

Spotlight on Mental Health and Substance Use Disorder Parity Compliance Standards

*An Analysis of State Compliance Reporting
Requirements*



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Executive Summary

Enforcement of the Mental Health Parity and Addiction Equity Act (Parity Act) requires multiple strategies to prevent the sale of health plans that include discriminatory insurance coverage for mental health (MH) and substance use disorder (SUD) benefits. The complexity of the Parity Act makes enforcement difficult. In order to fully enforce the law's provisions, regulators must have information that fully explains the development and application of plan design features that may limit the scope of and access to care. This information is typically not contained in plan documents available to regulators and is in the sole possession of health plans that frequently oppose disclosure. Traditional regulatory enforcement activities, such as form review, post-market investigations and market conduct examinations, and consumer complaints, have proven either inadequate to capture this critical information or ill-timed to prevent the sale of discriminatory plans.

This *Spotlight on Mental Health and Substance Use Disorder Parity Compliance Standards* examines state statutory standards requiring state-regulated private health plans to submit information and data that will allow regulators to conduct a parity analysis and requirements for State Insurance Departments to report on their enforcement activities. Compliance and data reporting are essential for regulators to prospectively ensure parity compliance.

Key Findings

- As of July 2020, 15 states and the District of Columbia have enacted laws requiring health plans to submit compliance reports and/or quantitative data on the development and application of non-quantitative treatment limitations (NQTLs) and quantitative data that identifies disparities in plans' operations.
- As of July 2020, 16 states and the District of Columbia have enacted legislation requiring State Insurance Departments to report on their enforcement activities to their state legislatures.
- At least 30 states include some level of Parity Act compliance review as part of the insurers' form submissions.

The *Spotlight* recommends the adoption of laws requiring health plans to submit compliance reports and quantitative data on an annual basis and ensure that parity violations are resolved prior to sale of the plan. In addition, states should require their Insurance Departments to report annually on parity enforcement activities. State compliance reporting standards are a promising strategy for improving compliance with the

Parity Act by ensuring regulators have the information required to conduct a comprehensive parity analysis prior to the sale of health plans and for promoting transparency and accountability in parity enforcement.

Introduction

The Mental Health Parity and Addiction Equity Act of 2008 (Parity Act) and state parity laws require non-discriminatory coverage of and access to mental health (MH) and substance use disorder (SUD) benefits in private and public health insurance. The Parity Act bars issuers from offering health plans that do not comply with the federal non-discrimination standards.¹

Parity requirements are enforced through a combination of health plan self-compliance and regulatory oversight. The Parity Act's prohibition on the sale of plans that violate non-discrimination standards means that health plans must have internal compliance plans that allow for prospective plan review for parity compliance. For state-regulated health plans, including qualified health plans sold on state Exchanges and commercial employer-based insurance, states are primarily responsible for enforcing federal and state parity laws.² The parity enforcement framework relies heavily on regulators and consumers to identify non-compliance. Regulators have primarily deployed traditional enforcement activities, such as form review, post-market investigations and market conduct examinations, and consumer complaints to identify potential violations.

These tools are inadequate to fully enforce parity requirements. The Parity Act is complex, and compliance cannot be evaluated without the disclosure of plan information related to the development and application of virtually every plan design feature, including financial requirements (FRs), quantitative treatment limitations (QTLs) and non-quantitative treatment limitations (NQTLs). This information, which is in the sole possession of issuers, is not captured by traditional regulatory enforcement practices and is further frustrated by health plans' efforts to protect their information as confidential or proprietary and resist disclosure to consumers, providers and even regulators. **In other words, the regulatory bodies responsible for assessing parity compliance do not have the information necessary to make that determination.**

¹ P.L. 110-343, 122 Stat. 3881 (Oct. 3, 2008); 45 C.F.R. § 146.136(h) (2013).

² See e.g., D.C. CODE § 31-3175.02 (2019); 215 ILL. COMP. STAT. 5/370c(d) (2018); N.H. REV. STAT. ANN. § 417-E:1(V), (V-a) (2020); N.J. REV. STAT. § 26:2S-10.8(d) (2019); 42 R.I. GEN. LAWS § 42-14.5-3(j), (p) (2020); TENN. CODE ANN. § 56-7-2360(d) (2018); TEX. INS. CODE ANN. § 1355.255 (2019).

United States Department of Labor. (2020). *Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)*. Retrieved from <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf>. (p. 3) See also [Exhibit A](#) for additional detail.

In response to enforcement barriers, states have begun to enact laws that require health plans to report specific data and information about the development and application of plan standards – the information necessary to evaluate parity compliance – to regulators, the public and/or the legislature. As of July 2020, 15 states and the District of Columbia have passed laws requiring health plans to submit compliance reports and/or other quantitative data to State Insurance Departments. In addition, 16 states and the District of Columbia have also enacted standards that require State Insurance Departments to detail their parity enforcement efforts in reports to the legislature and the public. See [Exhibit A](#) for a summary of the state laws. This *Spotlight* explores the use of reporting requirements as a tool to increase parity compliance and promote transparency and accountability around parity enforcement in state-regulated private health plans.

Parity Requirements

The Parity Act prohibits the use of separate or more restrictive standards for MH or SUD benefits than for medical/surgical benefits. Such standards (or, plan design features) include financial requirements (e.g., deductibles, copayments and coinsurance), quantitative treatment limitations (e.g., visit limits) and non-quantitative treatment limitations (e.g., prior authorization requirements, medical necessity determinations, network standards, reimbursement rates, and scope of services). The non-discrimination analysis is performed by analyzing plan design features across benefit classifications for MH services and SUD services as compared to medical/surgical services.³ To meet the Parity Act’s obligation to “not sell a policy, certificate, or contract of insurance that fails to comply with [parity requirements with respect to aggregate lifetime and annual dollar limits, financial requirements, and treatment limitations],”⁴ health plans and issuers must have internal compliance plans to ensure non-discriminatory coverage of MH and SUD benefits. The implementation of a rigorous compliance plan is the only way in which an issuer or plan can assess whether MH and SUD benefits are comparable to and no more restrictive than medical benefits. Below is a brief summary of the Parity Act’s standards; a thorough explanation of the standards and applicability of the law can be found in the *Parity at 10 State Attorney General Parity Enforcement Toolkit*.⁵

Requirements for Quantitative Treatment Limitations (QTLs) and Financial Requirements (FRs)

The Parity Act applies a mathematical test to define discrimination for any plan feature that is expressed quantitatively. A financial requirement (FR) or quantitative treatment limitation

³ 45 C.F.R. §146.136(c)(2)(ii) (2013).

⁴ 45 C.F.R. §146.136(h) (2013).

⁵ Parity at 10. (2019). *State Attorney General Parity Act Enforcement Toolkit*. Retrieved from http://parityat10.org/wp-content/uploads/2019/03/ParityAt10_AG-Toolkit_FINAL-citation-added.pdf.

(QTL) imposed on a MH/SUD benefit cannot be “more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification.”⁶ The test must be applied separately to each type of FR or QTL within each classification.⁷ Plan information regarding expected plan payments for medical/surgical benefits is required to conduct the mathematical analysis. Regulators can generally identify FRs and QTLs from insurance plan documents as they conduct form review. To the extent a FR or QTL value for MH benefits or SUD benefits is less favorable than the comparative value for medical/surgical benefits (i.e., higher co-payment for a MH office visit or more limited number of days covered for an episode of SUD treatment), the health plan must demonstrate parity compliance.⁸

Requirements for Non-Quantitative Treatment Limitations (NQTLs)

Non-quantitative treatment limitations (NQTLs) include the full range of plan design features that regulate and limit access to care, including medical necessity criteria, utilization management standards, network adequacy, reimbursement rate setting, and benefit coverage and exclusions. The Parity Act regulates NQTLs both *as written* in the policy and *in operation* (as implemented) by the plan or by a MH/SUD benefits manager, and the Act applies a comparative standard for discrimination. The standard requires that, as written and in operation, “any processes, strategies, evidentiary standards, or other factors” used to create an NQTL for MH/SUD benefits must be comparable to, and applied no more stringently than the “processes, strategies, evidentiary standards or other factors” used to impose and apply NQTLs for medical/surgical benefits in the benefit classification.⁹ The NQTL discrimination test is akin to other civil rights standards for “class-based” discrimination: the plan must use the same rules to regulate insurance access for MH/SUD benefits as it does for medical/surgical services, and it cannot apply those rules more stringently to MH/SUD benefits.

Assessing compliance for NQTLs requires specific information from plans including:

- A list of NQTLs that apply to MH, SUD and medical/surgical benefits in each benefit classification;
- Documentation regarding the factors, processes and strategies used to impose and apply NQTLs for both medical/surgical and MH and SUD benefits to demonstrate comparable standards;¹⁰
- Data that tracks the implementation of the NQTLs (or, the NQTLs *in operation*) for medical/surgical, MH and SUD benefits to demonstrate no more stringent application of

⁶ 45 C.F.R. § 146.136(c)(2)(i) (2013).

⁷ *Id.*

⁸ For example, Connecticut requires any insurer that offers a plan with lower cost sharing for a medical benefit than for a mental health benefit to include a demonstration of how the cost sharing requirement complies with parity requirements in the plan’s rate filing. CONN. AGENCIES REGS. §§ 38a-481-9(a)(8); 38a-513-13(a)(8) (2018).

⁹ 45 C.F.R. § 146.136(c)(4)(i) (2013).

