

## Jan. 8, 2021: State Advocacy Update

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### Coverage for all forms of MOUD now required by Medicaid

All state Medicaid agencies must provide coverage for all forms of FDA-approved medications to help treat opioid use disorder (MOUD), including methadone, according to new guidance from CMS. Per the federal SUPPORT Act, “states are required to cover all drugs approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), including methadone, and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) to treat OUDs.” CMS also said that states are “required to cover counseling services and behavioral therapies associated with provision of the required drug and biological coverage” in Medicaid.

There currently are at least 10 states that do not provide coverage for methadone to help treat opioid use disorder (OUD), according to the Kaiser Family Foundation: Arkansas, Idaho, Kansas, Kentucky, Louisiana, Nebraska, North Dakota, South Carolina, Tennessee and Wyoming. The AMA strongly encourages all states to provide all forms of FDA-approved MOUD in Medicaid and commercial insurance without prior authorization or other administrative barriers that delay or deny care.

The CMS guidance also provides a strong call for states to ensure network adequacy for both Opioid Treatment Programs (OTP) and in-office care for those with an OUD. CMS said that states must take action to increase the number of OTPs and OUD physicians and other health care professionals, and if states “do not already enroll OTPs as Medicaid providers [they] will be expected to take action to do so.”

### State action needed to enforce parity

There are multiple ways states can take action to meaningfully enforce mental health and substance use disorder parity laws, according to a new issue brief from the AMA Advocacy Resource Center. Among the actions that can be taken:

- Adopt model legislation that holds payers accountable. This includes supporting legislation based on California Senate Bill 855, including a new model bill from the Kennedy Forum.
- Urge state departments of insurance to require prospective compliance with parity laws. In addition to continuing retrospective market conduct exams, states should use “Enhanced Attestation

” – a tool that would require prospective analysis by health insurance companies to demonstrate parity compliance.

| Encourage state attorneys general to hold insurance companies accountable. Recent actions by attorneys general in Massachusetts and New York provide good guidance both of violations by insurers and corrective actions required to protect patients.

The AMA Issue Brief also includes multiple links to health insurer parity violations as well as a detailed update on the landmark *Wit v. United Behavioral Healthcare* legal case.

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