

# Ohio Mental Health Parity Report

2020



**Department  
of Insurance**



## Purpose of This Report

Pursuant to Ohio Revised Code (ORC) 3901.90 – “The superintendent of insurance, in consultation with the Director of Mental Health and Addiction Services, shall develop consumer and payer education on mental health and addiction services insurance parity and establish and promote a consumer hotline to collect information and help consumers understand and access their insurance benefits. The Ohio Department of Insurance (ODI) and the Ohio Department of Mental Health and Addiction Services (OhioMHAS) shall jointly report annually on the departments’ efforts, which shall include information on consumer and payer outreach activities and identification of trends and barriers to access and coverage in this state. The departments shall submit the report to the general assembly, the joint Medicaid oversight committee, and the governor, not later than the thirtieth day of January of each year.”

## The Law

The primary laws that are used for regulatory and compliance oversight are the Federal Mental Health Parity and Addiction Equity Act (**MHPAEA**) and Ohio’s Mental Health Law as defined by **ORC 1751.01, 3932.28, 3923.281, and 3923.282**.

Both MHPAEA and the state law work together to help achieve parity among mental health benefits and medical/surgical benefits.

MHPAEA, often referred to as “mental health parity”, does not require a plan to provide coverage for mental health conditions but rather requires that mental health conditions and substance use disorders be treated by a health plan in the same or similar manner as the plan treats benefits or medical and surgical conditions and disorders. Financial requirements such as co-pays, deductibles and out-of-pocket maximum limitations applied to mental health and substance use benefits should not be more restrictive than for medical/surgical benefits. Similarly, any treatment limitations such as prior-authorization requirements or number of permitted visits or restrictions on treatment settings applied to mental health and substance use benefits may be no more restrictive than for physical health benefits.

## Overview: Ohio Department of Mental Health and Addiction Services (OhioMHAS)

The mission of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) is to provide statewide leadership of a high-quality mental health and addiction prevention, treatment and recovery system that is effective and valued by all Ohioans. The agency works with community partners to embed behavioral health resources into programs that serve individuals of all ages throughout Ohio. This work results in improved healthcare integration and coordinated services that can intervene early to find effective treatments to challenging diseases of the brain.

## Overview: Ohio Department of Insurance (ODI)

The Ohio Department of Insurance (ODI) regulates the business of insurance in Ohio. Its mission is to serve and protect Ohio consumers through fair and efficient regulations, provide assistance and education to consumers and promote a competitive marketplace for insurers. To carry out this mission, it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, examines claims of consumer and provider fraud, investigates consumer complaints and monitors the financial solvency and market conduct of insurance companies. ODI has jurisdiction over approximately 14% of the health insurance market in Ohio and is charged with reviewing insurance policies and forms used by insurance companies and the premiums they charge consumers in the life, accident, health, managed care and property and casualty insurance lines.

## **ODI's Role in Regulating Mental Health Parity**

ODI is tasked with regulating and enforcing laws relating to the business of insurance. ODI oversees insurance policies, premium rates, company solvency and helps consumers that have questions or complaints. Related to mental health parity; specifically, ODI reviews health insurance products to ensure that they are in compliance with applicable mental health laws. ODI also helps consumers understand their mental health benefits and resolve complaints against insurance companies. Finally, ODI tracks trends in consumer complaints and other data to determine if further investigation of company practices is needed.

## **ODI Regulation**

Oversight of insurer compliance with Ohio's insurance laws takes many forms and involves many different divisions of ODI. The most utilized divisions that ensure compliance are Product Regulation and Actuarial Services, Consumer Services and Market Conduct.

## **Product Regulation and Actuarial Services**

The Product Regulation and Actuarial Services division reviews forms and premium rates used by insurers in Ohio. This division reviews products to ensure that statutorily mandated benefits are included and that the products are in compliance with Ohio's insurance laws. In addition, ODI employs actuaries that review rate submissions to ensure that premium rates are actuarially sound.

This division first reviews a proposed insurance product for compliance with mental health parity and other applicable laws to ensure compliance. Once the reviewer has read the submitted documents, the reviewer will formulate a list of "objections" for the company to review. The company must then respond to these objections and resolve them to the satisfaction of the reviewer before ODI will approve the product. For mental health parity specifically, it is during this process that the reviewers will note and ask about provisions in the contract, if any, that appear to violate the law and/or mislead or deceive the consumer. For example, the division reviewed major medical policies from 14 different companies for the 2020 market. On average, ODI reviewers sent 42 objections per review, and of the objections seven per review related to Mental Health Parity.

## **Consumer Services Division**

The Consumer Services division is the first contact most consumers will have with ODI if they have a question about their insurance plan, are filing a complaint, or have a general insurance inquiry. In addition to assisting consumers, this division also monitors companies' compliance with Ohio's insurance laws and regulations.