¹⁰ *Id.*

- standards, such as rates of denials, frequency of prior authorization and continuing review, reimbursement rates, out-of-network utilization, and provider inclusion in networks; and
- The plan’s comparative analysis for any NQTL that is imposed on MH/SUD benefits.¹¹

NQTLs are generally described in documents not typically provided to regulators during the form review process, including internal medical necessity and utilization management guidelines, provider contracts, reimbursement rate setting standards and plan operating practices.¹² In addition, unless requested, the regulator will not have access to a plan’s underlying processes and factors used to adopt any particular NQTL for a MH or SUD benefit or its evidence of the application of those processes and factors.

Enforcement Tools

Regulators have relied on traditional enforcement tools to monitor compliance with these parity standards. As described in greater detail below, these tools are inadequate because they cannot capture all of the information required for a parity analysis or are deployed after plans have been sold in the market.

Form Review

States evaluate plans for compliance with parity and other requirements during form review.¹³ In this process, regulators review plan documents for compliance with various state and federal requirements before the plan can be sold to consumers.

At least 30 states require plans to address Parity Act compliance during form review, based on requirements to complete checklists and/or sign a written attestation certifying parity compliance.¹⁴ Many states report reviewing plan documentation to verify compliance with requirements for QTLs and FRs,¹⁵ although the level of regulatory scrutiny cannot be determined from the form requirements. In Arizona, state law requires their Insurance Department to evaluate compliance with FR and QTL standards during form review.¹⁶ A Washington law requires carriers to file a justification demonstrating the analysis of each

¹¹ 45 C.F.R. §146.136(c)(4) (2013).

United States Department of Labor. *Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)*. (p. 19-28).

¹² United States Department of Labor. *Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)*. (p. 21, 23, 25, 26, and 34).

¹³ United States Government Accountability Office. (2019). *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. Retrieved from <https://www.gao.gov/assets/710/703239.pdf>. (p. 15).

¹⁴ Alaska; California; Connecticut; Delaware; Idaho; Illinois; Indiana; Kentucky; Louisiana; Maine; Maryland; Massachusetts; Michigan; Missouri; Nebraska; Nevada; New Hampshire; New York; North Carolina; Ohio; Oregon; Pennsylvania; Rhode Island; South Carolina; Texas; Utah; Virginia; Washington; West Virginia; and Wisconsin. See [Exhibit B](#) for a summary of form review requirements.

¹⁵ United States Government Accountability Office. *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. (p. 16).

¹⁶ ARIZ. REV. STAT. ANN. § 20-3502(C) (2020).

plan's compliance with parity requirements for FRs and QTLs.¹⁷ Maryland requires carriers to provide an actuarial demonstration as evidence that the QTLs and FRs are parity compliant.¹⁸ Other states, including Illinois, Utah and Virginia, require plans to submit templates or checklists with additional documentation supporting parity compliance in form filing submissions.¹⁹ Utah's detailed attestation takes an additional step to verify plan compliance review by requiring issuers to submit documentation of their parity analyses and other representations upon request from their State Insurance Commissioner.²⁰ Finally, Nebraska and South Carolina require plans to base their compliance review on the federal Department of Labor Self-Compliance Tool.²¹

A large majority of states also report reviewing plan documentation for at least one type of non-quantitative treatment limitation (NQTL).²² Nonetheless, numerous studies have determined that compliance with NQTL requirements cannot be determined from a review of plan documents,²³ and, as noted above, a complete NQTL analysis requires a comparative analysis of the factors, processes and strategies used to develop and implement the NQTL across MH, SUD and medical/surgical benefits.

¹⁷ WASH. ADMIN. CODE §284-43-7120 (2020).

¹⁸ Maryland Insurance Administration. (2020, January 7). *Bulletin 20-01: 2021 Affordable Care Act ("ACA") Individual and Small Employer Form and Rate Filing Instructions*. Retrieved from <https://insurance.maryland.gov/Insurer/Documents/bulletins/20-01-2020-ACA-Rate-and-Form-Filing.pdf>. (p. 3).

¹⁹ Illinois Department of Insurance. (2018). *MHSUD Supporting Documents Template*. Retrieved from <https://insurance.illinois.gov/HealthInsurance/MentalHealthParitySupportingDocumentationTemplate.pdf>. Virginia State Corporation Commission. (2019). *Review Requirements Checklist: Mental Health and Substance Use Disorder Benefits Parity*. Retrieved from <https://scc.virginia.gov/boi/co/health/check/mhsudbene.pdf>. Utah Insurance Department. (2020, April 30). *Bulletin 2020-9: Utah Mental Health and Substance Abuse Parity Attestation* [bulletin from Utah Insurance Commissioner to Health Insurers Offering Health Benefit Plans]. Retrieved from <https://insurance.utah.gov/wp-content/uploads/2020-9Signed.pdf>.

²⁰ Utah Insurance Department. (2020). *Utah Mental Health Parity and Substance Abuse Attestation*. Retrieved from <https://insurance.utah.gov/wp-content/uploads/2020-9UtahMHPEAAttestation.pdf>.

²¹ Nebraska Department of Insurance. (2020). *Affordable Care Act Individual and Small Group Major Medical Checklist Plan Year 2021*. Retrieved from <https://doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/Nebraska%202021%20ACA%20Major%20Medical%20Checklist.pdf>.

South Carolina Department of Insurance. (2020). *2020 Filing Requirements (for 2021 Plans)*. Retrieved from <https://www.doi.sc.gov/DocumentCenter/View/12806/Major-Medical-Requirement-4-30-2020>.

²² United States Government Accountability Office. *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. (p. 16).

²³ Goplerud, E. (2013). Consistency Of Large Employer And Group Health Plan Benefits With Requirements Of The Paul Wellstone And Pete Domenici Mental Health Parity And Addiction Equity Act Of 2008. *United States Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation*. Retrieved from <https://aspe.hhs.gov/report/consistency-large-employer-and-group-health-plan-benefits-requirements-paul-wellstone-and-pete-domenici-mental-health-parity-and-addiction-equity-act-2008>. (pp. xii, 52).

Weber, E., Woodworth, A., Vuolo, L., Feinstein, E., & Tabit, M. (2017). *Parity Tracking Project: Making Parity a Reality*. Retrieved from Legal Action Center's website: <https://www.lac.org/resource/parity-tracking-project>. (pp. 6-7).

Post-Market Reviews

Once plans are sold to consumers, insurance regulators continue to monitor compliance with parity requirements through targeted reviews and market conduct exams. A survey by the Government Accountability Office (GAO) found that 20 states reported performing targeted reviews to focus on a specific parity compliance issue, typically initiated by consumer complaints.²⁴

Regulators can use market conduct exams to review a plan's practices and require specific data from the health plan. Tennessee law requires market conduct exams to include comparative analyses for medical necessity criteria and NQTLs.²⁵ Several states, including Illinois,²⁶ Maryland,²⁷ New Hampshire,²⁸ Pennsylvania²⁹ and Rhode Island,³⁰ have conducted parity-focused market conduct exams or surveys. State regulators have identified market conduct exams as the most important regulatory tool because they allow regulators to examine plan processes and procedures and obtain additional information from carriers.³¹ Yet, only 18 states reported to the GAO that they conducted market conduct exams on a regular basis, and only nine routinely review MH and SUD benefits for parity compliance.³² Even routine exams, which are conducted every three to five years, only represent a snapshot of past practices.³³ Further, market conduct exams are time-consuming. The

²⁴ United States Government Accountability Office. *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. (p. 17).

²⁵ TENN. CODE ANN. § 56-7-1007(a)(3) (2020).

²⁶ Illinois Department of Insurance. (2020, July 15). *Pritzker Administration Announces Over \$2 million in Fines for Major Health Insurance Companies Violating Illinois Mental Health Parity Laws*. Retrieved from https://www2.illinois.gov/IISNews/21819-IDOI_Press_Release.pdf.

²⁷ Maryland Insurance Administration. *MHPAEA Enforcement Actions*. Retrieved from <https://insurance.maryland.gov/Consumer/Pages/MHPAEA-Enforcement-Actions.aspx>. (The MIA conducted a series of three market conduct surveys on parity compliance);

United States Government Accountability Office. *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. (p. 19).

²⁸ New Hampshire Insurance Department. (2020). *Mental Health Parity Examinations*. Retrieved from <https://www.nh.gov/insurance/consumers/parity-examination-reports.htm>.

²⁹ PA Media. (2019, November 4). *Insurance Department Exam Finds UnitedHealthcare Violations*. Retrieved from <https://www.media.pa.gov/Pages/Insurance-Details.aspx?newsid=405>.

PA Media. (2019, January 8). *Aetna Market Conduct Report Notes Autism and Substance Use Disorder Coverage Violations, General Compliance Overall*. Retrieved from <https://www.media.pa.gov/Pages/Insurance-Details.aspx?newsid=367>.

PA Media. (2018, February 13). *Insurance Department Market Conduct Report on Blue Cross of NEPA Focuses on Substance Use Disorder Treatment Compliance*. Retrieved from <https://www.media.pa.gov/Pages/Insurance-Details.aspx?newsid=296>.

³⁰ State of Rhode Island Office of the Health Insurance Commissioner. (2020, March 5). *OHIC Releases Two Market Conduct Exams for Behavioral Health Coverage*. Retrieved from <http://www.ohic.ri.gov/documents/2020/March/Tufts-NHPRI%20MCE%20Press%20Release.pdf>.

³¹ United States Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. (2016). *Approaches in Implementing the Mental Health Parity and Addiction Equity Act: Best Practices from the States*. Retrieved from <https://store.samhsa.gov/sites/default/files/d7/priv/sma16-4983.pdf>. (p. 3).

³² United States Government Accountability Office. *Mental Health and Substance Use: State and Federal Oversight of Compliance with Parity Requirements Varies*. (p. 19).

³³ *Id.* at p. 19.

