Treatment Advocacy Center

October 2026

Insurance Parity and Access

Policy statement: TAC supports reforms to ensure that insurance companies cover treatment for serious mental illness (SMI) with psychosis at parity with other serious chronic health conditions, and that government oversight is sufficient to ensure compliance with federal law.

Summary: Although the United States has taken steps toward requiring equitable insurance benefits for mental health, parity with physical health is far from realized. Limitations, loopholes, and poor enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA) are well known and documented, with the federal departments responsible emphasizing in a 2024 fact sheet[1] that disparities have "persisted and grown" since the MHPAEA's enactment in 2008. Similar to public insurance,[2] private insurance has for decades escaped oversight for overtly discriminatory practices that have contributed to a mental health treatment system in crisis. Reform will require organization and oversight systemwide, with lawmakers and stakeholders prepared to challenge an industry that may protect its own profits but costs the public immensely when services and medications are denied or limited.

Background:

SMI is a medical condition that warrants treatment. The insurance industry is built around covering treatment that is medically necessary, leaving consumers and providers with the burden of documenting that a service or medication meets a carrier's criteria, particularly when private insurers layer on session-frequency limits,[3] prior authorization requirements, and complex level-of-care guidelines. SMI conditions that come with psychosis, deficits of insight, and other cognitive impairments make such arduous documentation even more of a hurdle.

Nearly a third of adults with SMI did not receive treatment in 2025. Among people with unmet SMI treatment needs, 50% said they did not receive treatment because they did not have insurance coverage for mental health and 44% said health insurance would not pay enough of the costs.[4]

The Mental Health Parity and Addiction Equity Act (MHPAEA) hasn't enabled true parity. Since the MHPAEA's passage in 2008, limitations and poor enforcement have enabled some carriers to exclude mental health coverage altogether, while those that cover mental health are allowed to set benefit limits, sometimes with high copays and narrow provider networks—benefits that still may not resemble what they provide for physical health.

The MHPAEA[a] does not require all health plans[5] to provide mental health benefits;[6] rather, the act requires that *if* a plan covers these benefits, its financial requirements and treatment limitations cannot be more restrictive than those applied to physical health benefits. These parity obligations include financial requirements, such as copays and maximum spending limits; quantitative treatment limitations (QTLs), such as number of visits; and non-quantitative treatment limitations (NQTLs), such as prior authorization, network admission standards, and medical necessity limitations. Loopholes were baked into the law: The MHPAEA exempted plans from parity requirements for one year if implementation would increase costs above specified thresholds.[7]

The MHPAEA is interpreted and implemented through rulemaking and guidance by the Department of Health and Human Services (HHS), Department of Labor, and the Treasury, referenced below as the Departments.[8] The 2024 Final Rule was written to reflect lessons learned from attempting to implement and enforce the MHPAEA[9] through the original 2013 Final Rule.

When it comes to QTLs, requirements are fairly easy to compare to physical health benefits—to ensure the number of allowed visits isn't more limited, for example. The NQTLs are more vague and unclear in application[10] and were therefore the subject of the 2024 Final Rule that addresses, for example, prior authorization, network composition, and out-of-network reimbursement rates.[11] As written, the 2024 Final Rule affirmed that insurers must evaluate their data and take corrective action when discrepancies exist between NQTLs for physical health services compared to those applied for mental health and substance use disorder services.

Whether and when the 2024 Final Rule will be followed is yet to be determined. Despite declaring the revised Final Rule as "critical to addressing barriers to access to mental health and substance use disorder benefits,"[12] the Departments have announced that they will not enforce the sections of the 2024 Final Rule that modify the 2013 Final Rule.[13]

The Departments have authority to oversee and enforce compliance alongside the states themselves, depending on the type of plan.[14] The MHPAEA mandates some oversight by the Departments, including the review of plans facing complaints or potential violations.[15] The Departments are required to report annually to Congress, and reports have shown consistent failures to comply with parity.[16]

The MHPAEA sets minimum parity requirements, but states can expand protections through state law. Although all 50 states and the District of Columbia have mental health parity requirements that at least match those required by the federal government,[17] few states have chosen to explicitly codify the 2024 Final Rule in state law or otherwise establish stricter standards.[18]

