



COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
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Mental Health & Substance Use Disorder Parity

Frequently Asked Questions - Updated August 2021

The Department of Health Care Policy & Financing (Department or we) is required by federal and state laws to maintain mental health and substance use disorder parity (parity) standards. These parity standards must be met for all Health First Colorado (Colorado's Medicaid program) members. The Centers for Medicare and Medicaid Services provides many resources on their [website](#) to help with the evaluation of parity, including federal guidance, Parity Compliance Toolkit, and fact sheets.

For an introduction to parity, the Department contracted with Myers & Stauffer LC to create an informational webinar and companion Frequently Asked Questions (FAQ) that are both available on the Department's [Regulatory Resource Center website](#).

The Department created this FAQ document to address topics not covered in the Myers & Stauffer LC webinar and FAQ and to answer more questions raised by stakeholders.

General Questions

What does parity mean?

Taking care of your behavioral health is just as important as taking care of your physical health. Parity means that it should not be more difficult for people to use benefits for mental health and substance use disorder (behavioral health) as they are able to use benefits for physical health.

- Behavioral health benefits cover treatment and prevention for substance use disorders and mental health conditions, such as depression or bipolar disorder.
- Physical health benefits cover medical care and surgery related to conditions like diabetes or physical rehabilitation.



What laws govern parity?

It's federal and state law that behavioral health benefits are not more difficult to use than physical health benefits.

These laws govern behavioral health parity:

- The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), as amended by the Affordable Care Act (ACA)
- The 21st Century Cures Act (Cures Act)
- Colorado Revised Statutes section 25.5-5-421

The Department makes sure behavioral health parity standards are met for all Health First Colorado members. We listen closely to feedback from stakeholders, advocates, health care providers, and the Colorado Attorney General's Office to make sure parity laws are followed. We analyze how we're doing each year and [report our findings](#).

You can [give us feedback](#) to help ensure behavioral health parity.

Access to Services Questions

What does parity mean for my behavioral health benefits?

Parity requires that behavioral health benefits provided to Medicaid recipients are offered at a level that is not more restrictive than those offered for physical health benefits. However, the laws do not require all behavioral health services to be covered just like physical health care services. Some health care services are not covered, and others will require pre-approval (prior authorization). [Contact your health plan](#) to get help finding behavioral health services available to you.

What if I feel like I was unfairly denied access to a service?

You have the right to appeal if you disagree with the denial of a service. Find information about filing an appeal on the letter the Department or your health plan sent you or in the [Health First Colorado Member Handbook](#).

What if I find it difficult to access behavioral health services?

Talk to your [health plan](#) to discuss any questions you have about covered behavioral health services or issues you may be facing. Then if you are still having difficulties, you can file a complaint with the Behavioral Health Ombudsman Office of Colorado if you believe behavioral health benefits are harder to access than physical health benefits.



Behavioral Health Ombudsman Office of Colorado
Call: 303-866-2789 (State Relay 711)
Email: ombuds@bhoco.org
Online: bhoco.org

Parity Oversight Questions

Who at the Department evaluates changes made by the Regional Accountable Entities (RAEs) to their behavioral health policies and procedures? What is the process for making sure those changes are compliant with parity requirements? How are those evaluations documented and what steps does the Department take to ensure transparency?

Many Department staff are involved in the process to evaluate changes made by the RAEs throughout the year, based upon subject matter expertise and responsibilities. The Department uses the following approach to evaluate parity.

1. The Department requests detailed explanation of a RAEs policies and procedures upon notification of any changes.
2. Department staff compare the new policy and/or processes with those for physical health services in the same service category (e.g. outpatient services).
3. If similar policies and/or processes exist within the same classification of services for physical health, then the policy is determined to be compliant with parity.
4. If no similar policies and/or processes exist within the same classification of services for physical health, the Department requires the RAE to revise its policies and processes to ensure parity compliance.

The Department's annual Mental Health Parity Report documents the parity compliance analysis of the Medicaid benefit by following a similar process. However, it also includes a review of all policies and processes regarding the Non-Quantitative Treatment Limitations (NQTLs). The Department sends a data request to the RAEs, Managed Care Organizations (MCOs), and the Department's Utilization Management (UM) staff to collect policy and procedural detail. An analysis is then performed on the data, comparing the behavioral health and physical health NQTLs by service category (inpatient, outpatient, emergency care, and pharmacy) to determine the parity compliance of the policies.