Representatives assist Ohio insurance consumers through a toll-free hotline, educational materials, social media, community outreach and counseling. Representatives respond to a wide variety of insurance inquiries and investigate insurance complaints against companies and agents. There are different reasons why a consumer may contact Consumer Services regarding their insurance benefits, including:

- Help navigating their certificate of coverage
- Questions about claim delays, denials and policy recessions
- Filing a complaint
- Questions about rate increases
- Educational information about insurance benefits

When a consumer contacts the Consumer Services division, they will speak directly with trained representatives who are well-versed in the applicable type of insurance they are inquiring about (including mental health parity) and Ohio statutes and regulations. ODI's Consumers Services' representatives have experience handling a

variety of health benefit matters ensuring the consumer is receiving the best possible assistance. In addition to assisting consumers, the division also reviews overall complaints to identify ways to improve consumer education, tracks and reports trends in complaints and follows through to ensure complaints are resolved.

## **Market Conduct**

The Market Conduct division monitors insurers' compliance with Ohio's insurance laws and regulations by examining insurance companies' business practices, such as underwriting, marketing and claims handling. This division is responsible for gathering industry information from a variety of sources, including consumer complaints, company filings and the National Association of Insurance Commissioners (NAIC). For example, if the Consumer Services division is unable to resolve a complaint, the Market Conduct division may be utilized to resolve the issue directly with the insurer. A wide variety of data is analyzed to determine if a particular company or issue is in need of further scrutiny. ODI – through Market Conduct – can request additional reporting, require companies to take corrective action and issue fines or penalties.

## **Overview: 2019**

### **Actions Taken in 2019: Governor's Office**

Moments after taking the oath of office, Governor DeWine created RecoveryOhio – an initiative to ensure that we act aggressively to address Ohio's behavioral health crisis and invest in the health and well-being of Ohio's citizens. In March 2019, the Recovery Ohio Advisory Council released their initial report highlighting the state's most pressing challenges in building a better system. Mental Health was a focus area of the report and found that while progress has been made, there are many factors that contribute to complete access to care for all Ohioans. To address parity in Ohio, the RecoveryOhio Advisory Council made the following recommendations:

- 1) Align Ohio laws with the federal Mental Health Parity and Addiction Equity Act.
- 2) Improve state parity coordination, enforcement and education opportunities across state agencies
- 3) Educate patients, families, employers and professionals on insurance coverage rights and how to seek support with parity enforcement

As a result of the Advisory Council's findings, RecoveryOhio coordinated a cross agency workgroup, co-chaired by ODI and the Bureau of Workers Compensation and includes representatives from OhioMHAS, Medicaid, the Department of Administrative Services. The goal of the workgroup is to focus on improvements related to parity coordination, enforcement and public education. Both ODI and OhioMHAS reviewed and updated materials to educate the general public on mental health parity. Both agencies continue to evaluate where improvement is possible by continuing to work together and with stakeholders and consumers.

### **Actions Taken in 2019: Ohio Department of Insurance**

#### **Consumer Complaints:**

In 2019, the Consumer Services Division handled 5,614 total complaints; 2,156 of them were specific to accident and health insurance. Of those accident and health insurance complaints, 19 were related to coverage for mental health and substance use disorder services and those breakdown as follows:

- 11 were outside of ODI's jurisdiction based on plan type. Consumers were provided additional information for the regulatory agency that is able to best assist them with their case.
- 4 were upheld in the company's favor
- 3 were reversed in the consumers favor

- 1 is still open and is actively being worked

### **External Review:**

Ohioans have the right to appeal a claim denial or an adverse benefit determination from their insurer. ODI manages this appeals process and can help consumers navigate the process. These are cases where the insurer has denied a claim and the consumer has exhausted all internal appeals available to them within their insurance company.

From January 1, 2019, through December 31, 2019, ODI received 11 requests for external review related to mental health and substance use disorder benefits:

- 6 upheld in the company's favor
- 4 reversed in the consumers favor
- 1 pending

### **Budget Request for Education Efforts:**

The department requested and received an additional appropriation of \$1,000,000 in FY 20 and \$1,000,000 in FY 21 to support:

- Increased educational efforts with consumer groups, advocates and other stakeholders about ODI's role in regulating mental health parity and how to access benefits
- Education and outreach to health insurers in Ohio to improve transparency and understanding around these benefits, including the claim denial appeals process.
- Using both earned and paid media opportunities to help increase awareness on navigating a consumer's coverage in these treatment areas.
- Continued robust enforcement of state and federal law for coverage of mental health and substance abuse benefits.

These outreach efforts are designed to help consumers contact the department and file complaints which are needed to identify systemic issues that will allow us to focus enforcement efforts. The department is currently working with RecoveryOhio and stakeholders to gather feedback on messaging and target audiences in order to operationalize the campaign. The department has also created the Stakeholder Program Coordinator position dedicated to working with stakeholders and RecoveryOhio on mental health and substance use issues.

