

Health Coverage Options for Consumers with Mental Health and Substance Use Disorders

This fact sheet provides information and guidance that Navigators and certified application counselors (collectively, assisters) need to know when providing guidance to consumers for issues related to mental health or substance use disorders.

Laws and Regulations	2
Affordable Care Act.....	2
The Mental Health Parity and Addiction Equity Act (MHPAEA)	2
Assister Requirements.....	3
Medicaid	3
Section 1115 Demonstrations	4
Medicare	4
Marketplace Application Assistance	5
Application Completion	5
Plan Selection Considerations	5
Assister Tips	7
Resources	7

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Laws and Regulations

Section 504 of the Rehabilitation Act of 1973ⁱ, the Americans with Disabilities Act (ADA) of 1990ⁱⁱ, and Section 1557 of the Affordable Care Actⁱⁱⁱ protect qualified individuals with disabilities from discrimination on the basis of disability in the provision of benefits and services. Section 504 applies to all programs receiving federal financial assistance, the ADA applies to state and local government programs and services as well as privately operated health care providers, and Section 1557 applies to health-related programs and activities receiving federal financial assistance.

Under federal law^{iv}, an individual with a disability is defined as a person who has a physical or mental impairment that substantially limits one or more major life activities. Physical or mental impairment may include conditions such as emotional illness, treatment or recovery from drug addiction, and alcoholism. These laws also protect individuals with a history of a substantially limiting impairment and those “regarded as” having an impairment. Additionally, family and friends may be protected if they experience discrimination due to their association with a person who has or is believed to have a disability.

Affordable Care Act

The Affordable Care Act (ACA) provides one of the largest expansions of mental health and substance use disorder coverage. The law requires that most individual and small employer health insurance plans, including all plans offered through the Health Insurance Marketplace^{®v}, cover mental health and substance use disorder services.

Consumer protections under the ACA require non-grandfathered health plans in the individual and small group markets to cover essential health benefits, which includes coverage for mental health and substance use disorder services, including behavioral health treatment, as well as rehabilitative and habilitative services and devices.

Marketplace plans can't deny consumers coverage or charge them more just because they have a pre-existing condition, including for mental health and substance use disorder services. Coverage for treatment for all pre-existing conditions begins the day a consumer's coverage starts. Marketplace plans can't put yearly or lifetime dollar limits on coverage of any essential health benefit, including mental health and substance use disorder services^{vi}.

The Mental Health Parity and Addiction Equity Act (MHPAEA)

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)^{vii} is a federal law that generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder benefits and medical/surgical benefits from imposing less favorable financial requirements (e.g., deductibles, copayments, coinsurance, and out-of-pocket limits) and limitations on those benefits than on medical/surgical benefits.

Examples of limits covered by parity protections include:

- Quantitative treatment limitations (e.g., limits on number of days or visits covered, being required to get authorization of treatment before getting it).
- Nonquantitative treatment limitations (e.g., care-requiring).

Assister Requirements

Assisters are required by federal law and Department of Health and Human Services (HHS) regulations to provide information and services in a manner that is accessible for consumers with disabilities, including consumers with mental health or substance use disorders. HHS regulations require Navigators to make sure their services are accessible for these consumers, while certified application counselors (CACs) may meet this requirement either directly or by providing an appropriate referral to another assister organization or to the Marketplace Call Center. When making referrals, CACs should consider whether the assister they are referring the consumer to is nearby and can be reached with minimal time and effort on the consumer's part, as well as whether the assister specializes in or is capable of providing the disability access services the consumer might need or request.

Note: Assisters should be familiar with any specific accessibility requirements that apply to their assister type under HHS regulations. Independent of these obligations, certain federal civil rights laws may also apply to assisters and consequently may require such assisters to provide information and services in a manner that is accessible to consumers with disabilities. For more information about accessibility requirements, refer to the Working with Consumers with Disabilities assister course at [Marketplace.cms.gov/technical-assistance-resources/training-materials/consumers-with-disabilities.pdf](https://marketplace.cms.gov/technical-assistance-resources/training-materials/consumers-with-disabilities.pdf).

Medicaid

Medicaid is the single largest payer for mental health services in the United States and is increasingly playing a larger role in the reimbursement of substance use disorder services. Federal laws require coverage through certain Medicaid Alternative Benefit Plans (ABPs) and in the Children's Health Insurance Program (CHIP). Coverage provided to enrollees in Medicaid managed care organizations, Medicaid ABPs, and CHIP is provided so as to comply with mental health and substance use disorder parity requirements as defined in the MHPAEA.

In most states, consumers with disabilities who receive Supplemental Security Income (SSI) payments automatically qualify for Medicaid coverage. If a consumer is not automatically eligible for Medicaid, they will have to meet other criteria for their state's Medicaid program, which could include income, assets, and disability. Because Medicaid programs vary from state to state, assisters should refer consumers to the state Medicaid program for more specific information.