Maryland Insurance Administration, for example, stated in an order against UnitedHealthcare for Parity Act violations of reimbursement rate setting practices that it “investigated Respondents for **a year and seven months** before it obtained all information it needed to understand how Respondents were developing reimbursement rates for OON [out-of-network] providers.”³⁴ The Pennsylvania Insurance Department took **one year and eight months** to conduct a review of Aetna’s compliance with a range of state and federal laws, including the Parity Act.³⁵ Most importantly, market conduct exams do not protect consumers from purchasing a plan that is non-compliant with the law, as they only identify violations *after* they have occurred. This allows plans to discriminate against patients with MH/SUD at a time when they most urgently need to access life-saving care.

Parity Compliance Tools

Federal and state regulators and other stakeholders have responded to the need for prospective and on-going parity compliance review with the development of standardized tools. There are a number of tools available to health plans and insurance regulators to evaluate parity compliance, although some of the tools are inadequate for a thorough parity exam.

DOL MHPAEA Self-Compliance Tool

In 2018, the Department of Labor (DOL) issued an MHPAEA Self-Compliance Tool to assist plans with internal compliance review, and it has recently updated the tool.³⁶ In addition to addressing standards for FR and QTL compliance, DOL’s Self-Compliance Tool sets out a four-step process carriers can utilize to confirm NQTL compliance, and it defines and gives examples of key elements and sources of evidence for the analysis.

DOL’s four-step process for confirming NQTL compliance includes:

1. Identifying the NQTL and the MH/SUD and medical/surgical benefits to which it applies in each benefit classification;
2. Identifying the factors considered in designing the NQTL;
3. Identifying the sources (e.g., processes, strategies, or evidentiary standards) used to define the factors; and

³⁴ Maryland Insurance Administration v. Optimum Choice, Inc., UnitedHealthcare Ins. Co., and UnitedHealthcare of the Mid-Atlantic, Case Nos. MIA-2020-04-039, MIA-2020-04-040, and MIA-2020-04-041 (April 21, 2020) at 4 (emphasis added).

³⁵ Commonwealth of Pennsylvania Insurance Department. (2018). *Market Conduct Examination of Aetna Health Insurance Company, Aetna Health Inc., PA Corp., Health America, Inc., Health Insurance PA, Inc., and Aetna Life Insurance Company*. Retrieved from https://www.insurance.pa.gov/Regulations/Regulatory%20Actions/Documents/Current%20Market%20Conduct/Aetna_FinalExamReport_01042019.pdf. (PDF p. 34).

³⁶ United States Department of Labor. *Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)*.

4. Performing a comparative analysis to determine that the processes, strategies and evidentiary standards used to apply the NQTL to MH/SUD benefits are comparable to and no more stringent than those used to apply the NQTL to medical/surgical benefits, both as written and in operation.³⁷

DOL also advises health plans and issuers that records documenting parity compliance for NQTLs may be requested in a DOL audit.³⁸ The DOL Self-Compliance Tool and other guidance provide a roadmap for the types of plan information regulators should obtain from a plan to assess compliance with parity standards. As noted above, the Departments of Insurance in Nebraska and South Carolina require health plans and insurers to use the DOL Self-Compliance Tool as they prepare their plans for form review.

State Compliance Reporting Tools

Some states have developed their own tools to collect information on parity, often in connection with statutory compliance reporting requirements. For example, Colorado³⁹ and Delaware⁴⁰ both issued regulations containing a form for carriers to complete with detailed data and analysis about QTLs, NQTLs and FRs. In California, regulators created a parity analysis workbook and supporting documentation template for QTLs and NQTLs.⁴¹ These tools are more robust than the checklists typically used by regulators during form review and call for the plan's documentation of its comparative analysis of NQTLs as written and in operation.

In addition, some states require disclosure of specific data points to allow regulators to flag disparities in the implementation of a NQTL that could reflect an underlying parity violation. Colorado requires health plans to report on paid and denied claims; prior authorization approvals and denials; reimbursement data (service type, code, minimum/median/maximum payment and percentage of Medicare reimbursement); and projection of number of providers needed to deliver services.⁴² In New York, health plans must submit data comparing a number of data points for MH/SUD and medical/surgical

³⁷ *Id.* at pp. 21-28.

³⁸ *Id.* at p. 34.

³⁹ 3 CODE COLO. REGS. § 702-4:4-2-64 (2020) and Appendices.

⁴⁰ 18 DEL. ADMIN. CODE § 1410- 5 (2019).

Delaware Department of Insurance. (2019). *Regulation 1410 –Appendix A*. Retrieved from

<https://insurance.delaware.gov/wp-content/uploads/sites/15/2019/06/NQTL-Guidance-and-Worksheet-FINAL.pdf>.

See also Delaware Department of Insurance. (2019). *Reporting Form For Medical Management Protocols For Insurance Coverage For Serious Mental Illness And Drug And Alcohol Dependency Pursuant To 18 DE Admin. Code 1410*. Retrieved from <https://insurance.delaware.gov/wp-content/uploads/sites/15/2020/06/Reg-1410-Mental-Health-Parity-Reporting-Form.docx>.

⁴¹ California Department of Insurance. (2019). *California Department of Insurance Mental Health Parity Supporting Documentation Instructions*. Retrieved from <https://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/hpab/upload/Instructions-for-Mental-Health-Parity-Supporting-Documentation-Template.pdf>.

⁴² 3 CODE COLO. REGS. § 702-4:4-2-64, Sec. 11-12, App. C, J (2019).

benefits, including rates of utilization review approvals and denials; number of prior or concurrent authorization requests and denials; rates of appeals of adverse determinations upheld and overturned; percentage of in-network and out-of-network claims; and cost-sharing requirements and benefit limitations. New York also requires health plans to report the number of behavioral health advocates or staff available to assist policy-holders; the number by type of in-network, licensed providers that provide MH/SUD services; the percentage of MH/SUD providers who remained participating providers; and other information necessary or useful to measure parity compliance, including an evaluation and assessment of network adequacy and reimbursement rates.⁴³

National Association of Insurance Commissioners (NAIC) Tools

In 2018, the NAIC Market Conduct Examination Standards (D) Working Group developed a Market Conduct template for use in conducting Parity Act examinations.⁴⁴ The NAIC template omits key NQTLs, does not constitute a tool for comparative analysis of compliance, and is less rigorous than templates being adopted by state insurance regulators. Unfortunately, some states, such as Maryland,⁴⁵ have adopted the template as a compliance review tool. NAIC's MHPAEA Working Group B is currently developing additional parity compliance review tools to supplement the NAIC's market conduct template.⁴⁶

URAC MH/SUD Parity Accreditation Program

URAC offers a Mental Health and Substance Use Disorder Parity Accreditation Program for health plans based on “standards [that] track to the federal MHPAEA Final Rules,” and provides a roadmap for plans to perform prospective parity assessments.⁴⁷ URAC also offers a software tool, ParityManager™, which can be used by health plans, third-party administrators and regulators to facilitate collection of the data necessary for a parity compliance analysis.⁴⁸

⁴³ N.Y. INS. LAW § 343 (2019).

⁴⁴ National Association of Insurance Commissioners. (2018). *Attachment 1: Mental Health Parity 8-23-18 – Conducting the Mental Health Parity and Addiction Equity Act (MHPAEA) Related Examination*. Retrieved from https://content.naic.org/sites/default/files/inline-files/cmte_d_market_conduct_exam_standards_180829_materials.pdf. Final version available in the NAIC 2020 Market Regulation Handbook. https://www.naic.org/prod_serv_publications_for_sale.htm#mkt_reg_hb.

⁴⁵ Maryland General Assembly. (2020). HB 455/SB 334 (CH 211), Health Insurance – Mental Health Benefits and Substance Use Disorder Benefits – Reports on Nonquantitative Treatment Limitations and Data. Retrieved from <http://mgaleg.maryland.gov/mgaweb/Legislation/Details/SB0334>. (to be codified at Md. CODE ANN. INS. § 15-144).

⁴⁶ National Association of Insurance Commissioners. (2020). *MHPAEA (B) Working Group*. Retrieved from https://content.naic.org/cmte_b_mhpaea_wg.htm.

⁴⁷ URAC. *Mental Health Substance Use Disorder (MH/SUD) Parity Accreditation Program*. Retrieved from <https://www.urac.org/mental-health-substance-use-disorder-mhsud-parity-accreditation-program>.

⁴⁸ URAC. *ParityManager™*. Retrieved from <https://www.urac.org/paritymanagertm>.

The Kennedy Forum’s Six-Step Parity Analysis

In 2017, the Kennedy Forum, the American Psychiatric Association and the Parity Implementation Coalition created a six-step parity analysis to break down the NQTL regulatory standards and facilitate comparative analyses to determine compliance with NQTL requirements.⁴⁹ The analysis includes examples of NQTLs, factors, sources, evidentiary standards, processes and strategies and comparative analyses. The organizations also created worksheets to guide plans through the analysis for certain NQTLs.⁵⁰

The six-step analysis requires health plans to:

1. Identify the NQTL, using the specific language from the plan documents, and all the benefits to which the NQTL is applied, by classification.
2. Identify the factors and the source of the factors used to determine application of the NQTL and perform a comparative analysis to demonstrate comparable factors were used to apply the NQTL to MH/SUD and medical/surgical benefits.
3. Identify and provide the source for the evidentiary standard for each factor and any other evidence used to apply the NQTL.
4. Provide comparative analyses to demonstrate that the processes and strategies used to design the NQTL, as written, for MH/SUD benefits, are comparable to and applied no more stringently than the processes and strategies used to design the NQTL, as written, for medical/surgical benefits.
5. Provide comparative analyses to demonstrate that the processes and strategies used to operationalize the NQTL for MH/SUD benefits are comparable to and applied no more stringently than the processes and strategies used to operationalize the NQTL for medical/surgical benefits.
6. Provide an explanation for the aforementioned analyses to summarize the plan’s position that it is compliant with the Parity Act’s requirements for NQTLs.

