

Consumer Rights to Mental Health Treatment: State Responsibility for Enforcing the Federal Parity Act

What is the Federal Parity Act?

The [Wellstone-Domenici Parity Act](#) protects our right to mental health and substance use disorders treatment by directing most health insurance plans that cover mental health and substance use disorder treatment to provide this coverage to the same extent that the plans cover other medical or surgical treatment. This act does not require coverage for these conditions, but rather governs the coverage if it is offered. (The Affordable Care Act will require these benefits for the 32 million people that will be newly covered in 2014.)

The parity act became law in October 2008, but some insurers still do not fully comply with the law. Parity act violations may include stricter limits on the number of outpatient visits or inpatient hospital days for mental health and substance use disorder treatment, different monetary limits, or health plan practices that make it more difficult to access mental health and substance use disorders treatment.

Who enforces the parity act?

The parity act is enforced by federal or state government agencies, depending on the type of health plan. In each state, the insurance commissioner has the primary authority to enforce the parity act when the law is violated by “[fully-insured](#)” health plans offered by companies with more than 50 employees.

A fully-insured plan is one in which the employer pays a premium (and may charge employees as well) and in return, the insurance company pays each employee’s claims. Consumers can ask their employers or human resources departments if their health plans are fully-insured, or this information may be available in the health plan documents. Conversely, in a “self-insured” plan, the company itself pays all claims – although it often uses an insurer to administrate the plan. The U.S. Department of Labor regulates parity for self-insured plans.

What is my state doing to enforce the parity act?

In most cases, not a lot. Here are some examples of state activity:

- The Illinois Department of Insurance issued a [statement](#) in 2011, expressing its commitment to implementing the parity act in the manner that is most favorable to consumers.
- The Massachusetts Division of Insurance held a public forum with representatives from federal enforcement agencies regarding parity act implementation and enforcement. However, the Division of Insurance has taken the position that, notwithstanding federal law,

the state will not enforce the parity act until the state law is amended to give the Division of Insurance this authority. Advocates dispute this interpretation of the parity act.

What can advocates do to encourage state enforcement of the parity act?

- Contact your state insurance commissioner to ask how the commissioner plans to enforce the parity act, and whether the commissioner will issue a public statement regarding the parity act.
- Notify the commissioner about apparent violations, and publicize patterns of violations.
- Ask the U.S. Department of Health and Human Services to issue guidance to state governments regarding their authority to enforce the parity act.
- Where state insurance commissioners believe that they need additional state authority to enforce the parity act, work with state legislators to amend state law

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