### **Stakeholder Outreach:**

ODI met with a number of stakeholders throughout 2019. These meetings and discussions continued the dialogue around mental health and substance use benefits and health insurance. ODI participated in numerous stakeholder and consumer advocate meetings in 2019 including:

- May 6 - ODI hosted a joint roundtable discussion with OhioMAS on mental health and substance use disorder benefits with representatives from both the health plans and advocate groups. The roundtable discussion began a dialogue to identify consumer education opportunities and common ways to improve transparency and understanding around these benefits.
- June 10 - ODI spoke to the Parity at 10 Coalition as a continuation of the round table discussion and encouraging open communication with all stakeholders and interested parties.
- November 1 - ODI hosted consumer advocate meeting that included staff from RecoveryOhio, ODM, BWC and OhioMHAS. Consumers shared their personal stories and the challenges they have experienced with utilizing mental health and substance use disorder benefits.

**Toolkit:**

The goal of the [Mental Health and Substance Abuse Disorder Toolkit](#) is to create a page where consumers and advocates can go to access easy to understand information regarding MHPAEA. Throughout 2019, ODI continued to revise the toolkit to make it more consumer and advocate friendly. These revisions included updating the content and language on the webpage and providing four additional resources and handouts:

- Information on External Review as it relates to mental health and substance abuse disorders
- Created an External Resources section that highlights the departments consumer help lines and provides contact information for other state and federal regulatory agencies
- Elevated the Ombudsman and Consumer Services contact information to the top of the page
- Made the handouts printer friendly

**Actions Taken in 2019: Ohio Department of Mental Health and Addiction Services****Monitoring call volume:**

OhioMHAS operates a toll-free helpline for the purpose of connecting Ohioans to prevention, intervention, treatment and recovery resources. The line accepts consumer complaints related to mental health and addiction providers, and answers questions about what to expect in treatment and other general information about mental wellness, mental illness and substance use disorder. The helpline is staffed by people with mental health and substance abuse disorder experience. In 2018, OhioMHAS reviewed the data collected by the helpline and found that parity issues were not an item that the data collection tool was equipped to capture. The department further found that staff had not been trained to identify parity issues that callers may be experiencing or where to direct callers if they had a complaint about their insurance provider.

In 2019, OhioMHAS revisited the most recent call data, and again did not find significant numbers of calls related to issues with insurance.

**Patient Education:**

In 2018, OhioMHAS met on several occasions with the Ohio Association of Health Plans (OAHP) to identify opportunities for collaboration related to improving consumer education about their mental health and substance abuse treatment coverage. OAHP shared feedback from their membership on which plans have webpages dedicated to mental health or substance use treatment coverage, as well as input on where consumers should turn if they have questions or concerns about their coverage. OhioMHAS used that feedback to develop a short tutorial video on how to contact your insurance company and what questions to ask when you call. The video was posted on the [Takechargeohio.gov](http://Takechargeohio.gov) website for the purpose of improving consumer access to information on how to best navigate insurance provider interactions.

## Ongoing Efforts in 2020:

### Ohio Department of Insurance

ODI will continue much of the work it started in 2019:

- Collaborate with RecoveryOhio and co-chair the parity workgroup to develop and implement a work plan to address the parity policy recommendations;
- Elevate the Ombudsman on its website and across multi-media platforms and continue to track, monitor and respond to complaints related to mental health and substance use;
- Engage stakeholders, health plans and consumers through additional roundtable discussions;
- Identify and reach out to key groups and individuals in the residential treatment provider community and begin a dialogue about provider perspective as it relates to mental health and substance use disorder benefits;
- Utilize the additional funds allocated in the budget to increase education efforts with consumers, advocates, health plans and providers; and
- Pursue robust enforcement of the state and federal law to improve transparency and understanding around mental health and substance use benefits.

### Ohio Department of Mental Health and Addiction Services

- Health Plan Education
  - Health care plans are complex systems operating in ever evolving environments. The issues of parity, Ohio Medicaid modernization and a shifting focus to value-based payment adds to this complexity. Educating health plans on clinical best practices and reducing stigma among health plan staff is an important aspect of ensuring Ohioans have access to quality behavioral health services. OhioMHAS is developing a learning series targeted towards health care plan staff and leadership. The series seeks to reduce personal and institutional stigma within health plan organizations, improve understanding of behavioral health issues, improve behavioral health systems, and highlight standards of care and clinical best practices. The series will premier in January 2020 with both in-person and web-based learning opportunities.

### ODI and OhioMHAS Coordinated Awareness Efforts

Launch a coordinated awareness effort, by leveraging stakeholders and various channels of communication. ODI and OhioMHAS will develop a joint communications plan aimed at disseminating educational materials developed by ODI on the topic of parity – and how to file a parity complaint. Both ODI and OhioMHAS will work jointly with stakeholders, and health insurers to continue to identify issues related to compliance and consumer education.