TEXAS LANDSCAPE REVIEW

An Analysis of Public and Private Insurance Coverage for Mental Health and Substance Use Disorder Services and Enforcement of Parity Laws

LEGAL ACTION CENTER

Center on Addiction

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Executive Summary

The Texas Landscape Review sets out key standards for the coverage of mental health and substance use disorder benefits in the State's private and public health insurance markets and initiatives to enforce the Mental Health Parity and Addiction Equity Act of 2008 (Parity Act). The Parity Act – a federal law that bars discrimination in the coverage of mental health and substance use disorder benefits – applies to most state-regulated private health plans and Texas' Medicaid and CHIP programs.

The purpose of the Landscape Review is to (1) educate stakeholders about existing state insurance standards for mental health (MH) and substance use disorder (SUD) services, and (2) inform policy decisions to improve implementation and enforcement of the Parity Act, with the goal of improving access to evidence-based mental health and substance use disorder treatment. The Landscape Review can also be used by stakeholders in other states looking to replicate efforts adopted by Texas. This Landscape Reviews is based on a review of Texas laws, regulations and legislative initiatives, publicly available reports, health plan documents, media coverage and interviews with three stakeholders conducted between November 2018 and August 2019.

While Texas' legislature and regulatory agencies have only recently focused on the State's enforcement of the Parity Act as a tool to improve MH and SUD treatment access, the State has already adopted a number of best practices. The enactment of the Texas parity law (HB 10), creation of a consumer ombudsman, adoption of a one-time data reporting requirement to evaluate disparate implementation of non-quantitative treatment limitations, and implementation of network adequacy standards are essential strategies that should be replicated in other states. Yet, as in most states, significant barriers to MH and SUD care exist in Texas, and several areas for improvement stand out.

- In private insurance, the State's statutory MH and SUD benefit requirements contain parity violations and may create confusion for consumers, as benefit coverage across state-regulated plans differs substantially for MH benefits.

- State law does not include mandated SUD benefits for individual health plans or mandated MH benefits for small group and individual plans. MH and SUD coverage in those markets would be eliminated if the Affordable Care Act were repealed.

- The State's essential health benefit (EHB) benchmark plan for MH and SUD services excludes residential treatment services – a likely parity violation – and imposes quantitative treatment limitations on SUD and MH services, which may also violate the Parity Act. Although many qualified health plans offered in the 2019 market addressed these gaps, others did not.

- Notwithstanding state network adequacy standards that specifically address MH and SUD services, the State has a significant shortage of behavioral health care providers and insufficient treatment capacity. Insurance related barriers that likely contribute to gaps in access include high rates of medical necessity determinations for MH and SUD services and low reimbursement rates and administrative burdens for MH and SUD providers.

- Despite efforts to improve the complaints process through the establishment of an ombudsman, reliance on a complaint-driven process to enforce the Parity Act is not an effective strategy to address discriminatory plan standards and implementation practices.

- Access to MH and SUD services would be significantly improved if the State expanded Medicaid coverage for individuals with incomes up to 135% of the federal poverty limit.

Highlights of Best Practices

State Parity Law (HB 10)

Texas passed a state parity law in 2017 (HB 10) that closely tracks the federal Parity Act's requirements for quantitative treatment limitations (QTLs) and nonquantitative treatment limitations (NQTLs).[1] The law also authorizes the Texas Department of Insurance (TDI) to enforce parity and requires oversight. Stakeholders reported improved parity compliance since the adoption of HB 10.

The law also established the Mental Health Condition and Substance Use Disorder Parity Workgroup, comprised of a number of stakeholders, that is charged with issuing recommendations to increase compliance with MH and SUD benefit requirements, strengthen enforcement and oversight, improve the complaints process, and increase education on parity and MH and SUD benefit requirements. The Workgroup issued a progress report in September 2018 detailing its work to date and future plans, and it is now developing a strategic plan to direct future action.[2]

[1] Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**.

[2] Mental Health Condition and Substance Use Disorder Parity Workgroup. (2018). *Mental Health Condition and Substance Use Disorder Parity Workgroup Progress Report*. Retrieved from Texas Health and Human Services, Mental Health TX's website: **https://mentalhealthtx.org/sites/mentalhealthtx/files/docs/mh-condition-substance-use-disorder-parity-workgroup-report.pdf**.

