



What is Mental Health Parity?

A Consumer Guide to the Evaluating State Mental Health and Addiction Parity Statutes Report



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Mental Health Parity is YOUR right.

What Is Parity?

The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), also known as the Federal Parity Law, requires insurers to cover illnesses of the brain, such as depression or addiction, no more restrictively than illnesses of the body, such as diabetes.

Current law requires health insurers to apply similar processes and restrictions for treatment and coverage of mental health and substance use disorders as they would for medical and surgical benefits.

When a health insurance plan has parity, it means conditions that share the same characteristics are treated in the same way. For example, the number of visits you are provided, your copayments, and the level of treatment coverage for depression would be similar to those for diabetes.¹

Current law requires health insurers to apply similar processes and restrictions for treatment and coverage of mental health and substance use disorders as they would for medical and surgical benefits.

What Does Parity Mean for Me?

Prior to the passage of the 2008 Federal Parity law, insurance plans typically did not cover mental health conditions at rates comparable to those for physical health conditions.²

Most health plans are required by law to follow the Federal Parity Law. This includes most employer-sponsored group health plans and individual health insurance coverage.³ Most group health plans, Medicaid Managed Care Organizations (MCOs), State Children's Health Insurance Programs (S-CHIP) and individual health plans sold in the Health Insurance Marketplace through the Patient Protection and Affordable Care Act (ACA) (i.e. "Obamacare") are required to follow federal parity mandates.

¹ Centers for Medicare & Medicaid Services. *The Mental Health Parity and Addiction Equity Act (MHPAEA)*. Retrieved from www.cms.gov/ccio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet.html.

² NAMI: National Alliance on Mental Illness. *What Is Mental Health Parity?* Retrieved from www.nami.org/Find-Support/Living-with-a-Mental-Health-Condition/Understanding-Health-Insurance/What-is-Mental-Health-Parity
Barry, C. L., Huskamp, H. A., & Goldman, H. H. (2010). A Political History of Federal Mental Health and Addiction Insurance Parity. *The Milbank Quarterly*, 88(3), 404–433. <http://doi.org/10.1111/j.1468-0009.2010.00605.x>

³ SAMHSA: Substance Abuse and Mental Health Services Administration. (2017, January 1). "Implementation of the Mental Health Parity and Addiction Equity Act (MHPAEA)." Retrieved from www.samhsa.gov/health-financing/implementation-mental-health-parity-addiction-equity-act.

However, the Federal Parity Law does not apply to the following plans: Tricare, Medicare, Medicaid fee-for-service plans, and individual and group plans that were “grandfathered” in because they were created prior to March 2010.⁴

- Health insurance plans **CANNOT** require higher deductibles, co-payments, or out-of-pocket expenses for your mental health benefits than they do for other medical care.
- Health insurance plans **CANNOT** limit frequency of treatment, number of visits, or days of coverage for your mental health care more so than they do for other medical care.
- Health insurance plans **CANNOT** review mental health treatment more frequently to determine if it is medically necessary, or use more restrictive criteria for what is medically necessary than they do for medical care.⁵

Parity and the Affordable Care Act:

The ACA expanded mental health and substance use disorder benefits and parity protections. All marketplace plans made available by the ACA cover mental health and substance use disorders as essential health benefits and cannot deny you coverage if you have a pre-existing mental health or substance use disorder.⁶

Prior to the passage of the ACA, approximately one-third of persons covered in the individual market had no coverage for substance use disorder services and nearly 20 percent had no coverage for mental health services, including outpatient therapy and crisis stabilization.⁷

⁴ NAMI: National Alliance on Mental Illness. (2015, October 23). *What is Mental Health Parity?* Retrieved from www.nami.org/NAMI/media/NAMI-Media/Infographics/MHParity10-23-15.pdf

⁵ The Kennedy Forum. (2015). *Mental Health and Addiction Parity in Illinois*. Retrieved from <http://thekennedyforumillinois.org/wp-content/uploads/2015/12/Summary-of-HB-1-Parity-Provisions.pdf>

⁶ *HealthCare.gov*. Retrieved from www.healthcare.gov

⁷ ASPE Issue Brief. (2011) *Essential Health Benefits: Individual Market Coverage* ed. U.S. Department of Health & Human Services.

State Parity Laws Explained:

While the federal government provides overall direction on parity enforcement activities, states are primarily responsible for monitoring compliance for fully-insured group plans; individual and employer-funded plans of less than 51 insured employees; Medicaid MCOs; the State Children's Health Insurance Programs (S-CHIP); and, in states that have expanded Medicaid under the ACA, Alternative Benefit Plans. State parity laws vary, and some require insurance plans to provide more coverage than the federal law. However, the federal government has "backup" jurisdiction in states that assert they cannot enforce or fail to substantially enforce the Federal Parity Law.⁸

Our Nation at a Glance:

In advance of the 10th anniversary of the signing of the Federal Parity Law, The Kennedy-Satcher Center for Mental Health Equity in The Satcher Health Leadership Institute at Morehouse School of Medicine (KSCMHE), and The Kennedy Forum formed a multidisciplinary research team to develop the Statutory Coding Instrument (SCI). The SCI assesses state-level mental health parity statutes (written laws that were passed by state legislatures and signed by the governor) using systematic methods. This study looks at how states pass strong parity statutes in order to make sure that state regulators have a full set of tools to make parity a reality and to hold both health plans and state officials accountable.