Recommended Actions:

Reform the MHPAEA to require all insurance companies to cover mental health. Insurance companies should not be allowed to deny mental health care deemed to be

[a] The MHPAEA refers to the body of 2008 federal parity law as amended by the Affordable Care Act of 2010, the Helping Families in Mental Health Crisis Reform Act of 2016, the SUPPORT for Patients and Communities Act of 2018, and the Consolidated Appropriation Acts of 2021 and 2023.

medically necessary using nationally recognized standards of care. Denial pushes costs onto other systems, including publicly funded crisis care, hospitals, jails, prisons, and homeless systems. The impact of denied care is also devastating for caregivers, many of whom struggle to maintain jobs, pay their bills and taxes, and participate in their communities[19]. Pressure is needed for Congress to eliminate this broad loophole in parity law. Family members, clinicians, and advocates seeking to learn more about covering treatment can also learn more about self-advocacy through nonprofit agencies like Cover My Mental Health.[20]

Expand enforcement of parity law at the state level using model parity legislation. States have primary enforcement authority over insurers that sell health insurance policies in their states.[21] As a place to begin, the American Psychiatric Association offers model parity legislation[22] adapted for all 50 states and the District of Columbia, with reporting requirements for insurers and oversight guidelines for state insurance departments. The Commonwealth Fund offers additional state options for parity compliance.[23] Advocates and policy makers should note that, in addition to helping constituents and saving taxpayer money, states that set a precedent will become models for a nation fully aware of its mental health crisis but poorly organized to fix the biggest gaps and barriers.

Expand enforcement of parity law at the federal level. In addition to legislative fixes and state actions, parity law requires a stronger federal infrastructure built to enable oversight, transparency, and penalties for noncompliance. To ensure meaningful access to care for people with SMI, TAC supports legislation and funding to give federal regulatory bodies authority to investigate and hold insurers and plan sponsors accountable for offering health plans that violate the MHPAEA, including the 2024 Final Rule.

References

[1] U.S. Department of Labor, Employee Benefits Security Administration. (2024, September 9). *Final rules under the Mental Health Parity and Addiction Equity Act (MHPAEA) fact sheet.* https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/final-rules-under-the-mental-health-parity-and-addiction-equity-act-mhpaea.pdf

[2] Treatment Advocacy Center. (2026). *Medicaid and Medicare Reform.* https://www.tac.org/our_stances/medicaid-and-medicare-reform/

[3] Tomkies, B. (2016). Mental health parity laws: An attempt to even the playing field, leaves many patients without adequate insurance coverage. *Annals of Health Law Advance Directive, 25,* 1–17.

[4] Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2026). Results from the 2025 National Survey on Drug Use and Health: Detailed tables. *U.S. Department of Health and Human Services.* https://www.samhsa.gov/data/sites/default/files/reports/rpt57152/2025-nsduh-detailed-tabs/2025-nsduh-detailed-tables-sect6pe.htm#tab6.40b

[5] Substance Abuse and Mental Health Services Administration. (2016). Parity of mental health and substance use benefits with other benefits: Using your employer-sponsored health plan to cover services (HHS Publication No. SMA-16-4937). U.S. *Department of Health and Human Services.* https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/mental-health-substance-use-benefits-parity.pdf

[6] Forsberg, V. C. (2023, February 1). Mental health parity and coverage in private health insurance: Federal requirements (CRS Report No. R47402). *Congressional Research Service.* https://www.congress.gov/crs-product/R47402

[7] Parity in mental health and substance use disorder benefits, 45 C.F.R. § 146.136 (2025). https://www.ecfr.gov/current/title-45/part-146/section-146.136#p-146.136(g)

[8] Mental Health Parity and Addiction Equity Act of 2008, Pub. L. No. 110-343, 122 Stat. 3765 Division C, Title V, Subtitle B, §512(d). (2008). https://www.govinfo.gov/content/pkg/PLAW-110publ343/pdf/PLAW-110publ343.pdf

[9] Internal Revenue Service, Employee Benefits Security Administration, & Department of Health and Human Services. (2024, September 23). Requirements related to the Mental Health Parity and Addiction Equity Act. *Federal Register, 89*(184), 77586-78070. https://www.federalregister.gov/documents/2024/09/23/2024-20612/requirements-related-to-the-mental-health-parity-and-addiction-equity-act

