MHARI
Mental Health Association of Rhode Island
An Affiliate of Mental Health America
SINCE 1916 MHARI.ORG

RHODE ISLAND PARENT INFORMATION NETWORK
RIPIN

Mental Health Parity

Sam Salganik, Rhode Island Parent Information Network
salganik@ripin.org

Ruth Feder, Mental Health Association of Rhode Island
ruth.feder@mhari.org

May 2018

RIPIN Call Center – 401-270-0101

Special thank you to Health Law Advocates in Boston for providing model materials.

Shine Your Light If…

- You or a patient ever had health insurance that didn't cover BH/SUD benefits at all
- If that happened more than 5 or 10 years ago
- If that's happened in the past year or two

- You or a patient has ever had an insurer refuse to pay for treatment related to behavioral health or a substance use disorder (BH/SUD)

- You've ever felt like a health insurer was treating a patient who needs BH/SUD services differently from a patient who needs traditional medical/surgical services

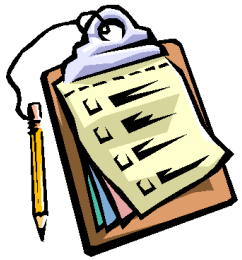
- You are a BH/SUD provider who feels like insurers have asked you to jump through hoops not required of your med/surg provider colleagues

- You've ever suspected that a health insurer was violating mental health parity rules

RHODE ISLAND PARENT INFORMATION NETWORK
RIPIN

401-270-0101

Agenda



- About RIPIN & RIREACH
- About MHARI & the RI Parity Initiative
- Mental Health Parity Laws
  - Which Parity laws apply to what plans?
  - Parity: Financial requirements and treatment limits
  - Parity: Non-Quantitative Treatment Limits (NQTLs)
  - Transparency
- Denials and Appeals
- What to do if you suspect a Parity violation

What is RIREACH?

RIREACH is:

Live-answer phone helpline

Help with any health insurance issue

Operated by RIPIN

For all Rhode Islanders

RIREACH helps with:

Insurance company denials

HSRI & Medicaid complications

Options for uninsured

Medical bills

Health insurance literacy

Finding & keeping coverage, and more

More than just a call center:

Sustained advocacy from start to finish

Experienced and highly-trained staff, in-house experts

Peer-to-peer connection

A voice for healthcare consumers

RHODE ISLAND PARENT INFORMATION NETWORK

RIPIN

401-270-0101

RIREACH is Housed at RIPIN

About RIPIN

- ✓ Founded in 1991 by parents of children with disabilities
- ✓ Statewide nonprofit, serving tens of thousands of Rhode Islanders every year
- ✓ Support for navigating healthcare and education systems
- ✓ 100 employees, about half stationed out in community
- ✓ Peer-to-peer model. Most staff are parents of kids with special needs

RIREACH is funded and supported by OHIC

RHODE ISLAND PARENT INFORMATION NETWORK
RIPIN

401-270-0101

By The Numbers (FY 17)

35,303 Calls Handled

2,751 Clients Served

444 Legislative & Govt. Referrals

2,481 Phone Hours

94% Satisfaction

RHODE ISLAND PARENT INFORMATION NETWORK
RIPIN

401-270-0101

- Since 1916, the Mental Health Association of RI (MHARI) has advocated for effective and compassionate community care for mental illness.
- Today, MHARI fights for equity in mental health coverage and effective statewide mental health & substance use disorder policies.
- Currently, MHARI is leading development of the RI Parity Initiative to launch in Fall 2018.

MENTAL HEALTH RI PARITY INITIATIVE

A Project of the Mental Health Association of Rhode Island

riparity.org

The RI Parity Initiative will raise public awareness about parity to improve compliance and reduce stigma!

We are…

- Creating plain language messages to share via web, social media, print, TV, and Radio (spring/summer 2018).
- Developing public education materials and workshops to share via professional and community networks (spring summer 2018).
- Hosting stakeholder and focus group sessions to develop and test messages (spring/summer 2018).
- Launching the awareness and public education campaign in fall 2018.

You can help!

Sign on to participate in a focus group and/or to help share information with your own patient, provider or community networks.