Section 1115 Demonstrations

States have the option under Section 1115 of the Social Security Act to propose experimental, pilot, or demonstration projects that promote the objectives of the Medicaid and CHIP programs. If approved by the Centers for Medicare & Medicaid Services (CMS), these projects give states additional flexibility to design and improve their program.

States have used this opportunity to demonstrate and test flexibilities to improve the continuum of care for beneficiaries with substance use disorders, including opioid use disorder. In addition, CMS created similar flexibility to test more comprehensive approaches to care for beneficiaries with serious mental illness or serious emotional disturbance available at [Medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd18011.pdf](https://www.Medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd18011.pdf). Assistants may want to review any section 1115 demonstrations that exist for their state to understand the types of benefits that exist. For a state Section 1115 demonstration list, refer to [Medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html](https://www.Medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html).

Medicare

Traditional or “Fee-for-Service” Medicare helps pay for mental health and substance use disorder services through Part A (Hospital Insurance) and Part B (Medical Insurance). If a consumer has Part A and is an inpatient in a general or psychiatric hospital, Medicare helps pay for the stay, including therapy, lab tests, and other services. If a consumer has Part B, Medicare helps cover any mental health services they would get from a doctor, other practitioner, or other services they generally get outside of an inpatient setting. These include one depression screening per year, one alcohol misuse screening per year, opioid use disorder treatment services, and other services.

Consumers who are enrolled in both Medicare Part A and Part B, live in the plan’s service area, and meet other requirements (such as being lawfully present and paying applicable premiums) may also enroll in a Medicare Advantage plan instead of the Medicare Fee-for-Service program. Medicare Advantage plans must cover Medicare Part A and Part B benefits (subject to limited exceptions like hospice services) and may also offer additional benefits not covered by Medicare Part A or Part B. Medicare Advantage plans are usually managed care plans like a Health Maintenance Organization (HMO) or Preferred Provider Organization (PPO).

Consumers may be eligible for Medicare Advantage Special Needs Plans (SNPs), a type of Medicare Advantage plan. Medicare Advantage SNPs must cover Medicare Part D prescription drug benefits as well as Medicare Part A and B benefits and limit membership to people who meet specific requirements, such as:

- Being dually eligible for both Medicare and Medicaid;
- Being institutionalized or living in a community but needing an institutional level of care;
or

- Having one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits overall health or function, having a high risk of hospitalization or other adverse health outcomes, and requiring intensive care coordination, such as chronic alcohol and other dependence or certain chronic and disabling mental health conditions. Medicare Advantage SNPs tailor their benefits, provider choices, and drug formularies to best meet the specific needs of the groups they serve. Medicare Advantage SNPs may not be available in all parts of the country. For more information about SNPs in your area, refer to [Medicare.gov/sign-up-change-plans/types-of-medicare-health-plans/special-needs-plans-snp](https://www.medicare.gov/sign-up-change-plans/types-of-medicare-health-plans/special-needs-plans-snp).

Marketplace Application Assistance

Application Completion

The Marketplace application will help assess whether a consumer may be eligible for Medicaid coverage based on a disability reported on the consumer's Marketplace application. If it appears the consumer may be eligible for Medicaid coverage based on a reported disability, the Marketplace will transfer the consumer's application to the state Medicaid agency so it can make a final determination. If it does not appear that the consumer may be eligible for Medicaid coverage based on a reported disability (or no disability was reported), the Marketplace will process the consumer's application based on all other eligibility criteria.

Consumers applying for coverage through the Marketplace who indicate that they would like help paying for coverage will be asked about their income. When assisting consumers with disabilities, such as those who have a mental health or substance use disorder, it is important to note that disability-related income is often misreported when projecting annual income. Consumers should be sure to include any Social Security Disability Insurance (SSDI) payments they receive when they are estimating their income. However, consumers should not include Supplemental Security Income (SSI), veterans' disability, or workers' compensation payments when calculating their income.

Plan Selection Considerations

Assisters should encourage consumers with mental health or substance use disorders to consider the following key issues when selecting new health coverage through the Marketplace.

Physical, Mental, or Substance Use Disorder Health Needs

Ask the consumer if they or a family member who may be covered under their insurance may have physical, mental, or substance use disorder health needs that they would like to make sure are covered by their insurance. Help them use this information to determine:

- What insurers cover particular physicians or health needs that may be unique to the individual; and

- What plans would be best for the individual and/or their family members.

You may consider explaining how the person can find information and compare information about insurers and plans online.

Individual's Provider Network

Ask consumers if they have particular providers that they or a member of their family currently visit and would like to continue to visit. Help them use this information to determine:

- What networks include their preferred providers; and
- What plans would be best for the individual and/or their family members.

If providing assistance in person, you may consider providing the person with hard copies of provider network information. If providing assistance over the phone, you may consider explaining how the person can find information about provider networks online.

Individual Wellness Plan and Prescription Medications

Ask individuals if there are certain prescription medications that they or their family may require or anticipate needing. Help individuals determine:

- What types of plans cover certain medications; and
- How to understand a prescription formulary.

