Insurer accountability on mental health parity is long overdue

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What’s the news: The AMA is urging Congress to hold insurance companies accountable for their repeated failure to comply with the Mental Health Parity and Addiction Equity Act of 2008.

The law requires group health and self-funded insurance plans’ coverage of treatment for substance-use disorders (SUDs) and mental health ailments to be in parity with medical and surgical benefits offered by the payer. But a recent report to Congress shows that companies continue to violate this requirement.

The Senate Health, Education, Labor and Pensions Committee and the House Ways and Means Committee held hearings examining the report (PDF), which was generated by the departments of Labor, Treasury and Health and Human Services.

“This report underscores two simple facts: insurers will not change their behaviors without increased enforcement and accountability, and patients will continue to suffer until that happens,” AMA Executive Vice President and CEO James L. Madara, MD, wrote in a letter to leaders of the committees (PDF).

“The report found that insurers’ failures were rampant across plans in many ways, including using greater restrictions on treatment, benefits and evidentiary standards for care for mental health and substance-use disorders compared to medical/surgical benefits,” Dr. Madara’s wrote.

He cited several “egregious violations,” of the parity law, including those that harmed people with:

- **Autism**—Hundreds of self-funded plans explicitly excluded evidence-based treatment for individuals with autism spectrum disorder.
- **Substance-use disorder**—Plans excluded coverage for evidence-based medications for opioid-use disorder and required prior authorization for all out-patient mental health and

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SUD services.

**An eating disorder**—More than 1.2 million enrollees were denied benefits for nutritional counseling for mental health conditions such as anorexia nervosa, bulimia nervosa, and binge-eating disorder.

Insurers’ failures also included using greater restrictions on treatment, benefits and evidentiary standards for care for mental health and SUDs compared to medical or surgical benefits.

The report highlights how “nonquantitative treatment limitations” (NQTLs) are used by insurers to limit, delay or deny care for mental health and SUDs. Examples of NQTLs include prior authorization, prescription drug formulary design, network tier design, network participation standards for physicians—including reimbursement rates, fail-first policies or step therapy protocols, and restrictions based on location, facility type, specialty, and other criteria that limit the scope or duration of benefits.

Find out what every U.S. employer can do to help end the overdose epidemic.

**Why it’s important:** Restricting treatment leads to patient harm.

The report notes early intervention and access to treatment for autism spectrum disorder “can improve the trajectory the child’s development” while delays or limits are especially harmful.

During the 12-month period ending in April 2021, more than 100,000 Americans died from a drug overdose, which is more than 30% higher than the previous yearlong period, says the report. Death rates are particularly high among Black people and in American Indian and Alaska Native communities.

“As these statistics demonstrate, it is essential that the health coverage that Americans have access to includes coverage for treatment” of mental health and substance-use disorders, the report says.

Insurers’ policies and practices greatly contribute to stigma and discrimination against those with a mental illness or SUD, Dr. Madara wrote, adding “insurers’ systematic, widespread parity violations also contributed to growing inequities” in mental health and substance-use disorder care “for Black, Hispanic, American Indian, Alaska Native and Asian-American communities.”

Patients are paying the price for payers’ failure to comply with the law.

“Every failure caused benefit limitations, delays, and denials of care,” Dr. Madara’s wrote. “More simply, every parity failure caused increased patient suffering and almost certainly deaths that could have been avoided had care been provided.”

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Congress should enact H.R. 3753/S. 1962, the Parity Implementation Assistance Act, which provides grants to help states implement the federal mental health parity requirements.

The AMA agrees with the report’s recommendations to:

- Grant the Labor Department the authority to assess civil monetary penalties for parity violations.
- Enable plan participants and beneficiaries to recover financial losses associated with improper claims denials stemming from violations of the law.

**Learn more:** The AMA believes science, evidence and compassion must continue to guide patient care and policy change as the nation’s opioid epidemic evolves into a more dangerous and complicated illicit drug-overdose epidemic. Learn more at the AMA’s End the Epidemic website.