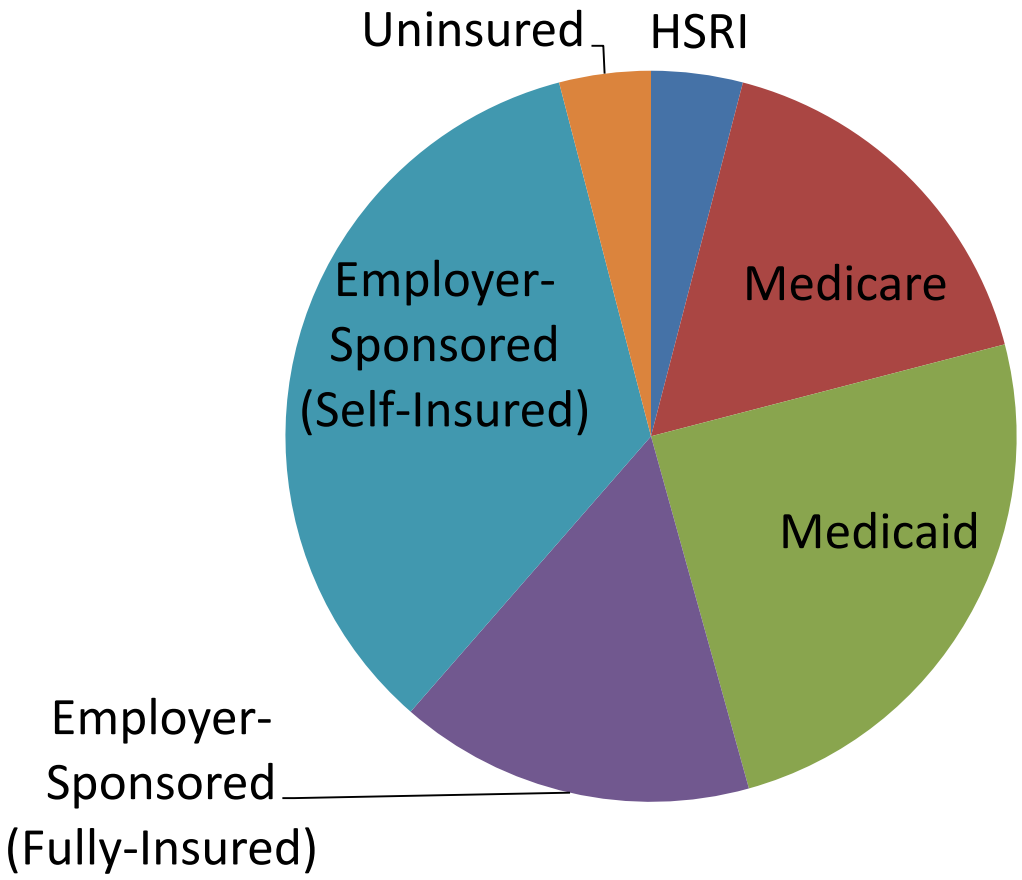
What's Happening?
Mental Health Parity in Rhode Island -- Spring, 2018

- RI Parity Initiative, a project of the Mental Health Association of RI, begins
- Market Conduct Examination, State of Rhode Island, Office of Health Insurance Commissioner
- Legislation, S2540 Sub A/H 7806, behavioral health counseling visits and medication maintenance visits shall be consistent with the cost-sharing applied to primary care office visits
- Meeting of mental health consumers, providers, and advocates with Governor Raimondo
- Governor Raimondo issues Executive Order, May 4, 2018
  - State agencies shall take key actions to strengthen mental health parity and to improve access to treatment
  - Under the direction of the Governor's office, state agencies shall develop an action plan by November 30, 2018, to guide improvements to Rhode Island's adult and pediatric behavioral health care systems
  - The State shall develop and carry out a statewide campaign to improve public attitudes around mental illness and addiction, and encourage people to seek treatment when needed.

Mental Health Parity Laws

Which laws apply to what plans?