The Department submits the Mental Health Parity Report each year to the Colorado State legislature and the Centers for Medicare and Medicaid Services and posts the report publicly on the Department's [Regulatory Resource Center website](#).

Why am I unable to find some Non-Quantitative Treatment Limitations (NQTLs) such as provider reimbursement, provider contracting time, and prior authorization in the annual Mental Health Parity Report?



The annual Mental Health Parity Report, which is available on the Department's [Regulatory Resource Center website](#), includes a list of evaluated NQTLs in the Methodology section of the report. Also, each NQTL has its own Appendix at the end of the report that provides additional detail about the parity compliance analysis applied to it. For example:

- Provider reimbursement is covered under Appendix L - Establishing Charges/Reimbursement Rates.
- Prior authorization is covered under Appendix A - Prior Authorization.
- Provider contracting time is covered under Appendix K - Network Provider Admission.

You are welcome to contact the Department with questions you have by sending an email to hcpf_parity@state.co.us.

Will Department staff involved in parity assessments engage with stakeholders directly, so questions can be posed and answered about the state's process?

The annual Mental Health Parity Report, which is available on the Department's [Regulatory Resource Center website](#), includes a full description of the parity assessment process in the Methodology section. Stakeholders are welcome to submit questions to the Department by sending an email to hcpf_parity@state.co.us.

How is information provided by stakeholders used by the Department in its parity assessment? Will information provided in meetings and via comment portals be used to expand the list of NQTLs considered or is the list of NQTLs fixed? And, will information provided in meetings and via comment portals be used to assess how NQTLs are applied in operation?

The Department uses stakeholder input to inform the comparative analysis by either affirming previously identified NQTLs or highlighting other areas that may require analysis. Input is also used to identify if situations exist where a written policy is not followed in operation. The Department also uses the input for process improvement. We already identified many opportunities to improve the analysis and communication used in the report. In addition, the Mental Health Parity Report now includes an external quality review analysis of the RAEs and MCOs' utilization management policies and procedures in operation.

Will the Department use denial rates for prior and concurrent authorization to assess how those NQTLs are applied "in operation"? If not, why not, particularly when the state's Division of Insurance has seen the benefit of gathering that information?

Denial rates are not currently used to evaluate prior authorization or concurrent review in operation, but the Department is continually looking at opportunities for improving the



compliance analysis. As noted above, the Mental Health Parity Report now includes an external quality review analysis of the RAEs' and MCOs' utilization management policies and procedures in operation. The analysis reviews adverse benefit determination records to determine whether each RAE and MCO has implemented and followed its own written policies, procedures, and organizational processes aligned with UM regulations.

How does the Department assess whether Medicaid members are made aware that they are entitled to get medical necessity criteria upon request, and that members receive the information upon request?

This information is required to be included in the RAEs' and Department's member handbooks, and in Notices of Adverse Benefit Determination. The Department has verified the member handbooks and templates used for notices contain the required information. In addition, the annual external quality review analysis process includes reviewing a sample of adverse benefit determination letters sent by the RAEs and MCOs to make sure they contain the required information.

What data reporting is required of the RAEs by the Department for parity purposes? Is there a uniform data set that all RAEs must comply with? If there is not a uniform data set, how does the Department gather information?

The Department sends the same data request to the RAEs, MCOs, and the Department's UM staff to collect policy and procedural detail for areas key to the comparative analysis. This data request helps the Department identify and verify the policies and procedures impacting NQTLs.

Can data requirements and any required forms be made public and posted? How frequently must RAEs report that data?

The data request is submitted by the RAEs, MCOs, and Department's Utilization Management staff each year as part of the Mental Health Parity Report process. The data request is a basic spreadsheet that helps collect relevant policy information in a uniform format. The information in the data request is used to update the tables in the Mental Health Parity Report's Appendixes, which can be read on the Department's [Regulatory Resource Center](#) website.

In addition to data requirements and forms, what guidance does the Department provide to the RAEs regarding parity? Like information provided to counties via the Operational Memo series, can that information be publicly posted?

The Department follows federal and state regulations and refers the health plans to those resources to promote parity compliance.



Can the processes of credentialing a behavioral health provider and a physical health provider differ and still be compliant with parity laws?

Managed care entities are federally required to use a standard set of criteria to recruit, credential, and accept treatment providers into a managed care network of healthcare providers. The criteria may differ between behavioral health providers and physical health providers.

For more information contact
hcpf_parity@state.co.us