**To read the full report and download your state's report card visit:
paritytrack.org/anniversary.**

Based on the results of the study,⁹ the states with the highest grades and points for their statutes are Illinois (A, 100), Tennessee (C, 79), Maine (C, 76), Alabama (C, 74), Virginia (C, 71), and New Hampshire (C, 71). **However, the laws of most of these higher-scoring states have room for improvement.**

The state statutes with the lowest grades and points are Wyoming (F, 10), Arizona (F, 26), Idaho (F, 36), Indiana (F, 38), Alaska (F, 43), and Nebraska (F, 43). Wyoming is noteworthy for being the only state not to address mental health parity in its statutory code.

⁸ Alabama, Oklahoma, Missouri, Texas, and Wyoming have asserted that their state insurance commissioner lacks the authority under the current state laws to enforce the Federal Parity Law (Source: SAMHSA.gov)

⁹ Douglas, M., Wrenn, G., Bent-Weber, S., Tonti, L., Carneal, G., Keeton, T., Grillo, J. Rachel, S., Lloyd, D., Byrd, E., Miller, B., Lang, A., Manderscheid, R., Parks, J. Evaluating State Mental Health and Addiction Parity Statutes. The Kennedy Forum; 2018.

Figure 1 provides a map of the United States that has been color coded according to grades. It should be noted that 43 states received a grade of D or F, with only seven states receiving a satisfactory grade of "C" or higher. Table 1 lists the SCI score for each state.

Figure 1: Map of the United States, Color Coded by Statutory Grades

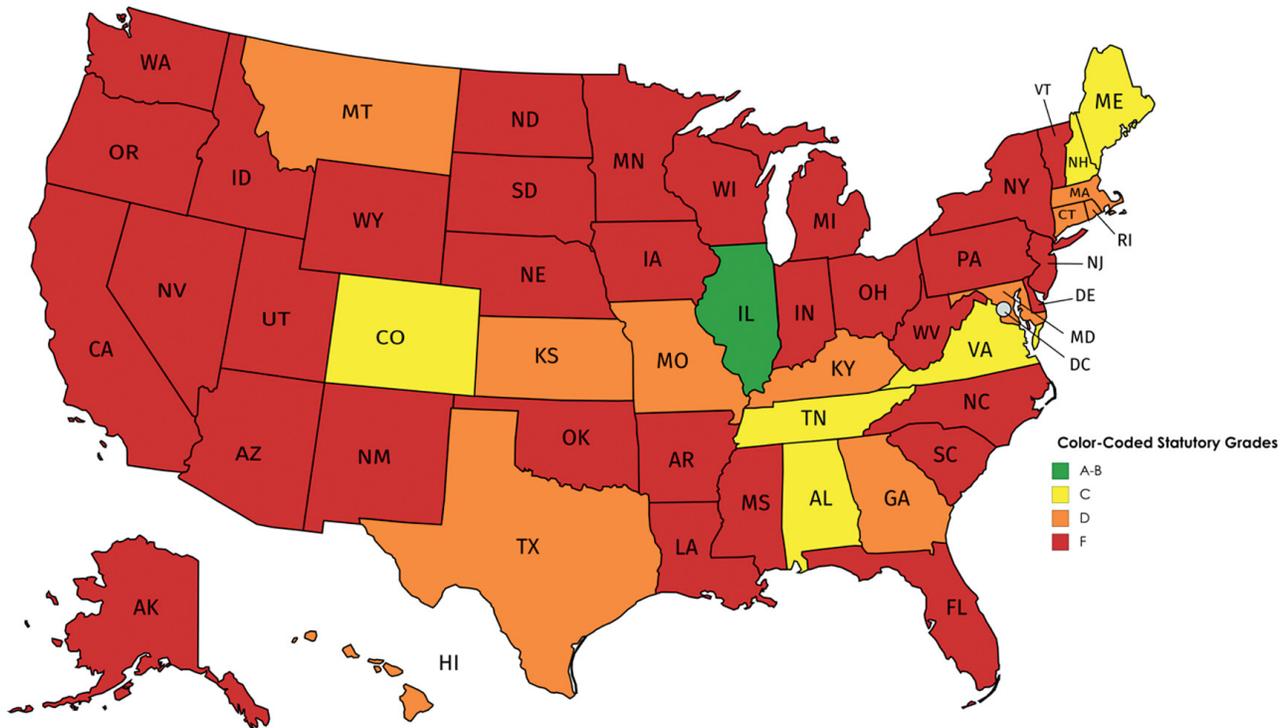


Table 1. List of States and State Parity Statutory Score on the Statutory Coding Instrument