Health Insurance is Complicated



Federal Parity Law

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA)

- Law passed on 2008; first "interim final" regulations published in 2010; "final" regulations published 2013
- For plans that elect to cover BH/SUD, requires offering "at **parity**" to medical / surgical benefits
- Does not require plans to offer BH/SUD

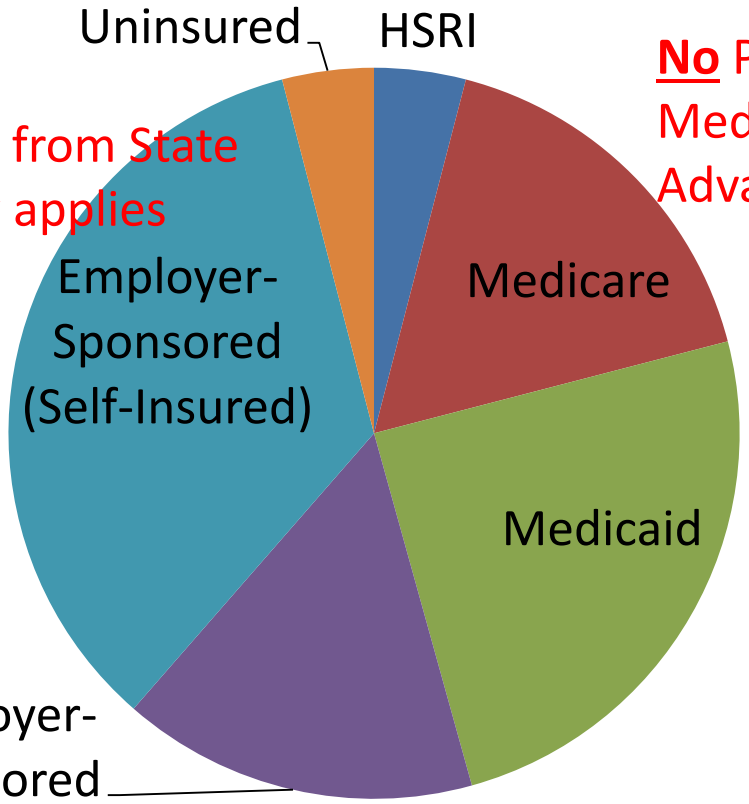
- Codified at:
  - 29 CFR 2590.712 (employer-sponsored plans)
  - 45 CFR 146.136 (individual market)
  - 42 CFR 438.900 et seq. (Medicaid)

RI State Parity Law

State of RI Mental Health Parity Law

- Also requires "parity," very similar language to federal law
- Only applies to fully-insured plans (see next slides)
- For impacted plans, adds some requirements beyond Federal law:
  - Requires plans to cover BH/SUD benefits, incl. MAT
  - Prohibits annual/lifetime dollar limits on BH/SUD
  - Requires reliance on ASAM criteria for SUD benefits
  - For SUD patients, requires coverage of non-opioid pain treatments, including chiropractor
- See RI General Laws, Title 27, Chapter 38.2

Where do Parity Laws Apply?



Self-insured plans exempt from State law, so only Federal parity applies

No Parity laws apply to Medicare or to Medicare Advantage plans.

Parity **does** apply to all other types of insurance (pretty much)

Where do Parity Laws Apply

Federal and State Parity Laws Apply	✓ Individual Market (including HSRI) ✓ Small Group Market Plans (non-grandfathered) ✓ Large Group Fully-Insured ✓ Medicaid Managed Care Plans
Only Federal Parity Law Applies	✓ Self-Insured (about 375,000 RIers)
Exempt from Parity Laws	➢ Medicare (about 200,000 RIers) ➢ TIRCARE ➢ Retiree-Only Plans ➢ Federal Employee Health Benefit (FEHB) Program ✓ But FEHB voluntarily follows Parity ➢ State and Local Government Employer Plans May Opt Out ✓ RI State Employee Plan has not opted out

What does “Parity” mean?

BH/SUD benefits cannot be more restrictive than med/surg benefits

1. **Financial Requirements**: e.g. copays, deductibles, coinsurance, annual dollar limits, lifetime dollar limits
2. **Treatment Limits:** e.g. capped number of visits per year
3. **Nonquantitative treatment limitations** (“NQTLs”): e.g.
   - Medical necessity review
   - Drug formulary design
   - Fail-first policies
   - Standards for provider network admission, including reimbursement rates

Financial Requirements and Quantitative Treatment Limits

Financial Requirements and Treatment Limits

No financial requirement or treatment limitation for BH/SUD benefits can 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**.

