

Ensuring Access to Quality Treatment

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National Rx Abuse Summit

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Learning Objectives

- Identify common barriers to quality treatment for individuals with substance use disorders (SUDs)
- Explain federal and state patient protection and parity laws that are intended to guarantee access to quality treatment for SUDs
- Outline strategies to reduce access barriers to quality treatment for SUDs

Theme and Preview

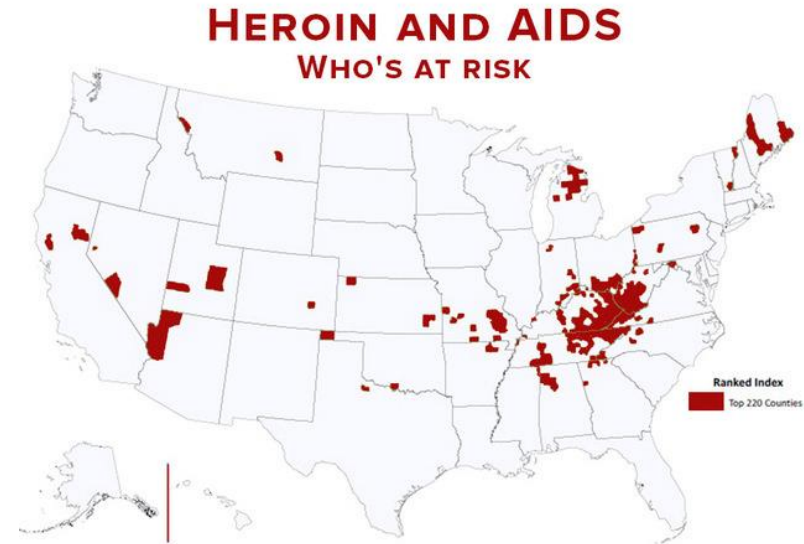
- **Theme:** Comply with new laws & policies to expand access to treatment or face enforcement actions
- Need for treatment, progress, & room for improvement
- Federal & state laws expanding access
- Enforcement actions
- Federal proposals & legislation
- State legislation

Need for Treatment

- 27 mill. Americans used illicit drugs in past 30 days (SAMHSA, 2015)
 - 4.7 mill. Americans abuse rx opioids or heroin per year (SAMHSA, 2015)
- 21.5 mill. Americans had SUDs (SAMHSA, 2015)
 - 2.4 mill. Americans had opioid use disorders (SAMHSA, 2015)
- 47,055 drug overdose deaths per year (CDC, 2016)
 - > 29,000 opioid-related overdose deaths in 2014 (CDC, 2015)
 - Heroin-related overdose deaths tripled between 2010 and 2014 (CDC 2016)

Lack of Treatment

- 80% go untreated (Johns Hopkins, 2015)
- Risks
 - Infectious diseases (HIV, Hep C)
 - Indiana, Kentucky, Ohio, Florida
 - Criminal activity
 - Overdose
 - Death
- Why? (SAMHSA, 2014)
 - No health coverage & could not afford cost (37.3%)
 - Not ready to stop using (24.5%)
 - Did not know where to go for treatment (9.0%)
 - **Health plan did not cover treatment or cost (8.2%)**
 - No transportation or inconvenient (8%)



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Progress

- In 2002, 88% of plans had annual limits on outpatient visit vs. 6.5% in 2011 (HHS, 2013)
- New Hampshire (NH Insurance Dep't Report, 2016)
 - 11,650 claims for opioid treatment filed b/n Jan. 2015 & Oct. 2015 (Anthem, Cigna, Harvard Pilgrim)
 - Denial rates were 9.5%, 15%, & 28.3%
 - Of 64 cases deemed medically unnecessary, only 8 had legitimate concerns
 - Few consumers used appeals process
 - Insurance Dep't received few complaints

Progress

- MA report found expanded access & coverage in both commercial & publicly-funded plans
(Center for Health Information & Analysis, 2015)
 - Greater access for young adults and lower/middle income adults who previously did not qualify for MassHealth
 - Hundreds of new treatment beds created in 2016 as a result of insurers complying with a new state parity law

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Room for Improvement

- ASAM 2013 study of Medicaid coverage found following were common practices:
 - Limits on dosage
 - Lifetime limits on medication-assisted treatment (MAT)
 - Complex initial prior authorization and reauthorization
 - Minimal counseling coverage
 - Fail first criteria
 - No coverage of one to two of three approved medications for MAT
- Cigna pulled out of FL insurance marketplace for 2016
- Improve coverage & reduce risk of liability