State Reporting Requirements

As previously described, identifying plan compliance with the Parity Act requires information typically not contained in plan documents available to consumers or regulators and relies on the plan to disclose internal information related to the development and application of FRs, QTLs and NQTLs.⁵¹ Yet, health plans frequently seek to protect this information as confidential or proprietary and resist disclosure. Starting in 2018, states

⁴⁹ Clement, T., Harbin, H., Mauri, A., Middlebrook, B.A., Muszynski, I.L., & Vadon, M. (2017). The “Six-Step” Parity Compliance Guide for Non-Quantitative Treatment Limitation (NQTL) Requirements. *American Psychiatric Association, The Kennedy Forum, and Parity Implementation Coalition*. Retrieved from ParityTrack’s website: https://s3.amazonaws.com/pjk-wp-uploads/www.paritytrack.org/uploads/2017/09/six_step_issue_brief.pdf.

⁵⁰ American Psychiatric Association, The Kennedy Forum, & Parity Implementation Coalition. (2017). *The “Six-Step Parity Compliance Guide: NQTL Worksheets*. Retrieved from ParityTrack’s website: <https://s3.amazonaws.com/pjk-wp-uploads/www.paritytrack.org/uploads/2017/09/KF-Six-Step-NQTL-Worksheets-fill-09172.pdf>.

⁵¹ Weber, E., Woodworth, A., Vuolo, L., Feinstein, E., & Tabit, M. *Parity Tracking Project: Making Parity a Reality*.

began to enact laws that require health plans to disclose compliance information to regulators, the legislature and/or the public in order to compel plans to provide the information necessary to determine violations and enforce the Parity Act.⁵² These laws help address the shortcomings of traditional regulatory compliance tools and overcome plan opposition to disclosure.

States have also adopted standards that require the regulators – State Insurance Departments – to report on their parity compliance activities to the legislature and the public. These laws are meant to increase transparency about regulatory efforts to enforce parity and to hold regulators accountable for enforcement. A summary of the state laws is provided in [Exhibit A](#).

Laws Requiring Reporting by Health Plans

Regulators may obtain the critical information required to ensure parity compliance prospectively by requiring health plans to submit compliance reports and quantitative data on the development and application of plan design features. The compliance reports describe how the plan or issuer designs and implements non-quantitative treatment limitations (NQTLs) and provide the comparative analysis, which only the plan can conduct, to demonstrate that NQTLs for MH and SUD benefits are comparable to and applied no more stringently than medical/surgical benefits, both as written and in operation. The quantitative data identifies disparities in the application of NQTLs to MH, SUD and medical/surgical benefits that may flag an underlying parity violation in the operation of specific NQTLs. States can further promote transparency in health plan practices by requiring the compliance reports or a synthesis of the compliance reports be available to the public. As of July 2020, 15 states and the District of Columbia have enacted laws requiring health plans to submit compliance reports and/or quantitative data to the State Insurance Departments.

- Fifteen states and the District of Columbia have enacted laws that require health plans to submit compliance reports and/or quantitative data to their State Department of Insurance: Alabama; Arizona; Colorado; Connecticut; Delaware; Illinois; Indiana; Maryland; Massachusetts; Minnesota; New Jersey; New York; Oklahoma; Vermont;⁵³ and Washington.
- Nine states and the District of Columbia have enacted laws requiring health plans to conduct the parity compliance analysis modeled on the Kennedy Forum’s six-step analysis for medical necessity criteria and NQTLs and report the findings from the

⁵² Delaware and Illinois were the first states to enact standards for compliance reporting for health plans. DEL. CODE ANN. tit. 18, §§ 3571U, 3343(g) (2018); 215 ILL. COMP. STAT. 5/370c.1(k) (2018).

⁵³ Vermont requires collection of data related to the plan’s performance on quality measures for MH/SUD care, treatment, and treatment options. 8 VT. STAT. ANN. § 4089b(d)(1)(B); VT. ADMIN CODE 4-5-7:5 (2020). While the data points relate to treatment quality, not parity, they have been included in this review because they are similar to data points other states are collecting for parity compliance.

- analysis to their State Insurance Departments: Arizona; Colorado; Connecticut; Delaware; Illinois; Indiana; Maryland; New Jersey; and Oklahoma.
- Six states and the District of Columbia require health plans to report on a variety of other types of quantitative data, including costs, claims, denials and utilization management determinations that are essential to an analysis of “in operation” parity compliance: Alabama; Colorado; Maryland; Massachusetts; New York; and Vermont.
 - Four states require health plan compliance reports be reported to the public: Colorado; Illinois; Maryland; and Oklahoma.
 - Four states require their Insurance Departments to prepare a synthesis of the health plan compliance reports and report it to the public: Arizona; New Jersey; Rhode Island; and Virginia.
 - Seven states and the District of Columbia require carriers to file reports annually: Alabama; Colorado; Connecticut; Illinois; Indiana; New Jersey; and Oklahoma.

Laws Requiring Reporting by Insurance Regulators

To promote transparency and accountability in parity enforcement activities, states have also enacted laws requiring their State Insurance Department to prepare reports detailing their parity enforcement activities and submit the reports to their legislature, often on an annual basis. As of July 2020, 16 states and the District of Columbia have passed laws imposing reporting requirements on State Insurance Departments.

- Sixteen states and the District of Columbia require their Insurance Department to report to their legislatures on parity enforcement activities: Colorado; Connecticut;⁵⁴ Illinois; Indiana; Maine;⁵⁵ Maryland; Minnesota; New Hampshire; New Jersey; Ohio; Oklahoma; Oregon;⁵⁶ Tennessee; Texas;⁵⁷ Virginia;⁵⁸ and West Virginia.

⁵⁴ Connecticut requires the Insurance Department to submit the health plan compliance reports to the legislature and other state government officials. CONN. GEN. STAT. § 38a-477ee(c)-(d) (2020).

⁵⁵ Maine requires the Insurance Department to conduct a parity assessment through market conduct exams or survey tools and report the results to the legislature.

Maine Legislature. (2019). L.D. 1694/S.P. 599, An Act To Amend the Mental Health Insurance Coverage Laws. Retrieved from <http://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0559&item=1&num=129>.

⁵⁶ Oregon required the Insurance Department to examine and file one report by September 2019 on specific health plan practices, including reimbursement rates and practices and utilization management procedures, for MH/SUD benefits.

Oregon State Legislature. (2017). SB 860, Relating to mental health treatment providers; and declaring an emergency. Retrieved from <https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB860>.

⁵⁷ Texas requires the Insurance Department to prepare biennial reports on parity for the legislature. TEX. GOV'T CODE ANN. § 531.02252(g) (2017).

⁵⁸ Virginia requires the Insurance Department to compile information on denied claims, complaints, appeals, and network adequacy involving MH/SUD coverage into a publicly available report and submit it to the legislature on an annual basis.

Virginia General Assembly. (2020). SB 280, Health insurance; mental health parity, required report. Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+SB280>. Codified at VA. CODE ANN. § 38.2-3412.1(G) (2020).

- Three states explicitly require their State Insurance Department to analyze the health plan compliance reports: Arizona; Maryland; and New Jersey.
- Six states and District of Columbia require their Insurance Department to report on the methodologies, regulations and guidance for enforcing parity requirements; market conduct exams initiated, conducted or completed within the past year; and the educational or corrective actions taken against carriers to enforce parity: Colorado; Illinois; Indiana; Minnesota; New Jersey; and Tennessee.
- Four states and the District of Columbia require their Insurance Department to report on efforts to educate the public about parity: Minnesota; New Jersey; Ohio; and Tennessee.
- Seven states and the District of Columbia require their Insurance Department to submit a report to their legislature annually: Colorado; Illinois; Minnesota; New Jersey; Ohio; Virginia; and West Virginia.
- Five states require their State Insurance Department's report be made available to the public: Illinois; Minnesota; New Jersey; Tennessee; and Virginia.

Recommendations

State lawmakers and insurance regulators should take the following steps to supplement existing regulatory oversight efforts and improve enforcement of the Parity Act to ensure the sale of non-discriminatory health plans:

1. **Require health plans to submit documentation to demonstrate that any financial requirements or quantitative treatment limitations imposed on MH/SUD benefits meet the Parity Act's mathematical test.** States should adopt legislation or regulations or issue regulatory guidance that requires issuers to provide documentation of compliance for all plans during the form review process. State Insurance Departments must require supporting documentation, such as an actuarial analysis, demonstrating that FRs and QTLs comply with parity requirements and should not base their compliance review on an attestation (or less formal, check a box) alone.
2. **Enact legislation that requires health plans to submit compliance reports and quantitative data to State Insurance Departments demonstrating that the NQTLs imposed on MH/SUD benefits meet the Parity Act's standards, as a condition of plan approval.** Issuers should be conducting internal parity compliance analyses *prior to* offering their plans and on an on-going basis to ensure that plan standards comply with federal law. Regulators need such information to assess NQTL compliance prior to plan approval and can best ensure disclosure by plans via statutory requirements. Health plans should be required to:

- a. Identify all factors and evidentiary standards used to create and impose the NQTLs on both MH/SUD and medical/surgical benefits, and submit the comparative analyses demonstrating compliance both “as written” and “in operation” along with supporting documentation; and
 - b. Submit quantitative data that is necessary to demonstrate “no more stringent” application of NQTLs, including comparative reimbursement rate data, out-of-network utilization rates, provider credentialing timeframes, rates at which utilization management requirements are imposed, and benefit approval and denial rates, among other measures, across MH, SUD and medical/surgical benefits.
3. **Create a report and data collection tool for health plans to use to report specific detailed information to the State Insurance Department.** A robust data collection tool is essential for obtaining all necessary information and data from health plans and allowing regulators to conduct a thorough parity compliance analysis. State regulations must establish uniform and standardized definitions and methodology for collecting the data and a standardized tool for reporting the data.
4. **Require annual compliance reporting.** Reporting should be required on an annual basis to ensure continual compliance and protect consumers. Issuers alter plan design features on an on-going basis, and modifications necessitate a reassessment of compliance.
5. **All health plan reports should be publicly available.** Consumers pay for health insurance with the expectation, based on law, that they will receive equal coverage of and access to MH and SUD benefits. The enforcement framework, however, places an undue burden on consumers to identify parity violations without providing them access to critical information. The information disclosed in the reports is essential for identifying a parity violation and must be made available to the public. Regulators have established specific disclosure requirements and clarified that plans cannot refuse to disclose specific information on the basis that it is proprietary.⁵⁹
6. **Require State Insurance Departments to submit annual reports on parity enforcement activity.** Requiring State Insurance Departments to report on their parity enforcement activities increases transparency and holds regulators accountable for enforcing the law. Such reports inform both the legislature and the public about compliance trends and can identify gaps or issues with parity enforcement.