- Six "**Classifications**" =
  1. Inpatient, in-network
  2. Inpatient, out-of-network
  3. Outpatient, in-network
  4. Outpatient, out-of-network

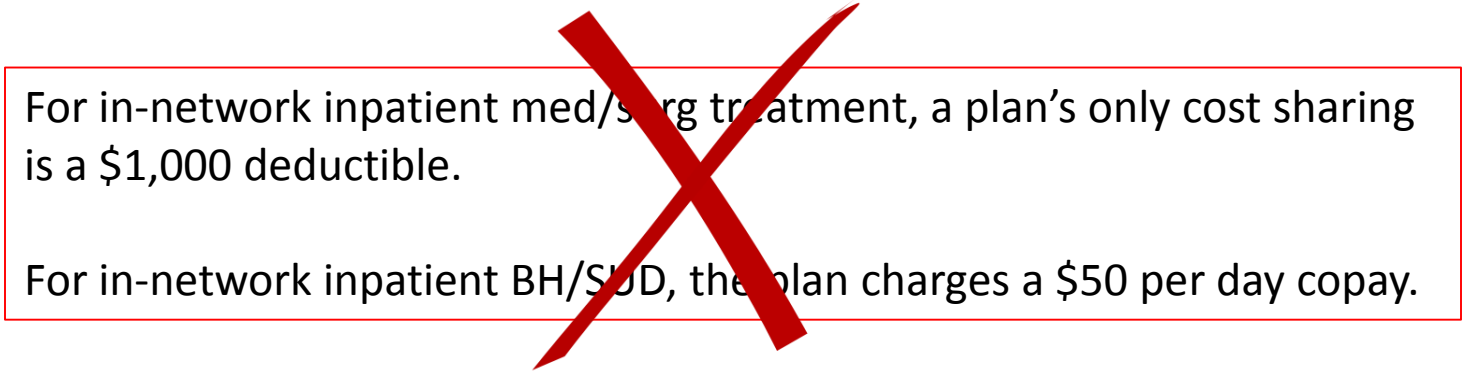
  [*Subcategories: Office Visits / Other Outpatient*]

  5. Emergency Care
  6. Prescription Drugs*
- A **type** of requirement refers to copay, deductible, coinsurance, etc.
- A **type** of requirement applies to "**substantially all**" of the benefits in a classification if applies to at least 2/3rds (based on spend)
- A "**predominant**" requirement applies to more than half of med/surg benefits in that classification (based on spend)

Financial Requirements and Treatment Limits – "Substantially All"

No financial requirement or treatment limitation for BH/SUD benefits can 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**.

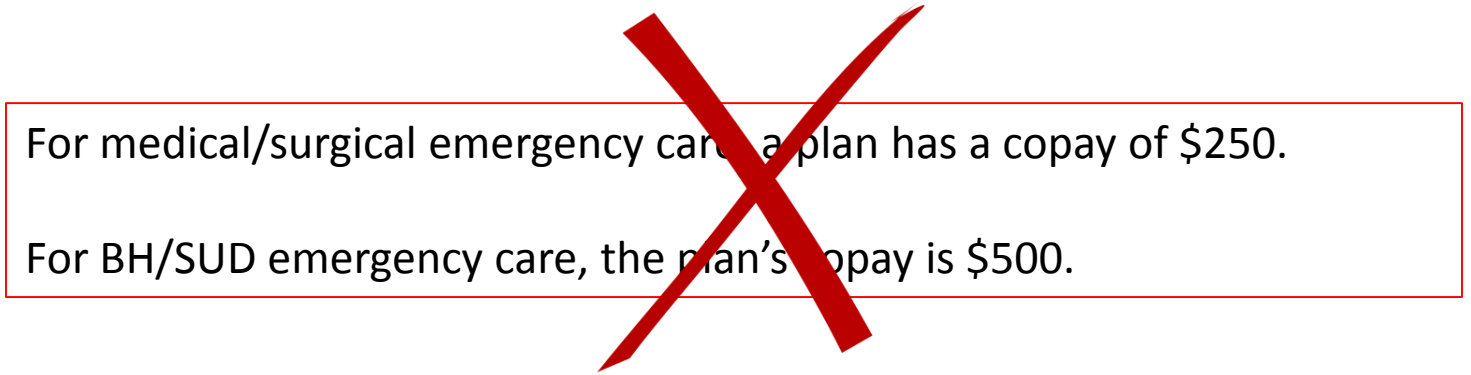
- If a type of financial requirement (e.g. copay) is not applied to 2/3rds of the med/surg benefits in a category, then it can't be applied to BH/SUD benefits in that category



