



## Parity Transparency and Compliance Bill SB 334/HB 455

January 2020

### Marylanders Cannot Wait for Equal Behavioral Health Insurance Coverage: Ensure Carrier Compliance with Mental Health and Addiction Parity Laws

Maryland insurance mandates and the federal Mental Health Parity and Addiction Equity Act (Parity Act) require state health plans to provide mental health and substance use disorder (MH/SUD) benefits at the same level as medical benefits. **Carriers are not complying with these equal coverage laws, and Marylanders are not getting the MH/SUD services that they pay for and need to save their lives.**

The Parity Transparency and Compliance bill (SB 334/HB 455) would improve access to life-saving MH/SUD treatment by requiring carriers to:

- Submit an annual parity compliance report, modeled on the U.S. Department of Labor's Parity Act Self-Compliance Tool, and data on benefit decisions.
- Pay penalties for parity violations and for filing incomplete reports.
- Make their compliance report available to plan members so they can enforce their parity rights.
- Inform consumers of their parity rights in benefit denial letters.

The bill would require the Maryland Insurance Administration (MIA) to review carrier reports, impose remedial measures to correct violations and reimburse consumers, and use penalties to improve parity enforcement and consumer education.

Although the MIA has identified numerous parity violations through market conduct surveys, carriers continue to implement illegal barriers to MH/SUD treatment.

- Three market conduct surveys have identified significant violations in carrier networks for MH/SUD services and other network credentialing violations. The MIA has issued **9 enforcement orders** involving most Maryland carriers, but **has not imposed significant penalties for carrier violations**.
- MIA's 3<sup>rd</sup> survey report identified parity violations and other disparities that may result from discriminatory practices; carrier practices prevent Marylanders from accessing the MH/SUD benefits they pay for.
  - One carrier discriminatorily excluded 5 of 13 SUD treatment programs from its network but included all 122 medical facilities.
  - One carrier denied inpatient MH/SUD services more frequently than inpatient medical services.
  - One carrier imposed prior authorization requirements on all MH/SUD services but not all medical services.
  - Carriers reported taking longer to credential MH/SUD facilities than medical facilities.
  - All carriers reported that their members accessed MH/SUD services through out-of-network services more frequently than medical services.

Requiring carriers to submit parity compliance reports is the only way to ensure that health plans offer and deliver equal MH/SUD services.

- Carriers are barred, under federal law, from selling plans that do not comply with the Parity Act and should already be conducting the analyses that SB 334/HB 455 would require.
- MIA's 3<sup>rd</sup> survey report found that **no carrier could produce documentation of their plan reviews and none conducted an "in operation" compliance review, required by the Parity Act.**

**EQUAL INSURANCE COVERAGE OF SUBSTANCE USE  
AND MENTAL HEALTH DISORDERS. IT'S THE LAW.**

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- The MIA cannot enforce the Parity Act in a timely and effective way unless carriers disclose their practices and are accountable for any standard that unfairly limits MH/SUD service and medication access.
- The MIA took **15-25 months** to complete the 1<sup>st</sup> and 2<sup>nd</sup> market conduct surveys, and the 3<sup>rd</sup> is not yet complete **after 26 months**.
- **Consumers are entitled to know when they pay for their health plan that it offers equal MH and SUD insurance coverage.**

Seven states have adopted comparable carrier compliance reporting requirements to enforce MH/SUD parity.

- Since 2018, 6 states – Colorado, Connecticut, Delaware, the District of Columbia, Illinois and New Jersey – have enacted laws requiring parity compliance reporting. In addition, California has required parity compliance reporting for all plan features since 2015.
- Massachusetts, Connecticut, and Vermont gather carrier data annually to identify disparities in MH/SUD benefit coverage, and New York implemented biennial data reporting standards in 2019.

*For additional information, please contact Ellen Weber, Legal Action Center, [eweber@lac.org](mailto:eweber@lac.org); 202-544-5478 Ext. 307.*