⁵⁹ United States Department of Labor. *Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)*. (p. 30).

Conclusion

The purpose of the Parity Act is simple - it prohibits discrimination in the coverage of MH and SUD benefits in virtually all insurance plan features. Yet, applying the law's specific standards and evaluating compliance with the law's requirements is more complex and further complicated by lack of access to critical plan information. Existing regulatory oversight strategies and tools are insufficient to ensure compliance with parity requirements, particularly with respect to NQTLs. Legal mandates are necessary to compel issuers to provide the information they are otherwise resistant to disclose and to incentivize health plans to prioritize parity compliance.⁶⁰

The current parity enforcement framework is inadequate and places an undue administrative burden on regulators and unrealistic expectations on consumers to secure legal protections. Requiring plans to report on compliance standards rightfully places the responsibility of compliance on health plans and ensures better prospective enforcement of the law. Imposing requirements on regulators to report on their enforcement activities also creates transparency and accountability. Improving parity compliance ensures that patients with mental health and substance use disorder needs will have better access to affordable, life-saving care, as required by law.

Acknowledgements

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⁶⁰ Peterson, E., & Busch, S. (2018). Achieving Mental Health and Substance Use Disorder Treatment Parity: A Quarter Century of Policy Making and Research. *Annual Review of Public Health, 39*, 421-435. Retrieved from https://www.annualreviews.org/doi/full/10.1146/annurev-publhealth-040617-013603#_i13. (p. 429).

EXHIBITS

Exhibit A: Parity Act Compliance Reporting Requirements – Fifty-State Survey

State	Health plan data reporting requirement	Insurance department data reporting requirement
Alabama	Group plans are required to submit an annual cost report (Alabama Group Mental Health Parity Cost Report) to the Commissioner of Insurance that includes certification of parity in mental health benefits and total annual costs of mental health services relative to total health costs in group plans. Note, the requirement does not apply to substance use disorder benefits or costs. (ALA. CODE § 27-54-6 (2000 ⁶¹))	N/A
Alaska	N/A	N/A
Arizona	<p>Effective August 25, 2020, every three years (after Jan. 1, 2022), health insurers are required to submit a confidential report, to the insurance department, that:</p> <ul style="list-style-type: none"> • Describes the process used to develop/select the medical necessity criteria for MH/SUD and for medical/surgical benefits. • Identifies all NQTLs applied to MH/SUD and to medical/surgical benefits within each classification of benefits and demonstrates compliance with NQTL requirements through a comparative analysis. <p>(SB 1523 signed by Governor March 3, 2020; ARIZ. REV. STAT. ANN. § 20-3502(B), (E), (G) (2020)).</p> <p>In years when the report is not required, insurers must file a summary of changes made to medical necessity</p>	<p>The insurance department must analyze the NQTL data reports and evaluate compliance with financial requirement and QTL standards during form review and may require additional data related to an insurer’s methods for complying with FR/QTL standards. (ARIZ. REV. STAT. ANN. § 20-3502(C) (2020))</p> <p>While the NQTL reports submitted by the carriers are confidential, the Department must create a website and post an aggregated summary of its analysis of the NQTL reports, including any conclusions regarding industry compliance with parity requirements. The Department may not post any information that is proprietary or confidential or enables identification of the insurer. (ARIZ. REV. STAT. ANN. § 20-3503(C), (G) (2020))</p>

⁶¹ For statutes/regulations, we have provided the year enacted/promulgated rather than the year of the current edition of the state code.

	<p>criteria and NQTLs and a written attestation of parity compliance. The insurance department can require the insurer to respond to additional questions or to supply additional data to verify compliance. Three years after insurers submit the original report, they can either submit an updated report or resubmit the current report attesting no changes. (ARIZ. REV. STAT. ANN. § 20-3502(E) (2020))</p>	
Arkansas	N/A	N/A
California	N/A	N/A
Colorado	<p>Carriers must submit an annual report, beginning March 1, 2020, to the insurance commissioner that contains:</p> <ul style="list-style-type: none"> • Data demonstrating parity compliance for adverse determinations for BH, MH, and SUD claims, including the total number of adverse determinations for these claims. • A description of the processes used to develop/select medical necessity criteria for BH/MH/SUD benefits and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to BH/MH/SUD and medical/surgical benefits within each classification and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. <p>(COLO. REV. STAT. § 10-16-147(2) (2019))</p> <p>Report must be made publicly available. (COLO. REV. STAT. § 10-16-147(2) (2019)).</p> <p>Regulations contain forms and compliance documents that must be submitted with the annual report. Plans</p>	<p>The insurance commissioner must submit an annual report and present to legislative committees on the:</p> <ul style="list-style-type: none"> • Insurance commissioner’s methodologies, regulations and guidance for ensuring parity compliance; • Market conduct exams initiated, conducted or completed within the last year and any results/findings; • Educational or corrective actions taken by the commissioner to ensure parity compliance. <p>(COLO. REV. STAT. § 10-16-147(1) (2019))</p> <p>The commissioner must adopt rules to implement the NQTL reports and review all ombudsman complaints related to BH care. (COLO. REV. STAT. § 10-16-147(3) and (4) (2019)).</p>

	<p>must submit data points related to paid and denied claims; prior authorization approvals and denials; reimbursement data (service type, code, minimum/median/maximum payment and percentage of Medicare reimbursement); and projection of number of providers needed to deliver services. (3 COLO. CODE REGS. § 702-4:4-2-64, Sec. 11-12, App. A-K (2019)).</p>	
Connecticut	<p>Beginning March 1, 2021, carriers must submit an annual report to the insurance commissioner that includes:</p> <ul style="list-style-type: none"> • A description of the processes used to develop/select the medical necessity criteria for MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • A description of all NQTLs applied to MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. • Information requested by the Insurance Department to demonstrate compliance with MHPAEA. <p>(CONN. GEN. STAT. § 38a-477ee(b) (2019))</p> <p>Proprietary information contained in the report will not be disclosed. (CONN. GEN. STAT. § 38a-477ee(b)(3) (2019))</p> <p>Plans must complete an annual parity compliance survey and certification. (Bulletin MC-20)</p>	<p>The Insurance Commissioner must submit each carrier report to the joint standing committee of the General Assembly relating to insurance, the Attorney General, the Healthcare Advocate, and the executive director of the Office of Health Strategy, and must testify at a General Assembly hearing on the results. (CONN. GEN. STAT. § 38a-477ee(c)-(d) (2020))</p>
Delaware	<p>Insurers that provide MH/SUD benefits are required to submit a report to the Health Information Network (initially on July 1, 2019 and any subsequent year in</p>	N/A

which the plan makes significant changes to its medical management protocols) that includes:

- A description of the processes used to develop medical necessity criteria for MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements.
- All NQTLs applied to MH/SUD and medical/surgical benefits in each classification and the results of a comparative analysis demonstrating parity compliance with NQTL requirements.

Any information that is submitted that is considered proprietary will not be made public.

(DEL. CODE ANN. tit. 18, §§ 3571U, 3343(g) (2018))

The Department of Insurance adopted regulations to set format and submission requirements for the parity reports. The report must demonstrate compliance with requirements on:

- Benefits provided
- Formulary and network tier classifications
- Aggregate lifetime and annual dollar limits
- Financial requirements and QTLs
- Cumulative financial requirements and cumulative QTLs
- NQTLs
- Disclosure requirements (medical necessity determinations and reasons for denials)

The regulations provide a data collection tool for the parity analysis in [Appendix A](#). (18 DEL. ADMIN. CODE §

	<p>1410-5 (2019)) See also Reg. 1410 Mental Health Parity Reporting Form</p> <p>Insurance Bulletin No. 109 advises carriers of the new regulation.</p>	
District of Columbia	<p>Insurers (beginning in Oct. 2019) are required to submit an annual report to the Department of Insurance, Securities, and Banking that contains:</p> <ul style="list-style-type: none"> • Frequency of prior authorization requirements for MH/SUD services and medications and for medical/surgical services in each benefit classification. • A description of the process used to develop medical necessity criteria for MH/SUD benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to MH/SUD benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. • Comparison of the rates of and reasons for denials of claims for MH/SUD benefits versus medical/surgical benefits. • A certification that the insurer has reviewed the administrative practices of its plan to verify parity compliance. • Any other information requested by the Commissioner of the Department. <p>(D.C. CODE § 31-3175.03(a) (2019))</p>	<p>The insurance department is required to enforce parity among all insurers (including Medicaid) that offer MH/SUD benefits by:</p> <ul style="list-style-type: none"> • Ensuring health plan compliance • Detecting, evaluating, and responding to complaints regarding parity violations • Developing, maintaining, and reviewing consumer complaints for potential or actual parity violations • Performing market conduct exams, including a review of NQTLs <p>(D.C. CODE § 31-3175.02 (2019))</p> <p>The insurance department must submit an annual report to the Council that includes descriptions of:</p> <ul style="list-style-type: none"> • Methodologies used to verify compliance with this law • Market conduct exams conducted, initiated and completed in the preceding year • Education or corrective actions taken to ensure insurer compliance • Efforts to educate the public on MH/SUD protections under federal and state laws <p>(D.C. CODE § 31-3175.03(b) (2020))</p>
Florida	N/A	N/A
Georgia	N/A	N/A
Hawaii	N/A	N/A
Idaho	N/A	N/A