Financial Requirements and Treatment Limits – "Predominant"

No financial requirement or treatment limitation for BH/SUD benefits can 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**.

- No financial requirement can be applied to BH/SUD benefits in a category unless at least **half** of the med/surg benefits in that category are subject to financial requirements that are at least as restrictive.



Financial Requirements and Treatment Limits – "Predominant"

No financial requirement or treatment limitation for BH/SUD benefits can 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**.

- No financial requirement can be applied to BH/SUD benefits in a category unless at least of the med/surg benefits in that category are subject to financial requirements that are at least as restrictive.
- If there are multiple levels of requirements in a single category (e.g. different visit limits for PT/OT/ST), then the plan can "combine" levels until they've reached 50%, and the least restrictive level in the combination is "predominant"

$50 copay for specialist office visits	(30%)
$35 copay for physical therapy visits	(25%)
$20 copay for primary care visits	(45%)

>50%

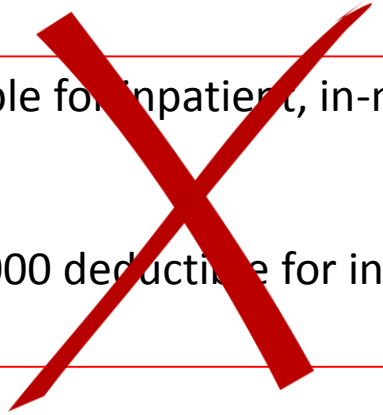
=> This plan could apply copays of no greater than $35 to BH/SUD benefits.
That includes, for example, psychiatrist visits.

No Separate Cumulative Financial Requirements or Treatment Limits

Plans may not apply any **cumulative** financial requirement or treatment limit in a classification that accumulates **separately** for med/surg and BH/SUD benefits in that classification.

A plan has a $1,000 deductible for inpatient, in-network med/surg benefits.

The plan has a **separate** $1,000 deductible for inpatient, in-network BH/SUD benefits.



Financial Requirements and Treatment Limits - Recap

- Plans can't have cost sharing or visit limit rules for BH/SUD benefits that are more restrictive than rules for similar med/surg benefits
- Analysis is highly technical
  - Sometimes violations are obvious by looking at plan design
  - Sometimes violations are very hard to spot
- You don't need to see a denial to see a violation. These violations can be apparent from plan design documents
- Clear violations are rare, and getting more rare

Non-Quantitative Treatment Limits (NQTLs)

Non-Quantitative Treatment Limitations (NQTLs)

A plan may not impose NQTLs to a classification BH/SUD benefits that are more restrictive than it applies med/surg benefits in that classification, including policies (both as written and applied), processes, strategies, evidentiary standards, and other factors.

NQTLs are "behind-the-scenes" limits that affect access, e.g.:

- Medical necessity review methods and criteria
- Drug formulary design
- Fail-first policies
- Standards for provider network admission, including reimbursement rates

NQTL Warning Signs

SEE HANDOUT

1. Preautorization & Pre-service Notification Requirements
2. Fail-first Protocols
3. Probability of Improvement
4. Written Treatment Plan Required
5. Other

These policies can be legal, but violate parity when they are applied **differently** to BH/SUD services than med/surg.

https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/mental-health-parity/warning-signs-plan-or-policy-nqtls-that-require-additional-analysis-to-determine-mhpaea-compliance.pdf

NQTL Examples

A plan requires prior authorization for all inpatient benefits, both med/surg and BH/SUD. In practice, med/surg stays are typically reviewed and approved in 7-day increments. But BH/SUD stays are typically reviewed and approved daily.

