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Mental Health and Substance Use Disorder Parity under the ACA: National and State Estimates of Parity Gains as of 2017

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INTRODUCTION

In addition to expanding access to health insurance coverage for millions of Americans through subsidized individual market coverage and state Medicaid expansions, the federal Affordable Care Act (ACA) applied Mental Health (MH) and Substance Use Disorder (SUD) coverage and parity mandates to beneficiaries in the individual and small-group markets and to Medicaid expansion beneficiaries. The following brief details the mechanisms by which the ACA applied these mandates and presents national and state-level estimates of the number of people with insurance coverage that must newly provide MH/SUD parity under the ACA. These estimates provide important context for policymakers and others engaged in the ongoing debate about repealing, modifying, or replacing the ACA.

BACKGROUND

How the ACA Expanded Parity for Mental Health and Substance Use Disorder Treatment

Before the passage of the ACA in 2010, national legislation about equitable coverage for MH/SUD treatment applied only to large-group (i.e., employer-sponsored) health plans. The Mental Health Parity Act of 1996 (MHPA) prohibited large-group plans that offer MH coverage from imposing limits on MH coverage that are more restrictive than coverage limits for physical conditions, and the subsequent Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) expanded upon the MHPA to require parity for SUD treatment coverage as well (Centers for Medicare and Medicaid Services [CMS], n.d.[a]).

The ACA extended these MH/SUD parity protections beyond the large-group market to the individual and small-group markets and to Medicaid expansion beneficiaries. The ACA also went a step further than large-group MH/SUD parity rules—which require parity if MH/SUD benefits are offered but do not require that MH/SUD benefits be included—by mandating that MH/SUD treatment be included in individual, small-group, and Medicaid expansion coverage. The ACA implemented these changes through three primary mechanisms. First, the law established ten Essential Health Benefits (EHBs) that must be covered by individual and small-group health insurance plans and included MH/SUD services as an EHB. Second, the law expanded the existing (i.e., large-group) parity protections described above to establish national standards for the equitable coverage of MH/SUD treatment by individual and small-group health insurance plans, such that these plans must not only offer MH/SUD benefits under EHB rules but must also offer these benefits in full parity with benefits for physical health conditions in compliance with MHPAEA (CMS, n.d.[b]). Third, the law gave states the option of expanding Medicaid coverage to all individuals up to 138% of the Federal Poverty Level (FPL) and required states implementing Medicaid expansion to provide their expansion populations with MH/SUD benefits that meet the EHB and parity requirements in order to qualify for enhanced federal Medicaid funding for this group (Frank, Beronio, & Glied, 2014).

Expanding Equitable Coverage of Mental Health and Substance Use Disorder Treatment under the ACA: Key Provisions

Essential Health Benefits: Individual and small-group health insurance plans must cover ten Essential Health Benefits established under the ACA—including mental health and substance use disorder treatment benefits.

National Parity Protections: National mental health and substance use disorder parity protections now apply to the individual and small-group health insurance markets.

Medicaid Expansion: States must offer comprehensive mental health and substance use disorder benefits to individuals who become newly eligible for Medicaid through the ACA expansion option.

METHODS

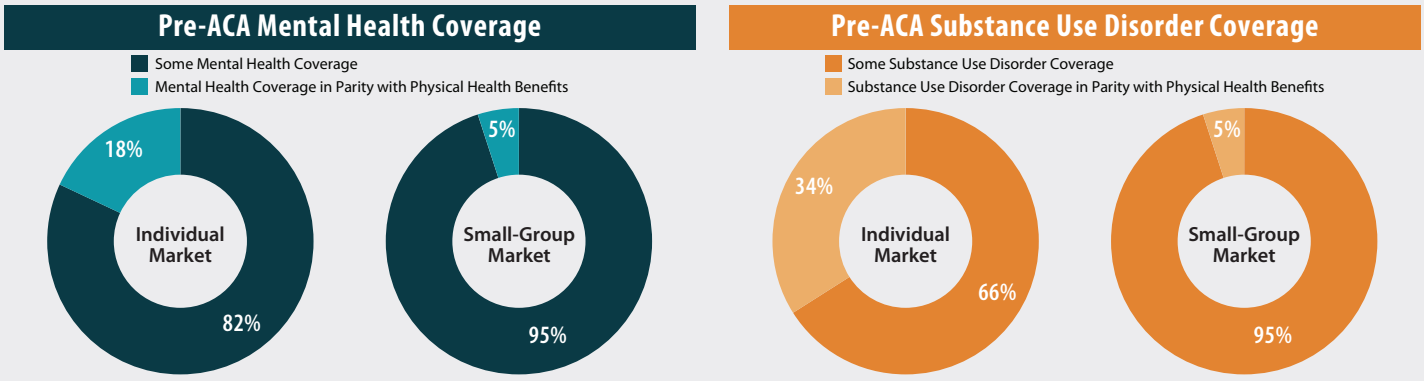
Parity in the Individual and Small-Group Market