[10] Presskreischer, R., Barry, C. L., Lawrence, A. K., McCourt, A., Mojtabai, R., & McGinty, E. E. (2023). Factors affecting state-level enforcement of the federal Mental Health Parity and Addiction Equity Act: A cross-case analysis of four states. *Journal of Health Politics, Policy and Law, 48*(1), 1–34. https://doi.org/10.1215/03616878-10171062

[11] U.S. Department of Labor, Employee Benefits Security Administration. (2024, September 9). *Final rules under the Mental Health Parity and Addiction Equity Act (MHPAEA) fact sheet.* https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/final-rules-under-the-mental-health-parity-and-addiction-equity-act-mhpaea.pdf

[12] Internal Revenue Service, Employee Benefits Security Administration, & Department of Health and Human Services. (2024, September 23). Requirements related to the Mental Health Parity and Addiction Equity Act. *Federal Register, 89*(184), 77586-78070. https://www.federalregister.gov/documents/2024/09/23/2024-20612/requirements-related-to-the-mental-health-parity-and-addiction-equity-act

[13] Employee Benefits Security Administration. (2026, September 8). Field Assistance Bulletin No. 2026-03: Guiding principles for EBSA's enforcement of the Mental Health Parity and Addiction Equity Act's nonquantitative treatment limitation requirements. *U.S. Department of Labor.* https://beta.dol.gov/system/files/media/policy-regulations/guidance-search/ebsa-field-assistance-bulletin-no-2026-03.pdf
[14] Substance Abuse and Mental Health Services Administration. (2021). Understanding parity: A guide to resources for families and caregivers (Publication No. PEP21-05-00-002). *U.S. Department of Health and Human Services.* https://nationaldisabilitynavigator.org/wp-content/uploads/resources-links/SAMHSA-Parity-guide.pdf
[15] Parity in mental health and substance use disorder benefits, 42 U.S.C. § 300gg-26(a)(8)(B) (2026).
[16] American Medical Association. (2025). Issue brief: 2025 parity report to Congress. https://www.end-overdose-epidemic.org/sites/end_overdose/files/2025-11/Issue-brief-2025-parity-report-to-Congress-FINAL.pdf
[17] Legislative Analysis and Public Policy Association. (2025, September). Mental health and substance use disorder insurance parity: *Summary of state laws.* https://legislativeanalysis.org/wp-content/uploads/2025/09/Mental-Health-and-SUD-Insurance-Parity-Summary-of-State-Laws.pdf
[18] Volk, J., & Harden-Stein, M. (2026, January 21). Behavioral health parity takes step backward under Trump administration. *The Commonwealth Fund.* https://www.commonwealthfund.org/blog/2026/behavioral-health-parity-takes-step-backward-under-trump-administration
[19] Krasa, H. B., Baumgardner, J. R., Brewer, I. P., Chou, J. W., Flottemesch, T., Markowitz, J. T., Williams, C., & Nagendra, A. (2026). National and state societal costs of schizophrenia in the US in 2024. *JAMA Psychiatry, 83*(4), 341–352. https://doi.org/10.1001/jamapsychiatry.2025.4383
[20] Cover My Mental Health NFP. (n.d.). Cover My Mental Health. https://covermymentalhealth.org/
[21] Employee Benefits Security Administration. (2026, September 8). Field Assistance Bulletin No. 2026-03: Guiding principles for EBSA's enforcement of the Mental Health Parity and Addiction Equity Act's nonquantitative treatment limitation requirements. *U.S. Department of Labor.* https://beta.dol.gov/system/files/media/policy-regulations/guidance-search/ebsa-field-assistance-bulletin-no-2026-03.pdf
[22] American Psychiatric Association. (n.d.). *Model parity legislation.* https://www.psychiatry.org/psychiatrists/advocacy/state-affairs/model-parity-legislation
[23] Volk, J., Walsh-Alker, E., & Goe, C. L. (2024, August 5). Enforcing mental health parity: State options to improve access to care. *The Commonwealth Fund.* https://www.commonwealthfund.org/publications/issue-briefs/enforcing-mental-health-parity-state-options-improve-access-care