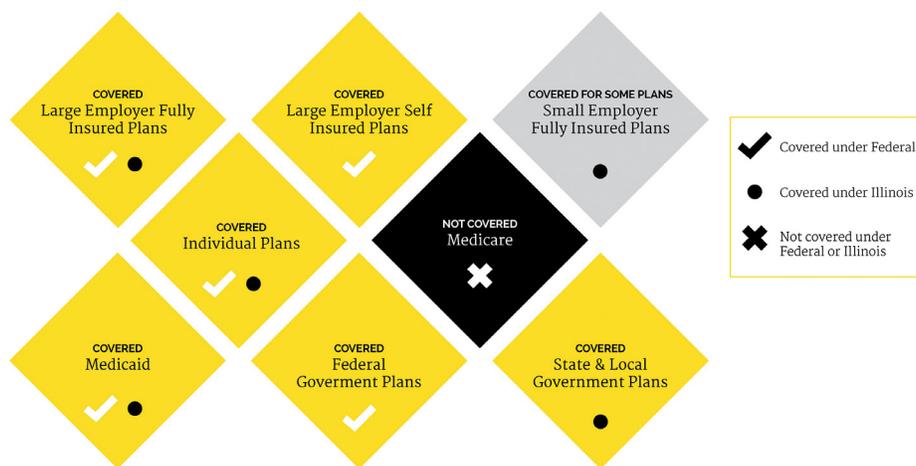
State (score)	State (score)	State (score)	State (score)	State (score)
Alabama (74)	Hawaii (67)	Massachusetts (61)	New Mexico (47)	South Dakota (55)
Alaska (43)	Idaho (36)	Michigan (54)	New York (53)	Tennessee (79)
Arizona (26)	Illinois (100)	Minnesota (51)	North Carolina (49)	Texas (68)
Arkansas (59)	Indiana (38)	Mississippi (57)	North Dakota (48)	Utah (58)
California (51)	Iowa (50)	Missouri (63)	Ohio (51)	Vermont (53)
Colorado (70)	Kansas (65)	Montana (66)	Oklahoma (55)	Virginia (71)
Connecticut (60)	Kentucky (66)	Nebraska (43)	Oregon (47)	Washington (51)
Delaware (57)	Louisiana (51)	Nevada (54)	Pennsylvania (55)	West Virginia (55)
Florida (53)	Maine (76)	New Hampshire (71)	Rhode Island (67)	Wisconsin (52)
Georgia (60)	Maryland (68)	New Jersey (54)	South Carolina (50)	Wyoming (10)

The most common gaps with state laws had to do with:

- How mental health and substance use disorders are defined.
- How mental health and substance use disorders are covered.
- How compliance with parity laws is monitored and enforced.

The Illinois Example:¹⁰

Illinois' parity statute scored 100 on the Statutory Coding Index. One feature of this statute is that the definition of mental health and substance use disorders is tied to the latest expert-developed references—the World Health Organization's International Classifications of Disease and the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. The statute also requires the Illinois Department of Insurance to proactively enforce state parity law and collect health plans' detailed parity analyses demonstrating compliance prior to plan approval. Finally, though state and local government plans can opt out of the Federal Parity Law, Illinois applies state parity law to these plans, dramatically expanding the number of Illinois residents protected by parity.



Strengths:

- Increased the number of people benefitting from parity protection by expanding the types of health plans subject to state parity law, including municipal, county, and school district plans, which can all opt out of complying with the Federal Parity Law.
- Strong compliance/enforcement language

Opportunity to improve:

- Lack of requirements that health plans publicly report data comparing mental health and addiction claims to physical health claims (though, Illinois established a working group to make recommendations in 2019 on what data health plans should be required to report)

¹⁰ <http://thekennedyforumillinois.org/wp-content/uploads/2015/12/Summary-of-HB-1-Parity-Provisions.pdf>

Ways to Get Involved:

ADVOCATE for strong state parity statutes and regulations and **SUPPORT FUNDING** for state advocacy programs.

Legislative Recommendations Based on Common Gaps in State Statutes

1. Mental health and substance use disorders (MH/SUD) must be seen as broad as physical health conditions. As such, states should define MH/SUD to include all disorders in the Diagnostic and Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases (ICD) with no exclusions.
2. Conditions that share the same characteristics should be treated in the same way. As such, co-pays and out-of-pocket costs, along with insurer medical management requirements, must be the same for MH/SUD services as those for physical illnesses. States should require that insurance benefit management processes and treatment limitations, specifically both for quantitative treatment limitations (QTL) and non-quantitative treatment limitations (NQTL), ensure parity in coverage.
3. States should strengthen enforcement and compliance activities by empowering regulatory agencies to enforce parity laws, including the Federal Parity Law, and require monitoring agencies to regularly report on steps taken to enforce compliance. In addition, states should mandate that all health benefit plans submit regular (e.g., annual) analyses demonstrating compliance with the relevant laws.

GET INFORMED about your parity rights and **KEEP TRACK** of state and federal parity performance by visiting: www.ParityTrack.org.

CONTACT your representatives at the local, state, and federal levels and let them know that parity matters to you. If you think your health plan is violating parity, visit www.parityregistry.org to find out where to go and to tell us your story.

Notes



