MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008:

HOW IT CAN IMPACT TOBACCO CESSATION COVERAGE

Behavioral Health & Tobacco Use

The prevalence of cigarette smoking among American adults is 14%, an all-time low.[1] However, the prevalence of smoking among people with behavioral health conditions have remained high. Approximately 25% of adults in the United States have some form of mental illness or substance use disorder (SUD) and account for 40% of cigarettes smoked by adults.[2,3]

Smoking-related diseases are a leading cause of death among individuals with SUDs.[4] Research shows that tobacco dependence treatment does not interfere with patients' recovery from the abuse of other substances and is associated with better rates of abstinence from other substances.[5] Instead, smokers with behavioral health conditions want to quit, can quit and can benefit from proven smoking cessation treatments. Smoking cessation can decrease depression, anxiety, stress and increase positive mood and quality of life. Smokers with SUDs can experience increased long-term abstinence from alcohol and illicit drugs through cessation.

Mental Health Parity Act

The *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* (MHPAEA) is a federal law that requires mental health or SUD benefits be comparable to medical/surgical benefits in health insurance plans. Prior to the MHPAEA, mental and behavioral health benefits were often covered at lower levels than medical/surgical health benefits or completely excluded from coverage. Mental and behavioral health benefits typically had higher cost-sharing (such as co-pays, coinsurance and deductibles) and more stringent treatment limitations (such as number of visits and inpatient days). Under the MHPAEA, financial and utilization management requirements must be the same for both mental health and physical health treatment.

The MHPAEA does not require plans to offer mental health or SUD benefits; however, insurers that choose to cover either or both are subject to the MHPAEA's parity requirements. It is important to note that comprehensive parity requires equal coverage, not a specific level of coverage. If the health plan's medical/surgical benefit is limited in scope, then the mental health or SUD coverage can be similarly limited.

The MHPAEA directly applies to non-federal government health plans and large group health plans of private employers, both with more than 50 employees. The law also applies to insurance coverage on the individual health insurance market. The law does not directly apply to small group health plans; however, its requirements are applied indirectly due to its connection with the Affordable Care Act's (ACA) essential health benefits (EHB) requirements.[*]

States can have stronger parity laws than the MHPAEA. If a state has stronger requirements, then health insurance plans regulated by that state must follow those laws. For instance, if a state law requires health insurance plans cover mental health conditions or SUDs, then the health plans

[*] For more in-depth information on which health plans the MHPAEA does and does not apply to – visit: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet#:~:text=The%20Paul%20Wellstone%20and%20Pete,favorable%20benefit%20limitations%20on%20those

must do so, even though the MHPAEA makes the coverage of both optional. While states can have stronger requirements than MHPAEA, a state's requirements cannot be weaker than the federal requirements.

Illinois Mental Health Parity
In 2018, Illinois strengthened its mental health parity statute to ensure that people with behavioral health conditions have better access the treatment needed. The new law went into effect January 1, 2019 and does the following:

- Prohibits all prior authorization and step care therapy requirements for FDA-approved medications to treat SUDs;
- Requires generic FDA-approved medications for SUDs to be on the lowest tier of prescription formularies; and
- Prohibits exclusions of prescription coverage and related support services for SUDs.

Health insurance plans regulated in Illinois are not only subject to the MHPAEA's requirements, but also the state's stronger requirements.

How the MHPAEA can impact Tobacco Cessation

MHPAEA defers to health plans and employers to define the breadth and scope of mental health and SUD benefits. However, plans across the large groups, small group and individual markets use the American Psychiatric Association (APA) Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases and state laws to define these benefits.[6] The DSM-5 is a manual for assessment and diagnosis of mental health disorders with generally recognized independent standards of current medical practice. It lists Tobacco Use Disorder, Tobacco Withdrawal and Unspecific Tobacco-Related Disorder as mental health diagnoses.[7]

If health plans offer treatment for tobacco use as a SUD, then those cessation benefits are subject to the MHPAEA's parity requirements. Tobacco cessation coverage could be no more restrictive than coverage for medical/surgical benefits.

Conclusion

The MHPAEA took steps towards improving mental health or SUD benefits in 2008 by ensuring parity if those benefits were offered. Unfortunately, there were still gaps in coverage because the law does not require health plans to offer mental health or SUD benefits. The law also only addresses non-federal government health plans and group health plans of private employers, both with more than 50 employees. Ultimately, it is up to health plans' discretion to offer tobacco cessation benefits as treatment for a SUD and if they do, then they are subject to the MHPAEA's parity requirements.

The passage of the ACA helped in closing some of those gaps by building on the MHPAEA. It requires non-grandfathered individual and small group health plans to cover the ten EHBs.

Tobacco cessation can fall under two of these EHBs:

- Preventive and wellness services and chronic disease management; and
- Mental health and substance use disorder services, including behavioral health treatment.

Most health plans are required to offer tobacco cessation benefits as a "preventive service," with no cost-sharing. However, because nicotine dependence is classified as a mental health diagnosis, it is possible that tobacco dependence could be treated as a SUD. Neither the MHPAEA nor the ACA require health plans to include benefits for a particular SUD, such as tobacco use. However, if the health plans subject to the MHPAEA's and ACA's provisions offer treatment for tobacco use as part of the SUD benefit, then the federal parity rules must also be applied to those cessation benefits.

July 2020

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[3] Substance Abuse and Mental Health Services Administration. The NSDUH Report Data Spotlight: Adults with Mental Illness or Substance Use Disorder Account for 40 Percent of All Cigarettes Smoked pdf icon[PDF–563 KB]external icon. U.S. Dept. of Health & Human Services, Substance Abuse & Mental Health Services Administration, Center for Behavioral Health Statistics and Quality, March 30, 2013
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[5] Lemon SC, Friedman PD, Stein MD. The impact of smoking cessation on drug abuse treatment outcome. Addictive Behaviors, 2003; 28(7):1323-31
[6] Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; Technical Amendment to External Review for Multi-State Plan Program, 78 Fed. Reg. 290 (November 13, 2013)
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