<p>Illinois</p>	<p>Beginning July 2020, insurers must submit an annual report to the Department of Insurance that includes:</p> <ul style="list-style-type: none"> • A summary of the plan’s pharmacy management processes for MH/SUD benefits compared to those for other medical benefits. • A summary of the internal processes of review for experimental benefits and unproven technology for MH/SUD and other medical benefits. • A summary of how the plan’s policies and procedures for utilization management for MH/SUD compare to those for other medical benefits. • A description of the processes used to develop medical necessity criteria for MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. • Any other information requested by the Director of the department that is needed to clarify data provided, including proprietary information. <p>(215 ILL. COMP. STAT. 5/370c.1(k) (2018))</p> <p>The NQTL analysis information must be made available to the Department of Insurance and to all plan participants on a publicly available website prominently displayed in plan informational materials. (215 ILL. COMP. STAT. 5/370c.1(l) (2018))</p>	<p>The Department of Insurance must enforce state and federal parity laws by:</p> <ul style="list-style-type: none"> • Requiring insurers to submit comparative NQTL analyses • Evaluating all consumer or provider complaints regarding MH/SUD or possible parity violations • Performing parity compliance market conduct exams and making findings publicly available <p>(215 ILL. COMP. STAT. 5/370c(d) (2018))</p> <p>The Department of Insurance must measure and track parity compliance and share such information with a parity working group that meets semiannually. (215 ILL. COMP. STAT. 5/370c.1(h)(2) (2018))</p> <p>The working group shall provide recommendations to the General Assembly (no later than Dec. 31, 2019) on health plan data reporting requirements for MH, SUD and medical services. (215 ILL. COMP. STAT. 5/370c.1(j) (2018))</p> <p>The Department of Insurance (with the Department of Healthcare and Family Services) must issue an annual joint report and presentation to the General Assembly that includes:</p> <ul style="list-style-type: none"> • Methodology used to check for compliance with federal and state parity requirements • Market conduct exams/audits conducted within the past year regarding parity and a summary of the results • Any educational or corrective actions taken to ensure federal and state parity compliance <p>The report must be made publicly available. (215 ILL. COMP. STAT. 5/370c.1(h)(3) (2018))</p>
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Indiana	<p>Insurers that provide MH/SUD coverage are required to submit an annual report and analysis (by December 31st each year) that includes:</p> <ul style="list-style-type: none"> • A description of the processes used to develop or select medical necessity criteria for coverage of MH/SUD services and for medical/surgical services and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. <p>(IND. CODE §§ 27-8-5-15.8(d), (f); 27-13-7-14.2(d), (f) (2020))</p>	<p>The Department of Insurance must submit a one-time (by March 1, 2021) report to the general assembly concerning its implementation of rules and procedures to ensure parity compliance, which must include:</p> <ul style="list-style-type: none"> • The department’s methodology for determining insurers are compliant with federal and state parity laws. • The results of targeted market conduct examinations conducted or completed in the past 12 months. • Any educational or corrective action the department has taken to ensure the insurers’ compliance with parity. <p>(HEA No. 1092, P.L 103-2020, Sec. 6.)</p>
Iowa	N/A	N/A
Kansas	N/A	N/A
Kentucky	N/A	N/A
Louisiana	N/A	N/A
Maine	N/A	<p>The Superintendent of Insurance must determine health plan compliance with parity requirements and may use market conduct exams or survey tools. The Superintendent must report the results of the compliance assessment, including recommendations, to the Legislature by January 30, 2020. (LD 1694/SP 559, signed by Governor on June 17, 2019)</p>
Maryland	<p>Carriers are required to identify the 5 plans with the highest enrollment in the individual, small, and large group markets and submit a report to the insurance commissioner to demonstrate compliance with the Parity Act (on or before March 1, 2022 and March 1, 2024). The report must include:</p> <ul style="list-style-type: none"> • A description of the processes used to develop or select the medical necessity criteria for 	<p>The Insurance Commissioner must review the carrier reports and assess compliance with parity requirements. Carriers must be notified in writing of any noncompliance before issuing an administrative order. Within 90 days after the notice of noncompliance is issued, the carrier can submit a compliance plan and reprocess any claims that were improperly denied.</p>

	<p>MH/SUD benefits and for medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements.</p> <ul style="list-style-type: none"> • Identification of NQTLs applied to MH/SUD benefits and to medical/surgical benefits in each classification of benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. • Process used to comply with Parity Act disclosure requirements. • Number and rate of prior authorization requests received, approved and denied for all MH, SUD and medical/surgical benefits in the preceding calendar year. • Number and rates of claims and denials for all benefits in the preceding calendar year. <p>Carriers must use the NAIC’s data collection tool for mental health parity analysis (NQTLs), with amendments necessary to incorporate statutory reporting requirements. Reports must be made available to plan members and the public on the carrier’s website in a summary form (to be created by the commissioner by Dec. 31, 2021) that removes confidential or proprietary information. (HB 455/SB 334, enacted May 8, 2020; to be codified at MD. CODE ANN. INS. § 15-144)</p>	<p>The Commissioner may impose penalties on carriers for incomplete reports or noncompliance and shall consider that a parity violation is a “serious violation with a significantly deleterious effect on the public.” (HB 455/SB334, enacted May 8, 2020; to be codified at MD. CODE ANN. INS. § 15-144)</p> <p>The Insurance Commissioner must submit interim (by Dec. 1, 2023) and final (by Dec. 1, 2025) reports to the General Assembly that:</p> <ul style="list-style-type: none"> • Summarize the findings from the review of the carriers’ reports. • Make recommendations regarding the information gained from the reports, value and need for on-going reporting and frequency of reporting, and any changes to the data reporting requirements. <p>(HB 455/SB334, enacted May 8, 2020; to be codified at MD. CODE ANN. INS. § 15-144)</p>
Massachusetts	<p>Insurers are required to report to the Office of Patient Protection in the Health Policy Commission the total number of:</p> <ul style="list-style-type: none"> • Medical/surgical and MH/SUD claims submitted to carrier • Medical/surgical and MH/SUD denials • Medical/surgical and MH/SUD claims denied for: 	N/A

	<ul style="list-style-type: none"> ○ Failure to obtain prior authorization or referral ○ Lack of medical necessity ○ The service was experimental or investigational ○ The insured was not covered or eligible for benefits ○ Service not covered ○ Duplicate claims ○ Incomplete claims ○ Coding errors ○ Any other specified reason <ul style="list-style-type: none"> ● Total number of grievances filed/approved/denied/withdrawn/reconsidered ; percentage of insureds who filed a grievance; and total number of external reviews and resolution (MASS. GEN. LAWS ch. 176O, §7(b)(5) (2016); 958 MASS. CODE REGS. 3.600(1)(d) (2020)) <p>Carriers must review their practices for compliance with state and federal parity laws and regulations annually and certify to the Division of Insurance and the Attorney General that they have completed a comprehensive review for state and federal parity compliance and that they either are in compliance or are not in compliance, with a list of the practices not in compliance and the steps taken to bring the practices into compliance. (211 MASS. CODE REGS. 154.03(2) (2013))</p>	
Michigan	N/A	N/A
Minnesota	The Commissioner of Commerce can require information from health plans to confirm implementation of parity, including comparisons between MH/SUD treatment and other medical	The Commissioners of Commerce and Health are required to submit an annual report to the legislature (beginning June 1, 2021) that:

	conditions related to prior authorization requirements, drug formulary design, claim denials, rehabilitation rates, and other information. (MINN. STAT. § 62Q.47(f) (2019))	<ul style="list-style-type: none"> • Describes the commissioner’s process for reviewing plan compliance with state and federal parity requirements. • Identifies enforcement actions taken in the past year regarding state and federal parity compliance, and summarizes the results of any market conduct exams. • Details corrective actions taken to ensure parity compliance. • Describes information provided to the public about MH/SUD parity protections under state and federal law. <p>The report must be written in nontechnical language and made available to the public. (MINN. STAT. § 62Q.47(h) (2019))</p>
Mississippi	N/A	N/A
Missouri	N/A	N/A
Montana	N/A	N/A
Nebraska	N/A	N/A
Nevada	N/A	N/A
New Hampshire	N/A	<p>The Insurance Commissioner is authorized to enforce MHPAEA and required to periodically examine and evaluate insurers for compliance, including provider reimbursement practices. (N.H. REV. STAT. ANN. § 417-E:1(V), (V-a) (2020))</p> <p>The insurance commissioner is serving on a commission to study the state’s business environment of mental health providers and will examine mental health parity (among other issues). A report and recommendations are due to the legislature by October 1, 2020. (N.H. REV. STAT. ANN. § 330-A:26-a) (2019))</p>
New Jersey	Insurers must submit an annual report (by March 1 st) to the Department of Banking and Insurance that includes:	The Department of Banking and Insurance is required to implement and enforce federal parity, including:

	<ul style="list-style-type: none"> • A description of the processes used to develop or select medical necessity criteria for MH, SUD, and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to MH, SUD, and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. • Any other information requested by the commissioner, including proprietary information. <p>(N.J. REV. STAT. § 26:2S-10.8(c) (2019))</p>	<ul style="list-style-type: none"> • Ensuring carrier compliance • Detecting violations • Accepting, evaluating, and responding to complaints of violations • Maintaining and regularly reviewing a publicly available consumer complaint log for possible parity violations and issues with MH/SUD coverage • Adopting rules to effectuate parity provisions (N.J. REV. STAT. § 26:2S-10.8(d) (2019)) <p>The Department is required to issue an annual report to the legislature that includes:</p> <ul style="list-style-type: none"> • The methodology used to check for compliance with state and federal parity requirements • Market conduct exams conducted in the past year regarding parity compliance and a summary of results • Any educational or corrective action taken to ensure parity compliance • The department’s educational approaches for informing the public about state and federal parity <p>The report must be written in non-technical language and be made available to the public on the Department’s website. (N.J. REV. STAT. § 26:2S-10.8(e) (2019))</p> <p>The Department must analyze the carrier data reports and post a report on its website with its conclusions as to whether the analyses collected from the carriers demonstrate parity compliance. (N.J. REV. STAT. § 26:2S-10.8(f) (2019))</p>
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New Mexico	N/A	N/A
New York	<p>Every two years, beginning July 1, 2019, insurers are required to submit a report to the Superintendent of Insurance detailing compliance with federal and state parity laws, including:</p> <ul style="list-style-type: none"> • Rates of utilization review approvals and denials for MH/SUD claims as compared to medical/surgical claims • The number of prior or concurrent authorization requests and denials for MH/SUD and medical/surgical benefits • The rates of appeals of adverse determinations upheld and overturned for MH/SUD and medical/surgical benefits • The percentage in-network and out-of-network claims for MH/SUD services as compared to the percentage for medical/surgical services • The number of BH advocates or staff available to assist policyholders with MH/SUD benefits • A comparison of cost-sharing requirements and benefit limitations for MH/SUD and medical/surgical services • The number by type of in-network, licensed providers that provide MH/SUD services • The percentage of MH/SUD providers who remained participating providers • Other information necessary/useful to measure parity compliance, including an evaluation and assessment of network adequacy and reimbursement rates <p>(N.Y. INS. LAW § 343 (2019); <i>see also</i>, DFS parity data reporting template and instructions)</p>	N/A

	Carriers must provide plan information to members and prospective members, including the most recent comparative analysis performed to assess compliance with MHPAEA. (N.Y. INS. LAW §§ 3217-a(a)(21), 4324(a)(22) (2020); N.Y. PUB. HEALTH § 4408(1)(t)(v) (2020))	
North Carolina	N/A	N/A
North Dakota	N/A	N/A
Ohio	N/A	Annually, the Department of Mental Health and Addiction Services and Department of Insurance are required to provide a joint report to the legislature on parity outreach efforts and coverage and access barriers. (OHIO REV. CODE ANN. §§ 5119.89; 3901.90 (2020))
Oklahoma	<p>Beginning April 1, 2021, insurers are required to submit an annual report to the Insurance Commissioner that includes:</p> <ul style="list-style-type: none"> • A description of the process used to develop or select the medical necessity criteria for MH/SUD benefits and for medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity criteria requirements. • Identification of all NQTLs applied to both MH/SUD benefits and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements. <p>Reports must be made publicly available. (SB 1718, enacted May 19, 2020; to be codified at OKLA. STAT. tit. 6, § 6060.11(E))</p>	The Insurance Commissioner must enforce federal and state parity requirements, make the carrier data reports publicly available on the insurance department’s website no later than July 1, 2021 and each year thereafter (with confidential information and trade secrets redacted), identify insurers who fail to comply with the reporting requirements, and make a reasonable attempt to obtain the missing information. (SB 1718, enacted May 19, 2020; to be codified at OKLA. STAT. tit. 36, § 6060.11 (F)-(G))
Oregon	N/A	The Department of Consumer and Business Services is required to examine and report to the legislature no later than Sept. 1, 2019 on:

		<ul style="list-style-type: none"> • Trends of each carrier’s maximum allowable reimbursement rates for time-based outpatient office visit procedural codes and whether in-network BH/MH providers have been paid reimbursement equivalent to medical providers • Whether each carrier imposes utilization management procedures for behavioral/mental health providers that are more restrictive than those for medical providers • Whether each carrier pays equivalent reimbursement for time-based procedural codes for in-network BH providers and medical providers • Whether the methodologies used to determine the reimbursement rate schedule are equivalent for in-network BH and medical providers <p>(SB 860, effective August 17, 2017)</p>
Pennsylvania	N/A	N/A
Rhode Island	N/A	The Health Insurance Commissioner is required to monitor the adequacy of plans’ compliance with the federal parity law, including a review of MH/SUD claims processing and reimbursement procedures. Any findings, recommendations, and assessments must be made publicly available. The Commissioner is also required to ensure behavioral health care coverage complies with parity standards and to integrate parity requirements into the Commissioner’s insurance oversight and health care transformation efforts. (42 R.I. GEN. LAWS § 42-14.5-3(j), (p) (2020))
South Carolina	N/A	N/A
South Dakota	N/A	N/A
Tennessee	N/A	The Department of Commerce and Insurance is required to implement and enforce state and federal parity laws by:

		<ul style="list-style-type: none"> • Ensuring compliance by individual and group plans • Detecting possible violations by individual and group plans • Accepting, evaluating, and responding to parity complaints • Maintaining and reviewing consumer complaints regarding MH/SUD coverage and possible parity violations <p>The Department was required to submit a report and provide a presentation to the legislature (by January 31, 2020) that:</p> <ul style="list-style-type: none"> • Describes the Department’s methodology for evaluating compliance with both federal and state parity requirements • Identifies market conduct exams conducted during the past year regarding parity compliance and summarizes the results • Describes educational or corrective actions taken to ensure parity compliance • Describes educational approaches for informing the public about parity • Describes how the department examines complaints related to denials or restrictions for possible parity violations, including complaints regarding: <ul style="list-style-type: none"> ○ Claim denials for residential or inpatient treatment due to lack of medical necessity ○ Claims for residential or inpatient treatment that were approved but for fewer days than requested
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		<ul style="list-style-type: none"> ○ Claim denials for residential or inpatient treatment because the beneficiary had not first attempted outpatient treatment and/or medication ○ Claim denials for medications such as buprenorphine or naltrexone due to lack of medical necessity ○ Step therapy requirements imposed on buprenorphine or naltrexone ○ Prior authorization requirements imposed on buprenorphine or naltrexone <p>(TENN. CODE ANN. § 56-7-2360(d) (2018))</p> <p>The report must be made publicly available. (TENN. CODE ANN. § 56-7-2360(f) (2018))</p>
Texas	N/A	<p>The Department of Insurance must enforce parity compliance by evaluating the benefits and coverage offered by plans for QTLs and NQTLs by classification. (TEX. INS. CODE ANN. § 1355.255 (2019))</p> <p>The Department of Insurance is part of a MH/SUD parity work group that is required to prepare biennial reports for the legislature of findings, recommendations, and a strategic plan for parity compliance. (TEX. GOV'T CODE ANN. § 531.02252(g) (2017))</p> <p>The Department of Insurance was required to conduct studies and prepare biennial reports for the legislature comparing benefits for MH/SUD with medical/surgical benefits regarding prior authorization or utilization review requirements; denials for services that are not medically necessary or that are experimental or investigational; and appeals and independent external</p>

		reviews. (HB 10 § 3 ; TEX. GOV'T CODE ANN. § 531.02252(g) (2017)) See: Study of Mental Health Parity to Better Understand Consumer Experiences with Accessing Care and Report to Assess Medical or Surgical Benefits, and Benefits for Mental Health and Substance Use Disorders ⁶²
Utah	N/A	N/A
Vermont	<p>The Health Insurance Commissioner was directed to adopt rules to collect data on treatment quality. Health insurers are required to file an annual report card with the Insurance Commissioner/Division of Health Care Administration on the plan's performance relating to quality measures for care, treatment, and treatment options for MH/SUD, including:</p> <ul style="list-style-type: none"> • The discharge rates from inpatient MH/SUD care • The average length of stay for patients receiving inpatient MH/SUD care • The average number of treatment sessions for outpatient MH/SUD care • The percentage of beneficiaries receiving inpatient and outpatient MH/SUD care • The number and rate of denied authorization (prior and concurrent) for MH/SUD services • The number of denials appealed by members and/or providers • The rates of readmission to inpatient MH/SUD facilities • The level of patient satisfaction with the quality of MH/SUD treatment (via patient survey) • Any other quality measures 	N/A

⁶² Note the biennial reports are publicly available even though not required by the statute.

	(8 VT. STAT. ANN. § 4089b(d)(1)(B) (2020); VT. ADMIN CODE 4-5-7:5 (2020)) ⁶³	
Virginia	N/A	The Bureau of Insurance, in consultation with health carriers, is required to develop reporting requirements regarding denied claims, complaints, appeals, and network adequacy involving MH/SUD coverage. The Bureau must annually compile the information into a publicly available report and submit it to the legislature. (SB 280 , signed April 7, 2020; codified at VA. CODE ANN. § 38.2-3412.1(G) (2020))
Washington	Health plans and issuers must file a justification demonstrating the analysis of each plan’s compliance with parity requirements for FRs and QTLs. (WASH. ADMIN. CODE § 284-43-7120 (2016))	N/A
West Virginia	N/A	Beginning June 21, 2021, the Insurance Commissioner and Public Employees Insurance Agency must submit an annual report to the legislature that contains: <ul style="list-style-type: none"> • Data that demonstrates parity compliance for adverse determination regarding claims for BH, MH, or SUD and includes the total number of adverse determinations for such claims • A description of the process used to develop and select the medical necessity criteria used in determining benefits for BH/MH/SUD and for medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with medical necessity requirements • Identification of all NQTLs applied to BH/MH/SUD and medical/surgical benefits and the results of a comparative analysis demonstrating parity compliance with NQTL requirements

⁶³ Note that the data points in the Vermont regulation are related to treatment quality, not parity, but they have been included in this review because the treatment quality data points are similar to data points other states are collecting for parity compliance.

