Mental Health Parity and Addiction Equity Act (MHPAEA) in New Mexico

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Most Current NM Statistics by National Ranking

- **#1 – Alcohol-related deaths**
- **#2 – Overdose deaths**
  - **2014: 536 Overdose deaths**
  - **2014: 908 Overdose reversals with Narcan**
- **#3 – Suicide deaths**

MHPAEA

- Introduced into the Senate by Sens. Pete Domenici (NM) and Paul Wellstone (MN)
- Signed into law 10/3/2008 to **correct discriminatory health insurance practices against people with mental health and substance use disorders** ("Behavioral Health Disorders" collectively)
- Curb both "quantitative" and "non-quantitative" ways that plans limits access to care compared to access to care for medical and surgical disorders – thus "PARITY"

MHPAEA

Quantitative/Financial Limitations Not Allowed to be More Restrictive than Medical/Surgical

- **Lifetime/annual dollar limits**
- **Financial requirements (deductibles, co-pays, co-insurance, out-of-pocket expense)**
- **Treatment limitations (frequency of treatment, number of visits, scope or duration of treatment)**
- **Must provide out-of-network coverage if provided for any medical/surgical benefits**

MHPAEA

"Non-quantitative" Limitations Not Allowed to be More Restrictive than Medical/Surgical

- More onerous pre-authorization process
- Utilization review (plan must authorize ***how*** the care is being delivered in advance)
- "Fail-first" policies (having to fail at one drug or treatment before another is approved)
- Denials or exclusions of coverage for particular treatments or levels of care
- Medical necessity criteria (denials of care because a service is deemed to not be "medically necessary" to treat a condition)
- Reimbursement
- Quality assurance

Insurance Coverage that Has to Comply with the MHPAEA*

- Group plans with >50 employees*
  - Completely insured by insurer
  - Self-insured by employer
- All individual, family and small business plans in the ACA Insurance Exchange
- All individual/family plans not in exchange
- Governmental, non-federal, 100 or more employees, fully-insured
- All Medicaid MCOs, CHIP plans and alternative benefit plans

*Group plans need be compliant only if they offer mental health and/or substance use disorder benefits – compliance now includes providing residential treatment for MH/SUDs

Insurance Coverage that does not Have to Comply with the MHPAEA

- **Small group plans with ≤ 50 employees not in the exchange***
- **Governmental, non-federal, <100 employees**
- **Governmental, non-federal, 100 or more employees – "can opt out"**
- **Federal – IHS, VA, military**
- **Medicare – fee for service or managed care Advantage plans**

Case 1

- 53 year old single man with a history of bipolar disorder since his 20's, continuous abstinence in sobriety from his addiction to alcohol for 9 years.
- Despite being compliant with his medications, he had a manic episode and during that period was fired from his job working security at a large store. He could not afford the COBRA ins. policy so he applied for Medicaid and was awaiting a determination.
- When his manic episode was over he ended up in a severe agitated depression.
- He became suicidal, friends took him to a hospital ED psychiatric crisis center where they gave him sedatives and in two days he was no longer having suicidal thoughts so he was discharged.
- Three days later he was on I-25, got a flat tire, and walked out into oncoming traffic and was killed.

Case 2

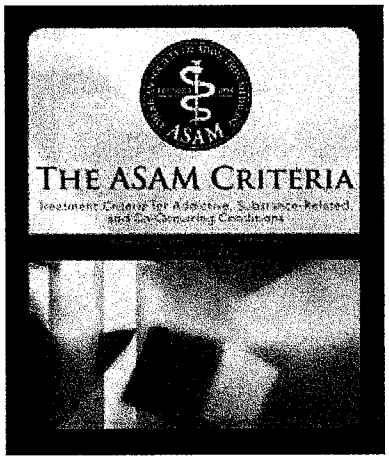
- 27 year old unemployed single man with MS for 2 years, recently got on SSDI and Medicaid. He has had PTSD and a substance use disorder since high school, starting with alcohol and Rx pain meds, then three years ago started using heroin and continued with alcohol and Xanax.
- Intermittently getting treatment with Suboxone opiate replacement therapy but was unable to stay clean of heroin. Was kicked out of a faith-based program with multiple relapses and kicked out of two intensive outpatient programs with multiple relapses.
- He sees his PCP and admits to using alcohol, Xanax and heroin, and says he "really wants to go to rehab."
- The doctor informs him he has no coverage for residential treatment and recommends he go to MATS for at least the sixth time in three years to detox.

Who Offers Residential Treatment Coverage in NM

- **Few of the larger employers (>50 employees) and almost none of the smaller employers – even if offered, often benefit is denied or it is only after outpatient failure – a "fail-first" policy**
- **Almost none of the individual and family policies inside or outside the exchange**
- **None of the Medicaid MCOs, except Blue Cross/Blue Shield offers limited residential treatment when there are certain physical diseases also present, as a value-added service**

American Society of Addiction Medicine (ASAM)

Patient Placement and Treatment Criteria



ASAM Levels of Care All Evidence-Based

Level 0.5: Early Intervention
Level I: Outpatient Services/Counseling
Level II: Intensive Outpatient (IOP)/Partial Hospitalization Services
Level III: *Residential*/Inpatient Services (Detox)
Level IV: Medically Managed Intensive Inpatient Services

Problems

1. Few providers and patients have heard of this law
2. The insurers know about and are basically ignoring it
3. There is no enforcement of the law
4. There has been no final guidance for Medicaid's application of the law

NM Medicaid MCO violations - MHPAEA

- No residential treatment for substance use, eating and other mental disorders (MH/SUD) for adults
- Not allowing long enough period for detox for SUD if pay for the benefit at all
- Requiring evaluation by independent licensed addiction specialist before approving IOP – can lead to 2-4 week delays in getting treatment after detox
- "Fail-first" policy for mental disorders in which have to fail outpatient therapy first before receiving authorization for hospital admission; not same for all physical disorders
- No payment for treatment because of absenteeism
- Excluding all but CSAs from being able to bill for case management, an important component of MH/SUD care

Recommendations

- Report violations to the appropriate agency:
  - Bureau of Labor (ERISA violation)
  - Treasury Department/IRS
  - US Department of Health and Human Services
  - NM Insurance Superintendent
  - NM Attorney General
- Litigation – individual and class action suits by legislators and/or individuals or agencies
- Convene a task force of HSD, MCOs and providers to determine what MH/SUD parity in this state should specifically look like including how medical necessity is defined for various circumstances

Thank You!

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