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How Can Medical Management of MAT for Opioid Use Disorder Be Performed in Compliance with Federal Parity Requirements?

Substance Use Disorders Crash Course

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Federal Parity Requirements

- 2008: Mental Health Parity and Addiction Equity Act (MHPAEA)
  - Applies to plans sponsored by private and public sector employers with more than 50 employees, including self-insured as well as fully insured arrangements
- 2009: CHIPRA applied the parity requirements of MHPAEA to coverage under a CHIP state plan in the same manner MHPAEA applies to group health plans
- 2010: MHPAEA and the ACA
  - ACA mandates that MH/SUD treatment services in compliance with MHPAEA be provided as part of an “Essential Health Benefits” (EHB) package that individual, small group plans, and Medicaid non-managed care Alternative Benefit plans (ABPs) must provide (Medicaid MCOs already required to comply with MHPAEA)
- 2013 & 2016: MHPAEA Final Rule
  - MHPAEA Commercial Market Final Rule issued on Friday, November 8th, 2013; effective January 13, 2014, MHPAEA Medicaid final rule issued March 30th 2016, states must demonstrate compliance by October 2nd, 2017
- MHPAEA does not apply to Traditional Medicare or Medicare Advantage and the current legislative proposals to repeal and replace the ACA do not impact MHPAEA

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Federal Parity Requirements

- Financial Requirements (FRs) and Quantitative Treatment Limitations (QTLs)
  - FRs (such as copays or deductibles) and QTLs (such as day, hour, or visit limits) applied to mental health/substance use disorder (MH/SUD) benefits must be no more restrictive than the predominant level of FR or QTL applied to substantially all medical/surgical (M/S) benefits
  - Common issue: If a FR or QTL is not applied to at least two-thirds of the spending within a classification of M/S benefits, it **MAY NOT** be applied to MH/SUD benefits within that classification
- Non-quantitative treatment limitations (NQTLs)
  - Processes, strategies, evidentiary standards or other factors used to apply NQTLs (such as medical management techniques) to MH/SUD benefits must be comparable and no more stringent to those used to apply the same NQTL to M/S benefits
  - Common issue: If an NQTL is applied to a MH/SUD benefit but is NOT applied to any M/S benefits within the same classification, **IT VIOLATES PARITY**

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Medication Assisted Treatment

- Medication Assisted Treatment (MAT) is any treatment for opioid use disorder that includes medication that is FDA-approved for detoxification or maintenance treatment in combination with behavioral health services
- A consensus panel convened by the Substance Abuse and Mental Health Services Administration (SAMHSA) recommends that MAT providers offer at least the following services:
  - Comprehensive psychosocial assessment, initial and yearly medical assessment, medication dispensing, drug tests, identification of co-occurring disorders and neuropsychological problems, counseling to stop substance abuse and manage drug craving and urges, evaluation of and interventions to address family problems , HIV and hepatitis C virus (HCV) testing, education, counseling, and referral for care , and referral for additional services as needed
- The American Society of Addiction Medicine (ASAM) also issued a National Practice Guideline for the Use of Medications in the Treatment of Addiction Involving Opioid Use that recommends the use of psychosocial needs assessments, supportive counseling, links to existing family support, and referrals to community services for any pharmacologic treatment

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Medical Management for MAT and Parity

- Health insurers and health plans that cover MAT frequently subject the benefit to unique medical management techniques
- Many of these techniques are directed at ensuring MAT patients are accessing other services called for by the clinical practice guidelines
- Some MAT-specific management techniques include:
  - Non-pharmacological fail-first requirements (counseling alone, failed at recovery, and resumed substance use)
  - Short refill authorization periods
  - Requirement for a member to demonstrate enrollment in concurrent outpatient SUD therapy prior to approving MAT prescription or refill

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Medical Management for MAT and Parity

- Fail-first requirements:
  - The terms of the plan as written and in operation, the processes, strategies, evidentiary standards, and other factors considered by the plan in designing and imposing the fail-first requirement must be comparable to, and applied no more stringently than the processes, strategies, evidentiary standards, or other factors used in applying fail-first requirements to M/S prescription drug benefits
- Shorter reauthorization or refill timelines:
  - The P&T committee must be comprised of comparable experts for MH/SUD conditions, as compared to the experts for M/S conditions, and the committee members must evaluate nationally-recognized treatment guidelines in setting prior authorization for medications for both MH/SUD and M/S conditions in a comparable manner
  - In addition, the authorization process must be applied comparably and no more stringently in practice

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Medical Management for MAT and Parity

- Concurrent outpatient therapy requirements:
  - Although this medical management technique is supported by the nationally recognized treatment guidelines for MAT, issuers and plans frequently have parity compliance issues because they do not apply this medical management technique to any M/S prescription drugs
  - An NQTL type **CANNOT** be applied exclusively to MH/SUD benefits. This is a violation of parity!
  - Options for alternative medical management techniques that could encourage use of outpatient SUD treatment for MAT patients:
    - Allow out-of-network access for outpatient SUD therapy for MAT patients
    - Provide coverage for non-emergency medical transportation (NEMT) for outpatient SUD therapy for MAT patients
    - If supported by a properly staffed D & T committee, implement more frequent reauthorization procedures for MAT for patients that don’t utilize outpatient SUD therapy

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Questions?

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Upcoming Webinars

Substance Use Disorders Crash Course Series

- **SUD and Health Care Reform: What Are the Key Changes Being Considered by Congress and the Trump Administration?**
  Tuesday, June 13 at 2:00 – 2:15 p.m. ET
  Presenter: Jackie Selby

- **What's New About Privacy and Consent for Substance Use Records?**
  Tuesday, June 20 at 2:00 – 2:15 p.m. ET
  Presenter: Gregory R. Mitchell

- **Trends in Coverage of Telebehavioral Health: How Can the Modality Be a Successful Vehicle for Substance Use Disorder Treatment?**
  Tuesday, June 27 at 2:00 – 2:15 p.m. ET
  Presenter: Karen L. Cavalli

To register, please visit: http://www.ebglaw.com/events/

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