		<p>(W. VA. CODE §§ 33-15-4u(g); 33-16-3ff(g); 33-24-7u(g); 33-25-8r(g); 33-25A-8u(g); 5-16-7(i) (2020))</p> <p>The Public Employees Insurance Agency must update its annual plan document to reflect comprehensive parity compliance and file an annual report. (W. VA. CODE § 5-16-7(j) (2020))</p> <p>The Insurance Commissioner shall adopt legislative rules to comply with the provisions, which must specify the information and analyses that carriers shall provide to the Insurance Commissioner, as necessary for the report. (W. VA. CODE §§ 33-15-4u(h); 33-16-3ff(h); 33-24-7u(h); 33-25-8r(h); 33-25A-8u(h) (2020))</p> <p>The Insurance Commissioner may conduct a financial examination of a carrier to determine if it is in compliance, including a review of policies and procedures and a sample of MH claims to determine if they are treated in parity with medical/surgical benefits. The results of this examination must be reported to the legislature, and if the Commissioner determines the carrier is not in compliance, the Commissioner can fine the carrier. (W. VA. CODE §§ 33-15-4u(j); 33-16-3ff(j); 33-24-7u(j); 33-25-8r(j); 33-25A-8u(j) (2020))</p>
Wisconsin	N/A	N/A
Wyoming	N/A	N/A

Exhibit B: Form Review Checklist for Parity Act Compliance – Fifty-State Survey

State	Form Review Compliance Checklist/Attestation
Alabama	N/A ⁶⁴
Alaska	<p>Compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA, or the Parity Act) appears on form review checklists (small and large employer fully-insured plans checklist and individual plan checklist), and health plans must attest that:</p> <ul style="list-style-type: none"> • MH/SUD benefits are defined in the contract using independent standards of current medical practice • When determining classification of benefits, the health plan used the same standards for medical/surgical and MH/SUD benefits • The health plan applied financial requirements and quantitative treatment limitations for medical/surgical and MH/SUD benefits within the same classification on an equal basis • The health plan applied NQTLs for medical management, experimental and investigational determinations, provider credentialing, network adequacy, provider reimbursement rates, and prescription drugs uniformly between medical/surgical and MH/SUD benefits • The health plan has oversight standards for vendors used to process MH/SUD claims to ensure parity compliance <p>(2021 Alaska ACA Form and Rate Guidance)</p>
Arizona	N/A
Arkansas	N/A
California	<p>Health plans, regulated by the Department of Managed Health Care (DMHC), must complete worksheets and provide detailed information on parity compliance. (DMHC website)</p> <p>Plans regulated by the CA Department of Insurance must complete two templates, the Mental Health Parity Analysis Workbook, which identifies financial requirements, and the Mental Health Parity Supporting Documentation Template, which identifies NQTLs by classification, as part of their form filings starting with plan year 2020.</p> <p>To demonstrate compliance with federal parity law, all non-grandfathered individual and small group health insurance form filings should include a quantitative parity analysis, an explanation of methodology demonstrating that the quantitative analysis was prepared in compliance with federal law and guidance, and a list of all MH/SUD benefits subject to NQTLs. This</p>

⁶⁴ Note that we were unable to conduct a full survey for form review checklists/attestations. We have included information we were able to find on state insurance department’s public websites (as of August 2020) but it is possible that the state has form review checklists or other attestation/certification requirements for parity compliance that are not available on the public website.

	applies to both standard and non-standard filings. The filing instructions contain instructions for the quantitative analysis, explanation of methodology, cost sharing compliance, and NQTLs.
Colorado	N/A
Connecticut	<p>Rate filings for individual and small group plans must include an annual certification of compliance with parity. Any insurer that offers a plan with lower cost sharing for a medical benefit than for a mental health benefit must include a demonstration of how the cost sharing requirement complies with parity requirements. (CONN. AGENCIES REGS. §§ 38a-481-9(a)(8); 38a-513-13(a)(8) (2018))</p> <p>Health insurance policy form filings are required to submit a certification verifying that the form is compliant with state and federal parity requirements. (Bulletin HC-92)</p> <p>While not a requirement for form review, managed care plans must file an annual Consumer Report Card Survey, which includes utilization review data for MH/SUD service requests. (CONN. GEN. STAT. § 38a-478c (2015))</p>
Delaware	Health plans must complete the “Delaware Mental Health Parity and Addiction Equity Act Issuer Checklist and Certification Template” (2020 Medical Issuer QHP Submission Guide , Attachment 4) to certify compliance with each federal and state parity requirement.
District of Columbia	N/A
Florida	N/A
Georgia	N/A
Hawaii	N/A
Idaho	Idaho Department of Insurance Mental Health Parity Testing Template requires plans to perform a test to demonstrate compliance with financial requirements.
Illinois	Health plans must complete the Mental Health Parity Supporting Documents Template in the form filing.
Indiana	The Department of Insurance requires plans to submit forms (see Accident & Health Form Filing Information and Instructions for links to checklists for all plan types) indicating whether they comply with state and federal parity requirements.
Iowa	N/A
Kansas	N/A
Kentucky	Individual , small group , and large group filing checklists include requirements for health plans to attest compliance with state parity requirements.
Louisiana	During form review, the Department of Insurance reviews all policy forms and related materials in the individual and group markets for parity compliance. Market conduct examinations may include an assessment of parity compliance. (Bulletin 2013-03)
Maine	Form filing checklists require health plans to attest compliance with state and federal parity requirements.

Maryland	Form filing checklists require plans to verify compliance with federal parity requirements and provide an actuarial demonstration that each financial requirement applicable to MH/SUD benefits meets parity requirements. (see also Maryland Insurance Administration Bulletin 20-01).
Massachusetts	Department of Insurance Bulletin 2013-06 outlines that in support of certification, carriers must submit information on financial and treatment limitations, medical necessity criteria, and authorization processes for MH/SUD and medical/surgical services and an explanation of any differences. Issuers must submit an attestation that each of its health benefit plans has been tested and is in full compliance with federal parity regulations. (Filing Guidance Notice 2020-C)
Michigan	The filing checklists for health plans include a certification that the plan complies with MHPAEA.
Minnesota	N/A
Mississippi	N/A
Missouri	HMO and short-term plan checklists contain a requirement for parity compliance.
Montana	N/A
Nebraska	Individual and small group plans must submit a form review checklist that includes attesting compliance with MHPAEA, utilizing the Mental Health and Substance Use Disorder Parity Compliance Assistance Materials Index and DOL Self Compliance Tool (pursuant to CB-130 bulletin)
Nevada	Form filing checklists for individual, small group, large group, and HMO plans include a requirement for parity compliance. The MHPAEA Compliance Attestation checklist requires health plans to attest compliance with each parity requirement.
New Hampshire	The filing checklists for individual, small group, and large group plans require plans to attest compliance with MHPAEA requirements. Plans are also required to attest compliance with the CMS QHP Review Tools (Bulletin 19-004-AB), which include parity requirements.
New Jersey	N/A
New Mexico	N/A
New York	Checklists require health plans to attest compliance with federal parity.
North Carolina	Health plans must submit a Mental Health Parity Attestation . The form filing checklists for group (PPO) and HMO plans include an attestation of compliance with MHPAEA and require a signed certification of compliance with parity.
North Dakota	N/A
Ohio	The form filing checklist for major medical products and health insuring corporation (HIC) plans include MHPAEA compliance for individual, non-employer (association type) group, and small group plans.

Oklahoma	N/A
Oregon	Individual, small group, individual and small group, and large group filing checklists require an attestation of compliance with state and federal parity requirements.
Pennsylvania	The compliance checklist includes an attestation on parity compliance, (expanded for the 2020 plan year).
Rhode Island	The checklist for individual and small group plans requires plans to certify that they provide coverage for MH/SUD and comply with state and federal parity laws. Plans must describe, through illustrations, FAQs, or other consumer explanation, how the plans' FRs, QTLs, prescription drug benefits, and NQTLs comply with parity requirements.
South Carolina	Filing checklist for individual and group plans requires plans to attest compliance with state parity provisions. Filing requirements for 2021 major medical plans require the health plan to complete DOL's MHPAEA Self-Compliance Tool and attach a copy to the filing.
South Dakota	N/A
Tennessee	N/A
Texas	The checklists for group health large and small employer, group health non-employer, and individual plans require an attestation of compliance with state parity laws. The HMO individual, small employer, and large employer checklists require an attestation of compliance with state parity laws.
Utah	Plan year 2021 filing requirements include compliance with federal and state parity requirements. (Insurance Bulletin 2020-7) Beginning May 1, 2020, each form filing is required to include the Utah Mental Health and Substance Abuse Parity Attestation . (Insurance Bulletin 2020-9)
Vermont	N/A
Virginia	A plan's form filing submission must include a mental health and substance use disorder benefits parity checklist and certification of compliance.
Washington	The Office of the Insurance Commissioner requires plans to fill out checklists demonstrating compliance with laws including state and federal parity requirements.
West Virginia	The QHP review requirements checklists for the individual market and group market require an attestation that the plan complies with MHPAEA.
Wisconsin	Form filing checklists for individual and group plans include parity requirements.
Wyoming	N/A