Before the ACA mandated equitable MH/SUD coverage in the individual and small-group markets, coverage and parity for MH/SUD treatment in these markets was addressed unevenly through a patchwork of state laws: Some states had neither MH/SUD coverage laws nor MH/SUD parity laws for their individual and small-group markets, while others had individual and small-group coverage and parity laws for both MH and SUD treatment, and others fell somewhere in between. Under this scenario, the majority of people insured through small-group and individual plans had some MH and/or SUD coverage but parity with physical health benefits was limited. Figure 1 provides an overview of the estimated share falling into each group, based on analysis conducted by the Assistant Secretary for Planning and Evaluation (ASPE).

For this analysis, we estimated the number of people whose insurance coverage was newly subject to ACA MH/SUD parity rules by applying the national proportions of individuals with only some MH/SUD coverage to the size of the individual and small-group markets in states without full pre-ACA parity laws for these markets. For example, the estimated size of the individual market in 2017 in Alabama was approximately 213,000. Alabama did not have a mental health parity law in place prior to the ACA, so we assume that the number of people impacted by the parity requirements in the individual market in 2017 is—per ASPE's estimates of access to MH parity pre-ACA (Figure 1)—equivalent to 82% of the total market, or approximately 175,000. Similarly, there were approximately 217,000 enrolled in Alabama's small-group market, and we assume that the number of people impacted is equivalent to 95% of this market, or approximately 206,000.

We apply the same method to estimate the impact of SUD parity in both markets, where we assume that 66% of the individual and 95% of the small-group market are being impacted by ACA parity requirements in states without robust parity laws prior to the ACA. States with pre-ACA parity mandates for MH benefits that were as robust as the ACA's are excluded from MH estimates, and states with pre-ACA parity mandates for SUD benefits that were as robust as the ACA's are excluded from SUD estimates. Some states also had parity laws that were weaker than the ACA's; in cases where the ACA provided additional requirements beyond comparatively weaker state parity laws, we included those state populations in our estimates of people affected by the ACA.

Figure 1. Mental Health & Substance Use Disorder Coverage Nationwide Before the ACA: Individual & Small-Group Market



Sources: Analysis by the Assistant Secretary for Planning and Evaluation (ASPE). https://aspe.hhs.gov/system/files/pdf/76591/rb_mental.pdf , https://aspe.hhs.gov/system/files/pdf/76356/ib.pdf , https://aspe.hhs.gov/system/files/pdf/76591/rb_mental.pdf , https://aspe.hhs.gov/system/files/pdf/76356/ib.pdf , https://aspe.hhs.gov/system/files/pdf/180086/rb.pdf

Parity for the Medicaid Expansion Population

Before the ACA gave states the option to expand Medicaid to all individuals at or below 138% FPL, many low-income adults were ineligible for Medicaid. Adults in this income range now have access to Medicaid coverage in ACA expansion states, with newly eligible individuals having access to coverage that is required to provide comprehensive MH/SUD benefits in compliance with ACA parity requirements. According to data from the Centers for Medicare and Medicaid Services (CMS), the enrolled Medicaid expansion group numbered 12.6 million nationwide in Fiscal Year 2017 (the most recent year for which Medicaid enrollment data from CMS are available; Kaiser Family Foundation, n.d.). In this analysis, we treat all enrolled individuals in an expansion state's newly eligible Medicaid population as having gained access to MH/SUD coverage subject to full parity under the ACA.

