

Massachusetts Mental Health Parity Law

MENTAL HEALTH PARITY EXPANDED: A new law, effective July 1, 2009, adds four new conditions (eating disorders, PTSD, substance abuse, autism) to the list of “biologically-based” mental disorders that must be covered to the same extent as physical illnesses. It also allows the Department of Mental Health Commissioner to add new conditions to the list of parity diagnoses (in the past, the DMH Commissioner was only permitted to add conditions in “consultation” with Division of Insurance Commissioner). The new law leaves in place the old language relating to kids under age 19. The law still only applies to plans which are regulated by Massachusetts mandated benefit laws (self-insured plans - usually those plans offered by large employers - are not subject to state law).

1. What is the Massachusetts Mental Health Parity Law?

The Massachusetts Mental Health Parity Law requires insurers who offer mental health benefits to cover the diagnosis and treatment of certain mental disorders to the same extent that they cover the diagnosis and treatment of physical disorders. The law makes it illegal for some health insurers to place stricter annual or lifetime dollar or unit of service limitations on coverage of qualifying mental disorders that differ from the limitations on coverage of physical conditions. The law also provides for minimum outpatient and inpatient benefits for those disorders not required to be treated the same as physical ailments.

2. What mental disorders must be given unlimited medically necessary treatment?

The Mental Health Parity Law provides *parity* for these disorders:

“Biologically-based” mental disorders

- Schizophrenia
- Schizoaffective disorder
- Major depressive disorder
- Bipolar disorder
- Paranoia and other psychotic disorders

- Obsessive-compulsive disorder
- Panic disorder
- Delirium and dementia
- Affective disorders
- Any other "biologically-based" mental disorders appearing in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (the "DSM") that are scientifically recognized and approved by the Commissioner of Mental Health in consultation with the Commissioner of Insurance

Rape-related mental or emotional disorders

- Mental or emotional disorders in victims of rape, or assault with intent to commit rape, to the extent the costs of diagnosis and treatment exceed the maximum compensation awarded to victims under the Massachusetts law regarding compensation to victims of violent crime.

There are special provisions for children.

NOTE: Showing the insurance company that the service you want is "medically necessary" is a must, even when the disorder or treatment is covered by the parity law.

3. What special rights do children have?

For children under the 19, the law provides additional safeguards with respect to "*non-biologically-based*" mental, behavioral, or emotional disorders. These are *in addition to* the protections for "biologically-based" disorders. Specifically, the law requires health plans to provide coverage to children:

- For non-biologically-based mental, behavioral, or emotional disorders that *substantially interfere with or substantially limit functioning and social interactions*, where:
 - The child's primary care physician, pediatrician, or a licensed mental health professional has made the referral for diagnosis and treatment of the disorder, *and* has documented the substantial interference or limitation,
 - or**
 - The substantial interference or limitation is evidenced by conduct, including, but not limited to (1) an inability to attend school, (2) the need for hospitalization, or (3) a pattern of conduct or behavior that poses a serious danger to self or others.

- If a child turns 19 while undergoing treatment, the health plan must continue to provide this coverage until the course of treatment is completed and while the benefits contract covering the adolescent remains in effect. The plan is allowed to charge a premium for these extended benefits, if the child's eligibility for coverage would otherwise end at 19.

4. Does the law cover treatment for substance abuse?

Massachusetts law requires that coverage of alcoholism and/or chemical dependency treatment include 30 days inpatient care and \$500 worth of outpatient benefits. However, when treatment for these problems occurs *in conjunction with* treatment for mental disorders, the patient is entitled to broader coverage.

5. What is the minimum coverage for disorders that are not on the list of covered disorders?

For mental disorders that are not on the list of disorders eligible for parity, insurers must provide medically necessary coverage during each 12 month period for a minimum of 60 days inpatient treatment and 24 outpatient visits. Carriers cannot impose other limitations or cost-sharing (such as copayments) on treatment for these mental disorders, unless the same requirements apply to physical conditions.

Medication visits and neuropsychological testing are not subject to these limits, and must be covered on the same terms as medical services.

6. What insurers must comply with the MHPL?

The Mental Health Parity Law applies to all of these health plans:

- Group Insurance Commission ("GIC") plans for government employees and retirees
- Plans issued by Massachusetts-licensed commercial health insurers
- Blue Cross and Blue Shield of Massachusetts plans
- Plans issued by Massachusetts-licensed HMOs
- Small group health plans regulated by Massachusetts insurance authorities
- Non-group health plans
- Student health insurance plans (for higher educational institutions)

The following plans do *not* have to comply with this law:

- *Self-insured* employer group health plans.

An employer is self-insured when, instead of paying an insurance company or HMO to cover the health care costs of its employees, the employer itself covers these costs. For more information about your rights in a self-insured plan, call the Department of Labor (regional office) at 617-565-9600 or visit www.dol.gov, or the Attorney General's Insurance Hotline at 1-888-830-6277.

- MassHealth plans
- Medicare plans

7. Does the parity law cover outpatient as well as inpatient services?

Yes. The law states that a full range of inpatient, intermediate, and outpatient services shall be available for the treatment of mental disorders, so that treatment may take place in the least restrictive clinically appropriate setting.

8. What is not covered by the parity law?

- Insurers are not required to cover mental health services for persons *incarcerated* in jail, prison, Department of Youth Services facilities, or other correctional settings.
- Insurers are not required to pay for those “educational services” that a school must provide as part of its special education program. Note: If there is a medical component to a special education plan, the insurer still should pay for those services which are medically necessary.
- Insurers are not required to cover services provided by the Department of Mental Health.

If you have questions about the Mental Health Parity Law or you need help getting your insurer to pay for mental health services, please contact:

**Mental Health Legal Advisors Committee
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