Coverage Considerations

Ask the individual if there are any other medical or non-medical services that they or their family currently use or anticipate using. For example:

- Inpatient care
 - Emergency Room visits
 - Therapy services (occupational, physical, educational)
 - Mental health treatment
 - Substance use treatment
 - Screenings
 - Other covered services
- 

Assister Tips

- Engage all people as people first and not as a diagnosis. Health care and health insurance can be a complex issue for many people, not just those with a mental health condition or substance use disorder.
- Keep information simple and clear.
- Engage people in a trusting relationship.
 - Use active listening skills. For example, repeat back in the person's words, such as "What I hear you saying...", in order to check for understanding.
 - Take time to understand the person's style of interaction and communication.
 - Ask the person directly what would help them while working with an assister.
- Be patient and be willing to spend extra time. If a person is struggling or having a difficult time, ask them what they need. Suggest taking a break or offer to set up another appointment.

If you experience someone in crisis and/or needing immediate help, refer them to an Emergency Department, a local crisis center, or, if needed, the 988 Suicide and Crisis Lifeline by calling 988 or by visiting [988lifeline.org](https://www.988lifeline.org).

Familiarize yourself with local, regional, and national organizations.

- The National Alliance on Mental Illness (NAMI) is one of the nation's largest grassroots mental health organizations with 1,000 affiliates across the country.
- Mental Health America (MHA) is one of the nation's leading community-based nonprofit organizations with over 200 affiliates in 41 states.

Resources

- Working with Consumers with Disabilities: [Marketplace.cms.gov/technical-assistance-resources/training-materials/consumers-with-disabilities.pdf](https://www.cms.gov/technical-assistance-resources/training-materials/consumers-with-disabilities.pdf)
- CCIIO Information on Essential Health Benefits (EHB) Benchmark Plans: [CMS.gov/CCIIO/Resources/Data-Resources/ehb](https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb)
- Mental Health & Substance Abuse Coverage: [HealthCare.gov/coverage/mental-health-substance-abuse-coverage](https://www.healthcare.gov/coverage/mental-health-substance-abuse-coverage)

- Serving Consumers with Disabilities: [Marketplace.cms.gov/technical-assistance-resources/consumers-with-disabilities.pdf](https://www.marketplace.cms.gov/technical-assistance-resources/consumers-with-disabilities.pdf)
- The Mental Health Parity and Addiction Equity Act (MHPAEA): [CMS.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet#Summary of MHPAEA Protections](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet#Summary_of_MHPAEA_Protections)
- FAQs about Mental Health and Substance use Disorder Parity Implementation and the Consolidated Appropriations Act: [CMS.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/MHPAEA-FAQs-Part-45.pdf](https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/MHPAEA-FAQs-Part-45.pdf)
- Medicare Special Needs Plans (SNPs): [Medicare.gov/sign-up/change-plans/types-of-medicare-health-plans/how-medicare-special-needs-plans-snps-work](https://www.medicare.gov/sign-up/change-plans/types-of-medicare-health-plans/how-medicare-special-needs-plans-snps-work)
- Medicaid 1115 Demonstrations: [Medicaid.gov/medicaid/section-1115-demonstrations/1115-substance-use-disorder-demonstrations/section-1115-demonstrations-substance-use-disorders-serious-mental-illness-and-serious-emotional-disturbance/index.html](https://www.medicare.gov/medicaid/section-1115-demonstrations/1115-substance-use-disorder-demonstrations/section-1115-demonstrations-substance-use-disorders-serious-mental-illness-and-serious-emotional-disturbance/index.html)
- Understanding Parity: A Guide to Resources for Families and Caregivers: [Store.samhsa.gov/product/understanding-parity-guide-to-resources-for-families-caregivers/pep21-05-00-002](https://store.samhsa.gov/product/understanding-parity-guide-to-resources-for-families-caregivers/pep21-05-00-002)
- Consumer Guide to Disclosure Rights: Making the Most of Your Mental Health and Substance Use Disorder Benefits: [Store.samhsa.gov/product/Consumer-Guide-To-Disclosure-Rights-Making-The-Most-Of-Your-Mental-Health-and-Substance-Use-Disorder-Benefits/SMA16-4992](https://store.samhsa.gov/product/Consumer-Guide-To-Disclosure-Rights-Making-The-Most-Of-Your-Mental-Health-and-Substance-Use-Disorder-Benefits/SMA16-4992)

ⁱ [Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794](#)

ⁱⁱ [Americans with Disabilities Act of 1990 42 U.S.C. §§ 12101 et seq](#)

ⁱⁱⁱ [Section 1557 of The Affordable Care Act, 42 U.S.C. 18116](#)

^{iv} [U.S. Department of Justice, Civil Rights Division, Disability Rights Section Technical Assistance document: The Opioid Crisis and the ADA](#)

^v Health Insurance Marketplace[®] is a registered service mark of the U.S. Department of Health & Human Services.

^{vi} [Section 2711 of the Public Health Service Act, 42 U.S.C. §300gg-11](#)

^{vii} [Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008](#)

