

# State Snapshot on Parity Implementation

## MARYLAND

September 2016



### OVERVIEW

For the Parity Implementation Coalition's (PIC) September 2016 edition on promising practices in state implementation of The Mental Health Parity and Addiction Equity Act (MHPAEA) and the parity provisions of the Affordable Care Act (ACA), we chose Maryland. We interviewed Adrienne Ellis from the Mental Health Association of Maryland.



*Coalition members include:* American Academy of Child and Adolescent Psychiatry, American Society of Addiction Medicine, Depression and Bipolar Support Alliance, Hazelden Betty Ford Foundation, MedPro Billing, Mental Health America, National Alliance on Mental Illness, National Association of Psychiatric Health Systems, National Association of Addiction Treatment Providers, Residential Eating Disorders Consortium, The Watershed Addiction Treatment Programs, Inc. and Young People in Recovery

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See [HERE](#) for how to complain if you think your health plan has violated MHPAEA

### PROMISING PRACTICES

- Ask your insurance commissioner's office to conduct a market conduct survey
- Partner with a law school to establish a clinic to help individuals and families with their appeals
- Advocate for state parity legislation (see Maryland's [here](#))
- Produce a state resource guide (see Maryland's [here](#))

## **OVERVIEW**

The Parity Implementation Coalition (PIC) provides state profiles of promising practices in state implementation of The Mental Health Parity and Addiction Equity Act (MHPAEA) and the parity provisions of the Affordable Care Act (ACA).

For our September 2016 edition, we interviewed Adrienne Ellis, Director of Healthcare Reform and Community Engagement for the Mental Health Association of Maryland (MHAMD).

### **How would you describe Maryland's level of implementation with parity?**

Ms. Ellis: Maryland is progressing in its implementation of parity. The Maryland Insurance Administration (MIA) is active in investigating parity complaints when they are filed. While the MIA has the authority to implement and enforce parity on a lot of plans sold in the state, parity has not been entirely implemented and enforced in a prospective manner. There is a gap between implementation and enforcement and while MIA is very willing to enforce the law, there continues to be discussions with the insurance companies about what formal implementation means.

### **What tools has your state used in implementing parity?**

Ms. Ellis: Maryland has issued guidance related to [emergency in-patient treatment](#) and in relation to compliance with the Essential Health Benefit Plan.

The MIA is also using its authority to conduct market conduct surveys to identify and correct systemic parity problems. Maryland is in year two of a three year market conduct survey, which will transition into a market conduct exam if there is a finding of noncompliance. Market conduct surveys are not public unless an investigation or exam is undertaken as a result of the survey information. It is only when the exam is final and an order has been issued, that they are public. The first year's exams were finalized, and corrective actions and fines were issued at the end of 2015. The largest fine issued was \$30,000, but recently that fine was rescinded after the plan appealed and entered into a consent decree with the MIA to address the identified problems.

Another tool that has been utilized by parity advocates is [legislation](#). Advocates were successful in an effort to pass legislation in 2016 to require our state Medicaid program to comply with parity by June 2017. We have also worked with legislators to enact legislation that requires insurers to provide parity compliance information to their members on websites and annually in print. There was an effort in 2015 to pass compliance legislation similar to a bulletin announcement by the [Connecticut Insurance Department](#) and modeled on the efforts in California to require insurance plans to demonstrate to regulators that they comply with the parity act prior to a plan being approved for sale. Unfortunately, this legislation was defeated, but the discussions resulted in three years of market conduct surveys currently underway at the MIA.

### **What have been the biggest challenges in your state as parity and parity provisions in the ACA have been implemented?**

Ms. Ellis: The biggest problems are lack of transparency and disclosure by insurance companies. There has been a refusal by most insurance companies to disclose information necessary for consumers or stakeholders to do a full analysis on the plan's parity implementation efforts. The complaint-based process also poses a problem by placing the burden on consumers, who have the least amount of information, to identify potential violations. Other problems include the stigma associated with filing a complaint, a lack of understanding in the process and not enough plan disclosure of relevant information. The complaint-based process puts an onerous task on the

person covered to show that there was in fact a parity violation; which is especially difficult for individuals with a mental health or substance use disorder.

**What additional resources have been most useful to you as these laws have been implemented and enforced in your state?**

Ms. Ellis: The University of Maryland Carey School of Law established a clinic to help individuals and families with their appeals and that has been helpful. The MIA has posted [information on its website](#) that was developed by the School's Drug Policy Clinic. Through the [Maryland Parity Project](#), we also aid consumers in filing appeals and complaints. The private philanthropy donations we have received were crucial to our ability to respond to almost 300 consumer calls and over the past five years.

**What resources would be useful to you to improve implementation of the laws in your state?**

Ms. Ellis: Continued and more specific federal guidance about disclosure requirements, specifically timelines by which documents need to be disclosed and what documents and analysis need to be disclosed would be tremendously helpful. It would also be helpful if state enforcement agencies were given guidance from federal regulators about what and when and how they were expected to implement parity. Ideally, the complaint-based process would not be so heavily relied upon and federal and state regulators would provide guidance to plans that specifically establishes a prospective method of enforcement, requiring carriers to be more active in their analysis and demonstration that they comply with the law.

The Kennedy Forum is working on model parity legislation and model auditing tools for regulators. I think the auditing tool, if it is simple and easy to use would be really helpful for regulators. It would also be helpful to receive technical assistance from advocates and policymakers in other states, so there would be dialogue about best practices, and what is and isn't working.

**Did your state establish a coalition to request parity implementation?**

Ms. Ellis: Not officially, but we have an informal coalition composed of members from both mental health and substance use disorder consumer and provider groups that pushes for implementation.

**Have you collaborated with other states on their parity implementation?**

Ms. Ellis: Yes, we have reached out to other states that are passing similar legislation and regulations, and other state advocates have contacted us to hear our experiences and lessons learned

**Would you find a learning collaborative with other states helpful?**

Ms. Ellis: Yes, absolutely.

**Have you received funding to assist with implementation of these laws? If so, from what source?**

Ms. Ellis: We have received funding only from private philanthropy donations.

**Have you noticed improvement in the access to behavioral health care as a result of these changes? If so, how?**

Ms. Ellis: We haven't been able to see any data, reports, or conduct studies to know whether or not access to behavioral health services has increased. We have demonstrated through a study and subsequent report in 2015 that there is still a major problem with access to in-network services, especially psychiatry, in Maryland.

**Would you be willing to take calls from other states to provide them with additional information on your state's best practices?**

Ms. Ellis: Yes, I am available by email at [aellis@mhamd.org](mailto:aellis@mhamd.org).

**Would you be willing to potentially participate on a webinar with other states to share your best practices?**

Ms. Ellis: Absolutely.