RESULTS

Population with Coverage Newly Subject to Mental Health Parity Rules under the ACA

In total, we estimate that over 39 million individuals nationwide had health insurance that was subject to the ACA's expanded MH parity requirements as of 2017 (Table 1). Of these, 12.1 million were enrolled in individual plans and 14.4 million in small-group plans in states that did not have pre-ACA MH parity laws for their individual and small-group markets. The remainder (almost 13 million) were newly eligible Medicaid expansion enrollees.

As shown in Table 1, the number of individuals in any given state covered by health insurance newly subject to MH parity mandates under the ACA was driven by three factors: whether state MH parity laws were in place prior to the ACA, the size of the state's individual and small-group markets, and the size of the state's Medicaid expansion population. For example, over 8 million individuals were affected in California, which had pre-ACA parity laws that were less robust than the ACA's for its comparatively large individual and small-group markets and had a Medicaid expansion population of over 3.8 million. In Vermont, which had an individual and small-group parity law in place prior to the ACA and had pre-ACA Medicaid eligibility levels exceeding ACA expansion levels, the ACA's parity provisions did not change the number of individuals with coverage subject to MH parity mandates.

Table 1. Estimated Impact of Mental Health (MH) ACA Parity Requirements

State	Individual Market	Small-Group Market	Medicaid Expansion	Total
Alabama	175,000	206,000	No Medicaid expansion	381,000
Alaska	15,000	15,000	37,000	67,000
Arizona	187,000	186,000	112,000	485,000
Arkansas	Had parity pre-ACA	Had parity pre-ACA	318,000	318,000
California	1,940,000	2,893,000	3,810,000	8,643,000
Colorado	218,000	287,000	451,000	956,000
Connecticut	Had parity pre-ACA	Had parity pre-ACA	213,000	213,000
Delaware	25,000	43,000	12,000	80,000
Florida	1,461,000	619,000	No Medicaid expansion	2,080,000
Georgia	416,000	320,000	No Medicaid expansion	736,000
Hawaii	32,000	121,000	23,000	176,000
Idaho	105,000	75,000	No Medicaid expansion	180,000
Illinois	401,000	562,000	664,000	1,627,000
Indiana	155,000	174,000	323,000	652,000
Iowa	117,000	159,000	143,000	419,000
Kansas	116,000	128,000	No Medicaid expansion	244,000
Kentucky	107,000	118,000	480,000	705,000
Louisiana	141,000	180,000	446,000	767,000
Maine	65,000	66,000	No Medicaid expansion	131,000
Maryland	231,000	291,000	307,000	829,000
Massachusetts	263,000	461,000	Medicaid expanded pre-ACA	724,000
Michigan	335,000	604,000	634,000	1,573,000
Minnesota	130,000	291,000	206,000	627,000
Mississippi	99,000	86,000	No Medicaid expansion	185,000
Missouri	253,000	235,000	No Medicaid expansion	488,000
Montana	50,000	49,000	85,000	184,000
Nebraska	100,000	68,000	No Medicaid expansion	168,000
Nevada	101,000	96,000	212,000	409,000
New Hampshire	64,000	73,000	57,000	194,000
New Jersey	276,000	416,000	580,000	1,272,000
New Mexico	54,000	Had parity pre-ACA	269,000	323,000
New York	333,000	1,304,000	524,000	2,161,000
North Carolina	495,000	298,000	No Medicaid expansion	793,000
North Dakota	41,000	56,000	20,000	117,000
Ohio	276,000	428,000	655,000	1,359,000
Oklahoma	128,000	177,000	No Medicaid expansion	305,000
Oregon	173,000	Had parity pre-ACA	418,000	591,000
Pennsylvania	400,000	711,000	758,000	1,869,000
Rhode Island	35,000	55,000	72,000	162,000
South Carolina	198,000	106,000	No Medicaid expansion	304,000

Table 1. Estimated Impact of Mental Health (MH) ACA Parity Requirements (cont'd)

