability to access behavioral health treatment. Enforcing parity leads to better health outcomes and can save lives. Enforcing parity will also benefit the state budget. By encouraging insurers to pay for the treatment to which beneficiaries are entitled, Georgia can reduce more costly interventions, such as the need for hospitalization or crisis services and the shifting of costs to the state's behavioral health system of care. Georgia may also be able to prevent people's unnecessary engagement with the criminal justice system because their behavioral health conditions are not adequately treated. Finally, behavioral health provider shortages in rural areas could be alleviated if providers were better able to bill for their services.

Many states are taking action now to pass legislation and enact administrative rules to improve parity enforcement by collecting comprehensive, accurate data from insurers on a regular basis and creating an effective monitoring and accountability framework. In Arizona, the state legislature recently passed [Jake's Law](#), named for a 15-year-old who died by suicide less than three months after insurers declined his parents' request for a longer inpatient stay. Other states, such as Texas, are taking steps to increase parity enforcement through administrative rules.

To enforce parity, states are:

- Updating and aligning state law with the federal Mental Health Parity and Addiction Equity Act.
- Requiring insurers to submit an annual report to the relevant state agency demonstrating that medical necessity criteria and nonquantitative treatment limitations (NQTL) for mental health and substance use disorder benefits are comparable to medical and surgical benefits.



- Using standard tools to analyze the data for compliance and making data on parity compliance publicly available.

The Georgia Behavioral Health Reform and Innovation Commission's first-year [report](#) to the governor and legislature includes parity as a top recommendation for increasing access to care and strengthening the workforce.

There are feasible steps that Georgia can take in the near term to ensure that public and private health insurance plans provide the required coverage for people with behavioral health conditions.

The Georgia Department of Community Health enforces parity for Medicaid Care Management Organizations (CMOs).

To enforce parity, the Georgia Department of Community Health can:

- Include clear parity provisions in Medicaid managed care contracts.
- Require CMOs to submit complete parity compliance analyses and data to demonstrate compliance, analyze the data, set targets for improvement, and enforce parity provisions.
- Improve accountability through full transparency and by making this data available to the public.
- Undertake public education efforts to ensure that Georgians know how to report a parity violation to the state, so that denials can be tracked and addressed.

The Office of Insurance and Safety Fire Commissioner enforces parity for private insurance plans, including individual, marketplace, small business, and large employer plans that are not self-funded.

To enforce parity, the Office of Insurance and Safety Fire Commissioner can:

- Make it easy for consumers and providers to report suspected parity violations online and conduct public education about how consumers and providers can report violations.
- Update the definition of “mental disorder” for parity enforcement via rule change to refer to the most recent “Diagnostic and Statistical Manual of Mental Disorders” (DSM). State code sections regarding parity refer to the 1981 DSM (American Psychiatric Association), but these codes state that the commissioner may further define mental disorders by rule and regulation.
- Conduct regular market conduct exams for parity compliance, including nonquantitative treatment limitations (NQTLs) such as prior authorization,



reimbursement rates, and denials based on medical necessity, utilizing best practice tools recently available to states (e.g., through the National Association of Insurance Commissioners).

- Publish an annual status report of the exams, along with results and corrective actions taken.

Georgia state legislators can place strong parity protections in state statutes that establish the minimum criteria for regulatory agencies' parity monitoring, reporting, and enforcement activities while also building in transparency.

The Georgia Behavioral Health Reform and Innovation Commission's first-year report to the governor and legislature includes parity as a top recommendation for increasing access to care and strengthening the workforce.

To enforce parity, Georgia state legislators can:

- Require the relevant departments to report annually to the Georgia General Assembly on the methodology used to ensure compliance with federal and state parity law and on how consumer complaints were addressed.
- Utilize model legislation to strengthen and clarify parity provisions in the state code (individual health coverage: O.C.G.A. § 33-24-28.1; small group health coverage: O.C.G.A. § 33-24-29; large group health coverage: O.C.G.A. § 33-24-29.1).
- Support legislation to ensure that insurance plans follow transparent guidelines around prior authorization and have a robust network of providers to meet demand for behavioral health services.

THE
CARTER CENTER



One Copenhill
453 John Lewis Freedom Parkway
Atlanta, GA 30307
www.cartercenter.org