Ombudsman

HB 10 established a behavioral health ombudsman to assist consumers with complaints related to MH and SUD treatment in the public and private insurance programs. The ombudsman receives complaints and provides information to help patients obtain care and file complaints and appeals. While this program has great potential to help with parity enforcement and MH and SUD treatment access, unclear authority and a lack of consumer complaints may limit its impact.

NQTL Data Reporting Requirement

HB 10 required TDI and the State's Medicaid agency, Health and Human Services Commission (HHSC), to collect data from health plans and Medicaid managed care organizations (MCOs) to compare rates of prior authorization, utilization review, medical necessity denials, and appeals across MH and SUD and medical/surgical benefits. This one-time reporting requirement, conducted in 2018 lays the foundation for future compliance review of key NQTLs.

TDI's examination of plan data found significantly higher out-of-network utilization for MH and SUD services as compared to medical/surgical services; higher denial rates for inpatient MH and SUD claims as compared to inpatient medical/surgical claims; lower rates of MH and SUD denials overturned on internal appeal as compared to medical/surgical denials; step therapy requirements imposed on a greater number of MH and SUD medications as compared to other prescription medications; and a higher rate of complaints for medical/surgical claims than MH and SUD claims.[3] The TDI data suggest several areas for further investigation, including network admission and contracting standards and utilization management standards for inpatient services and prescription medications. Additionally, as TDI noted, the low level of complaints regarding MH and SUD services does not reflect an absence of claim problems.[4]

HHSC's examination of MCO and CHIP claims data found that, while the overwhelming majority of MCO and CHIP claims were for medical/surgical services, denial rates for MH and SUD services were higher than denial rates for medical services in Medicaid. Medicaid and CHIP also imposed prior authorization more frequently for MH and SUD services than for medical/surgical services, but service approval rates were higher for MH and SUD services in

[3] Texas Department of Insurance. (2018). *Study of Mental Health Parity to Better Understand Consumer Experiences with Accessing Care.* Retrieved from **https://www.tdi.texas.gov/reports/documents/Final-draft-HB-10-report-8.31.18.pdf**.
[4] *Id*. at p. 10.

both programs. Finally, internal appeals for MH and SUD claims were more likely than appeals for medical/surgical services and denials were more likely to be upheld.[5]

The HHSC data, like the TDI data, suggest that further investigation of utilization management standards and the validity of medical necessity criteria is needed. HHSC has conducted multiple reviews of parity compliance – finding in each review that the State's Medicaid program is in full compliance with the Parity Act.[6] Yet, disparities in outcome data often point to underlying practices that are not comparable across MH, SUD and medical/surgical benefits or a more stringent application of standards to MH and SUD benefits. HHSC has developed instructional guides on utilization management and application of medical necessity criteria[7] and should monitor and address the reasons for disparate practices.

Network Adequacy Requirements

Texas has established quantitative standards to enforce and measure network adequacy for MH and SUD services, specifically wait time and travel distance standards, for preferred provider benefit plans and health maintenance organizations.[8] The wait time standards for MH and SUD care are comparable to or more favorable than wait time standards for medical care. There are no specific travel distance standards for MH and SUD providers. Texas imposes oversight for compliance with network adequacy standards. Plans are required to disclose whether or not they are in compliance with network adequacy requirements in each service area on their website.[9] TDI should assess whether plans that do not meet

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[5] Texas Health and Human Services Commission. (2018). *Report to Assess Medical or Surgical Benefits, and Benefits for Mental Health and Substance Use Disorders*. Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2018/hb10-assess-medical-surgical-benefits-sept-2018.pdf**.

[6] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 111); and Texas Health and Human Services. *Summary of Texas' Parity Findings*. Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/programs/mental-health-substance-use-disorder-parity/summary-texas-parity-findings**.

[7] Texas Health and Human Services. *Instructional Guide: Non-Quantitative Treatment Limitation Tool 1 - Prior Authorization.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/prior-authorization-nqtl-assessment-tool.pdf;** Texas Health and Human Services. *Instructional Guide: NQTL Tool 2 - Concurrent Review.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/concurrent-review-nqtl-assessment-tool.pdf**; Texas Health and Human Services. *Instructional Guide: Texas Non-Quantitative Treatment Limitation Tool 3 - Medical Necessity.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/medical-necessity-nqtl-assessment-tool.pdf**.

[8] Texas Legislature. (2009). House Bill 2256, Legislative Session 81(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=81R&Bill=HB2256;** Codified at TEX. INS. CODE ANN. §. 1301.0055 (2009); 28 TEX. ADMIN. CODE §§ 3.3704; 11.1607.