State	Individual Market	Small-Group Market	Medicaid Expansion	Total
South Dakota	52,000	54,000	No Medicaid expansion	106,000
Tennessee	239,000	250,000	No Medicaid expansion	489,000
Texas	990,000	928,000	No Medicaid expansion	1,918,000
Utah	183,000	177,000	No Medicaid expansion	360,000
Vermont	Had parity pre-ACA	Had parity pre-ACA	Medicaid expanded pre-ACA	0
Virginia	383,000	428,000	No Medicaid expansion	811,000
Washington	245,000	284,000	608,000	1,137,000
West Virginia	29,000	38,000	183,000	250,000
Wisconsin	216,000	295,000	No Medicaid expansion	511,000
Wyoming	25,000	19,000	No Medicaid expansion	44,000
Total	**12,073,000**	**14,430,000**	**12,620,000**	**39,123,000**

Notes and Sources: Status of pre-ACA MH coverage and parity laws drawn from a review of state records tracked by Kaiser Family Foundation (KFF). Pre-ACA State Mandated Benefits in the Individual Health Insurance Market: Mandated Coverage in Mental Health, retrieved from https://www.kff.org/other/state-indicator/pre-aca-state-mandated-benefits-in-the-individual-health-insurance-market-mandated-coverage-in-mental-health/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D; "Pre-ACA State Mandated Benefits in the Small Group Health Insurance Market: Mandated Coverage in Mental Health," available at https://www.kff.org/other/state-indicator/pre-aca-state-mandated-benefits-in-the-small-group-health-insurance-market-mandated-coverage-in-mental-health/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

We defined parity as states where parity laws were as robust as those in place in the ACA. See text for additional information.

Estimates of the small-group and individual market based on data from the National Association of Insurance Commissioners (NAIC).

To estimate the impact of parity requirements, total individual and small-group enrollment were adjusted to reflect the estimated share in these markets (18% and 5% respectivley) with parity prior to the ACA. See text and Figure 1 for more detailed information.

Medicaid expansion enrollment as of FY 2017, retrieved from the Kaiser Family Foundation website https://www.kff.org/health-reform/state-indicator/medicaid-expansion-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

Population with Coverage Newly Subject to Substance Use Disorder Parity Rules under the ACA

Nationwide, we estimate that over 36.4 million individuals had coverage that was subject to the ACA's expanded SUD parity requirements as of 2017 (Table 2). Of these, 9.8 million were enrolled in individual plans and 14 million in small-group plans in states without pre-ACA SUD parity laws for their individual and small-group markets. The remainder (almost 12 million) were newly eligible Medicaid expansion enrollees.

As with MH parity, the number of individuals in any given state covered by health insurance newly subject to SUD parity mandates under the ACA was driven primarily by whether state SUD parity laws were in place prior to the ACA, as well as the size of the state's individual and small-group markets and its Medicaid expansion populations (Table 2). The total number of individuals with health insurance newly subject to the ACA's expanded SUD parity requirements ranged from zero in Massachusetts, which had a pre-ACA SUD parity law and pre-ACA Medicaid eligibility levels exceeding ACA expansion levels, to over 8 million in California, which did not have a robust pre-ACA SUD parity law and, as previously noted, had a Medicaid expansion population of over 3.8 million.

Table 2. Estimated Impact of Substance Use Disorder (SUD) ACA Parity Requirements

State	Individual Market	Small-Group Market	Medicaid Expansion	Total
Alabama	141,000	206,000	No Medicaid expansion	347,000
Alaska	12,000	15,000	37,000	64,000
Arizona	151,000	186,000	112,000	449,000
Arkansas	259,000	85,000	318,000	662,000
California	1,561,000	2,893,000	3,810,000	8,264,000
Colorado	175,000	287,000	451,000	913,000
Connecticut	Had parity pre-ACA	Had parity pre-ACA	213,000	213,000
Delaware	Had parity pre-ACA	Had parity pre-ACA	12,000	12,000
Florida	1,176,000	619,000	No Medicaid expansion	1,795,000
Georgia	335,000	320,000	No Medicaid expansion	655,000
Hawaii	26,000	121,000	23,000	170,000
Idaho	85,000	75,000	No Medicaid expansion	160,000
Illinois	323,000	562,000	664,000	1,549,000
Indiana	125,000	174,000	323,000	622,000
Iowa	94,000	159,000	143,000	396,000
Kansas	93,000	128,000	No Medicaid expansion	221,000
Kentucky	86,000	118,000	480,000	684,000
Louisiana	113,000	180,000	446,000	739,000

Table 2. Estimated Impact of Substance Use Disorder (SUD) ACA Parity Requirements (cont'd)