VIOLATION

A plan applies day-by-day review to all inpatient stays where there is high variability in length of stay. In practice, this impacts 60% of BH/SUD stays, but only 30% of med/surg stays.

NOT VIOLATION

Transparency

Transparency

Medical Necessity Criteria: Must be provided to any current or potential enrollee, or to contracting provider upon request. => Already common, e.g. www.bcbsri.com/providers/policies

Reason for Denial: Must be stated on the denial document.

Info for Parity Analysis: Upon request from member who's been denied, plan must provide lots of info relevant for analysis of parity compliance, including info on med/surg benefits and NQTLs.

Parity Recap

- Plans can't treat BH/SUD benefits differently than med/surg benefits
  - Financial and Quantitative rules (e.g. copays, visit limits)
  - NQTLs (e.g. medical review policies, network administration)
- Analysis is highly technical
- Very hard to get access to all the info necessary to do a good analysis
- The real action is with the NQTLs

Denials and Appeals

Denials / Appeals - Basics

- Almost all decisions can be appealed
- Best to appeal in writing
- Need good medical evidence / support
- Exact rules (deadlines, etc.) depend on the type of coverage.

Denials / Appeals - Basics

- Always start by **reading** the written denial document. Identify:
  1. Why was the claim denied?
  2. What's the deadline for appealing?

- Deadline is often 180 days for first-level appeal, but can be shorter
- Many plans offer two levels of internal appeal
- For decisions involving "medical judgement," almost all plans must offer external review

External Review

- For cases that involved "Medical Judgement"
  - Medical necessity denials
  - Experimental / Investigational denials
  - NOT administrative denials, like deductibles, network issues, excluded benefits.
- Available after one or two levels of internal appeal
- Decision-Maker will be neutral medical professional with appropriate expertise. Does not work for insurer
- Decision-Maker is not bound by insurer's rules or policies
- Available for almost all types of insurance plans

Tips for Writing Good Appeals

1. Correctly identify the denial reason, and address it.
2. Use detail
   - Describe your (or your patient's) medical history
   - Describe the condition and recommended treatment
   - If relevant, discuss unsuccessful attempts at treating condition
   - Discuss alternative treatments and why the are inferior.
3. Describe **why** the treatment is medically necessary
   - Does the treatment prevent an illness or disability? Prolong life? Ameliorate pain or other specific symptoms? Enhance specific functional capacities? Say so!
4. If possible, support letter with references to published material and/or to the patient's medical record
5. **Be persuasive!**

If You Suspect a Parity Violation

Plan Type	Government Agency	Contact Info
Ind. Market and Fully-Insured Group Market	Office of the Health Insurance Commissioner (OHIC)	401-462-9517 (OHIC)
Self-Insured	Fed. Dept. of Labor (DOL) Employee Benefit Security Administration (EBSA)	1-866-444-EBSA
Medicaid	Executive Office of Health and Human Services (EOHHS)	

Or… Just call us at RIPIN/RIREACH – 401-270-0101

We can help investigate the claim, file appeals, and get parity complaints routed to the right regulators.

Resources

- CMS website
  - www.cms.gov/cciio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet.html
- Kennedy Forum
  - Parity Registry - www.parityregistry.org
  - Resources by State - www.parityregistry.org/resources
- RI Parity Initiative (coming soon)
  - www.riparity.org
- Health Law Advocates (Mass.)
  - www.healthlawadvocates.org/initiatives/mental-health-and-substance-use-parity
- Mental Health America
  - www.mentalhealthamerica.net/positions/parity
- American Psychiatric Association
  - https://www.psychiatry.org/psychiatrists/practice/parity
- American Psychological Association
  - www.apa.org/helpcenter/parity-law-resources.aspx

THANK YOU!

Contact us at:

401-270-0101
CallCenter@ripin.org

Weekdays from 8 a.m. to 5 p.m.
and Thursdays to 7:00 p.m.

RHODE ISLAND PARENT INFORMATION NETWORK
RIPIN