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Parity Act

- Mental Health Parity & Addiction Equity Act (Parity Act)
 - Enacted in 2008; expanded under ACA in 2010; final regs. promulgated in 2013
 - Expanded access to substance use treatment
 - Must cover SUD services at levels equivalent to coverage of medical/surgical services

Parity Act Continued

- Applies to the following plans:
 - Large group plans
 - Small group and individual market plans (ACA)
 - Medicaid Managed Care, CHIP, and Medicaid alternative benefit plans (CMS letter)

Parity Act: Financial Req. & QTLs

- Financial requirements
 - *E.g.*, charging higher copays
 - No separate cost-sharing requirements that only apply to SUD benefits
- Quantitative Treatment Limitations (QTLs)
 - *I.e.*, limitations that are expressed numerically
 - *E.g.*, frequency of SUD treatment, number of visits, days of coverage, annual or lifetime visit limits

Parity Act: NQTLs

- Non-quantitative treatment limitations (NQTLs)
- Limitations not expressed numerically, but otherwise limit scope or duration of benefits
- 6 classifications:
 - Inpatient, in-network
 - Inpatient, out-of-network
 - Outpatient, in-network
 - Outpatient, out-of-network
 - Emergency care
 - Prescription drugs
- 2 sub-classifications:
 - Office visits
 - All other outpatient items and services (*e.g.*, urine drug testing)
- If plan covers one classification, it must cover all

Parity Act: NQTLs

- Examples:
 - Medical necessity standards
 - Step therapy (*e.g.*, requiring outpatient before inpatient)
 - Prior authorization
 - Network standards for provider reimbursement (*e.g.*, sending reimbursement checks directly to patients)
 - Provider network criteria
 - Formulary design (*e.g.*, placing all ADFs in specialty tier)

Parity Act: Addt'l Requirements

- Additional Requirements:
 - Intermediate levels of care
 - *E.g.*, residential or intensive outpatient treatment
 - Scope of transparency
 - *E.g.*, disclosure rights
 - Parity for all plan standards
 - *E.g.*, geographical limits, facility-type limits

Affordable Care Act

- ACA signed into law in 2010
- Purpose:
 - Expand access to insurance coverage
 - Increase consumer protections
 - Curb rising health care costs

ACA: Nondiscrimination Law

- Nondiscrimination Provisions
 - No discrimination on basis of disability (*e.g.*, SUD)
 - No higher premiums based on health status-related factor
 - No preexisting condition exclusion
 - No lifetime and annual limits on dollar value for small group or individual health plans (*e.g.*, no lifetime limit on MAT)

ACA: Nondiscrimination Rule

- Proposed Nondiscrimination Rule (Sept. 2015) provided clarifications:
 - Cannot deny, cancel, limit, or refuse to issue or renew plan or policy, or impose additional cost sharing or other limitations or restrictions
 - Cannot employ marketing practices or benefit designs that discriminate (*e.g.*, placing all HIV meds in the highest-cost specialty tier)

State Parity Laws

- States may enact laws that are equal to or more stringent than the Parity Act
- 32 states have SUD parity laws
- 16 states (California, Connecticut, Montana, Oregon, Vermont) have fined insurers for violating state parity laws

MA Parity Law & Results

- Parity Law (effective Oct. 2015):
 - No prior authorization for certain SUD services
 - Up to 14 days of inpatient acute treatment
- Commercial plans have complied
 - In 2016, 100s of new treatment beds (WBUR, 2016)
 - Fraud & profiteering

NY Parity Law

- Requires insurers to cover detox and rehabilitation services
 - 60 outpatient visits; 20 therapeutic outpatient services for family members
 - Insurers cannot mandate step therapy
 - Denials must be processed w/in 24 hours
- Number of denials reduced significantly
- New York aggressively enforcing state parity law
 - NY AG Schneiderman investigated & settled 5 cases
 - Beacon Health Options allegedly denied coverage for SUD services at 2x rate of denied med/surg. services; settled for \$900K
 - Excellus Health Plan denied inpatient addiction treatment 7x as often as inpatient medical services. Settlement requires reform to claims review process. Could result in up to \$9 mill. for patients.