State	Individual Market	Small-Group Market	Medicaid Expansion	Total
Maine	52,000	Had parity pre-ACA	No Medicaid expansion	52,000
Maryland	186,000	291,000	307,000	784,000
Massachusetts	Had parity pre-ACA	Had parity pre-ACA	Medicaid expanded pre-ACA	0
Michigan	269,000	604,000	634,000	1,507,000
Minnesota	105,000	291,000	206,000	602,000
Mississippi	80,000	86,000	No Medicaid expansion	166,000
Missouri	203,000	235,000	No Medicaid expansion	438,000
Montana	41,000	49,000	85,000	175,000
Nebraska	80,000	68,000	No Medicaid expansion	148,000
Nevada	81,000	96,000	212,000	389,000
New Hampshire	52,000	73,000	57,000	182,000
New Jersey	222,000	416,000	580,000	1,218,000
New Mexico	43,000	54,000	269,000	366,000
New York	268,000	1,304,000	524,000	2,096,000
North Carolina	399,000	298,000	No Medicaid expansion	697,000
North Dakota	33,000	56,000	20,000	109,000
Ohio	222,000	428,000	655,000	1,305,000
Oklahoma	103,000	177,000	No Medicaid expansion	280,000
Oregon	139,000	Had parity pre-ACA	418,000	557,000
Pennsylvania	322,000	711,000	758,000	1,791,000
Rhode Island	28,000	55,000	72,000	155,000
South Carolina	159,000	106,000	No Medicaid expansion	265,000
South Dakota	42,000	54,000	No Medicaid expansion	96,000
Tennessee	193,000	250,000	No Medicaid expansion	443,000
Texas	797,000	928,000	No Medicaid expansion	1,725,000
Utah	148,000	177,000	No Medicaid expansion	325,000
Vermont	22,000	48,000	Medicaid expanded pre-ACA	70,000
Virginia	308,000	428,000	No Medicaid expansion	736,000
Washington	197,000	284,000	608,000	1,089,000
West Virginia	23,000	38,000	183,000	244,000
Wisconsin	174,000	295,000	No Medicaid expansion	469,000
Wyoming	20,000	19,000	No Medicaid expansion	39,000
Total	**9,766,000**	**14,047,000**	**11,872,000**	**36,433,000**

Notes and Sources: We defined parity as states where parity laws were as robust as those in place in the ACA. See text for additional information.

Estimates of the small group and individual market based on data from the National Association of Insurance Commissioners (NAIC).

To estimate the impact of parity requirements, total individual and small group enrollment were adjusted to reflect the estimated share in these markets (34% and 5% respectivley) with parity prior to the ACA. See text and Figure 1 for more detailed information.

Medicaid expansion enrollment as of FY 2017, retrieved from the Kaiser Family Foundation website https://www.kff.org/health-reform/state-indicator/medicaid-expansion-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

DISCUSSION

The ACA expanded access to health insurance coverage with mandated parity for MH/SUD treatment to millions of individuals insured through the individual and small-group market and through state Medicaid expansions. However, it is important to note that the expansion of coverage parity legislation does not necessarily ensure access to equitable MH/SUD services. Some plans may not be in compliance with the ACA's coverage parity rules. For example, a federal judge ruled in March 2019 that a large national health insurer had improperly restricted coverage of mental health and substance use disorder treatments (Abelson, 2019). As a result, parity regulations are only meaningful from an access perspective if they are enforced. Responsibility for parity enforcement is shared by the federal government and the states, but in practice it falls primarily to the states because theyoversee a larger share of the insurance market, including fully insured group plans, individual plans, smaller employer-funded plans, and —in Medicaid expansion states—Alternative Benefit Plans. With each state enforcing parity individually, the nature and extent of enforcement is inconsistent across the country, with many violations continuing to occur as many state regulators face limitations in their ability to enforce parity. A recent collaborative report led by by the Kennedy-Satcher Center for Mental Health Equity at Morehouse School of Medicine recommends that states empower regulatory agencies to enforce MH/SUD parity statutes, require monitoring agencies to regularly report on steps taken to enforce compliance, and mandate that all health benefit plans submit regular (e.g., annual) analyses demonstrating compliance with parity laws (Douglas et al., 2018).

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