Results

- 3rd party payers “have taken tremendous steps to implement these changes and requirements in a way that is affordable to patients” – Clare Krusing, AHIP
- Parity Act broadened access to SUD services w/o increasing costs (Health Affairs 2015)
 - 8.7% increase for out-of-network inpatient SUD services
 - 4.3% increase for out-of-network outpatient SUD services

Results

- Lack of access to in-network treatment (Health Affairs, 2015)
- Pattern of denials show exploitation of loopholes
 - *E.g.*, frequent utilization review, step therapy requirements, and applying stricter medical necessity criteria (Health Affairs, 2015)
 - 25% of two unnamed state marketplace plans appeared to be inconsistent with Parity Act (NAMI, 2015)
- Increase in lawsuits and enforcement actions

Cases & Enforcement Actions

- Violations of Parity Act & ACA:
 - Dep't of Labor & IRS have authority over ERISA plans
 - States & HHS share authority over most other plans
- *New York State Psychiatric Assoc. v. UnitedHealth Group* (Aug. 2015)
 - Individuals can sue third-party plan administrators directly under Parity Act
 - Provider associations can sue on patients' behalf
 - Could increase litigation

Parity Cases

- Utah 2016: Plan excluded residential treatment but covered skilled nursing facility services. Restriction was NQTL. If plan chooses to cover MH/SUD services, those services must be on par with med./surg. services. *Joseph F. v. Sinclair Servs. Co.*
- North Dakota 2015: Plaintiffs could proceed w/punitive class action complaint claiming plan administrator breached duty by using more rigorous standards than general accepted standards of care for SUD outpatient treatment. *Alexander v. United Behavioral Health*
- Washington state 2015: Two class action suits. Insurers improperly denied medically necessary autism treatment. Settled for \$6 million. *K.M. v. Regence; R.H. v. Premera Blue Cross*
- Oregon 2014: Insurer violated law by placing cap on number of hours per week for autism services. Law has little meaning if insurers can cover health condition but exclude coverage for medically necessary services “related to” that condition. *A.F. v. Providence Health Plan*
- California 2013: Kaiser Permanente investigated for multiple violations (e.g., denying members access to critical info about SUD benefits); comply with corrective action plan or face fines.
- Washington state 2012: Plan imposed age restriction for certain speech therapies. Defendant insurer attempted to correct violation by applying same restrictions to med./surg. benefits. Parity Act was intended to “bolster” coverage, and not “weaken or supplant . . . baseline coverage.” *Z.D. ex rel. J.D. v. Grp. Health Coop*

Enforcement Actions: DOL Report

- Gov't is enforcing parity & investigating violations (Dep't of Labor, 2016)
- Oct. 2010 to Dec. 2015: 1,515 investigations, 171 violations found (58% were NQTLs)
- DOL worked with issuers to ensure corrections

ACA Cases

- Florida 2015: Investigation found 4 insurers discriminated against consumers with HIV/AIDs by placing all meds in highest cost specialty tier
 - Humana fined \$500K for impeding investigation
- Oregon 2015: Physician association sued insurer for refusing to cover preventative services required under ACA. *Oregon Assoc' of Naturopathic Physicians v. Health Net Plan* (ongoing)
 - Seeking reimbursement, repayment of profits, etc.

Fed. Activity to Expand Treatment

- DOD proposed rule: eliminate 60-day limit on partial hospitalization, and annual and lifetime limits for SUD treatment for vets (Feb., 2016)
- CMS “Advance Notice & Draft Call Letter”(Feb., 2016)
 - Medicare Advantage plans must ensure access to MAT
 - “Given requirements imposed by [DATA 2000] and [REMS] for buprenorphine-contained products for MAT, Part D sponsors should not impose prior authorization criteria that simply duplicate these requirements.”
 - “Part D formulary and plan benefit designs that hinder access, either through overly restrictive utilization management strategies or high cost-sharing, will not be approved.”

Federal Legislation

- H.R. 4276 – Behavioral Health Coverage Transparency Act of 2015
 - Fed. bill introduced in Dec. 2015 by U.S. Rep. Joe Kennedy III
 - Would require insurers to disclose how often and why they deny SUD claims
 - In response to National Alliance on Mental Illness
 - Not yet reintroduced

Conclusion

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- Thank you