[9] 28 TEX. ADMIN. CODE § 3.3705(e).

network standards violate parity standards for network admission, contracting, reimbursement rates and other NQTLs that affect a MH or SUD provider's willingness to participate in networks.

Medicaid managed care plans are also required to comply with travel time/distance standards to demonstrate network adequacy.[10] There are specific travel time/distance standards for behavioral health care providers.[11] The distance/time travel standards for primary care are shorter than those for behavioral health care.[12] Some specialists have shorter distance/time travel standards, and none have longer time/distance standards than the standards for behavioral health care providers. MCOs must also comply with wait time standards. Urgent behavioral health care must be provided within 24 hours (same as medical) and initial outpatient behavioral health visits (for adults and children) must be available within 14 calendar days (same as routine primary care and shorter than specialty routine care). [13] HHSC is required to establish benchmark provider-to-recipient ratios in provider networks and report on provider-to-recipient ratios in MCOs.[14] HHSC has not yet established the benchmark ratios.[15]

HHSC continually monitors MCO compliance with network adequacy standards through surveys, member and provider complaints, geo-mapping analyses and out-of-network provider utilization.[16] Compliance with distance standards are evaluated on a quarterly basis while compliance with travel time standards are evaluated annually.[17] Compliance with appointment wait time standards are determined with "secret shopper surveys," which are conducted on a semi-annual basis.[18] HHSC is required to report to the Legislature biennially on access to managed care networks and MCO compliance with network adequacy

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[10] Texas Legislature. (2015). Senate Bill 760, Legislative Session 84(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=84R&Bill=SB760**.
Codified at TEX. GOV'T CODE ANN. § 533.0061 (2015).

[11]Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. Attachment B-1, § 8.1.3.2, p. 8-57 – 8-58).

[12] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-56.

[13] TX Managed Care Contract (Attachment B-1, §8.1.3.1, p. 8-55).

[14] Codified at TEX. GOV'T CODE ANN. §533.0061(c)(2) (2015).

[15] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy. (p. 25).**

[16] *Id.* (p. 1).

[17] *Id.* (p. 9).

[18] *Id.* (p. 16)
Texas Health and Human Services. *2018 Appointment Availability Study Thresholds.* Retrieved from **https://hhs.texas.gov/about-hhs/communications-events/news/2018/04/2018-appointment-availability-study-thresholds**.

requirements.[19] HHSC's 2018 report found that MCOs did not meet access standards for behavioral health.[20]

To address inadequate networks and provider shortages and to reduce delays in reimbursement, the Legislature directed HHSC to establish an expedited credentialing process for Medicaid providers seeking to join a MCO's network.[21] Under expedited credentialing, the qualified provider is treated as an in-network provider and can be reimbursed for services provided to Medicaid recipients while the provider's credentialing application is reviewed.[22] Despite these standards, low network participation and insufficient treatment capacity persist.

Areas for Further Action to Improve Access to Mental Health and Substance Use Disorder Services

State-Regulated Commercial Plans – Mandated MH and SUD Benefits

State and federal law establish benefit coverage standards for MH and SUD benefits. The State's mandated benefit and the Essential Health Benefit (EHB) benchmark plan contain benefit limitations that likely violate the Parity Act. While health plans may address some of the questionable standards, State law should be amended to address all parity violations to protect consumers and ensure consistency across all insurers.

Texas law requires state-regulated *large group health plans* to cover inpatient and outpatient benefits for serious mental illness (SMI), alternative mental health treatment benefits (for a subset of "group plans"), which include crisis stabilization services and residential treatment for children and adolescents, psychiatric day treatment, and substance use disorder benefits.[23] *Small employer plans* are required to cover SUD benefits and are also subject to the SMI benefit mandate, although the employer can reject coverage for SMI.[24] Autism services are also covered under the mental health benefit statute.[25] For

[19] Codified at TEX. GOV'T CODE ANN. §533.0061(c) (2015).
[20] Texas Health and Human Services Commission. *Report on Medicaid Managed Care Provider Network Adequacy*. (p. 2).
[21] Texas Legislature. (2015). Senate Bill 760, Legislative Session 84(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=84R&Bill=SB760**.
Codified at TEX. GOV'T CODE ANN. §533.0064 (2015).
[22] *Id.* at §533.0064(e).
[23] TEX. INS. CODE ANN. §§ 1355.002; 1355.052; 1355.102; 1368.002.
[24] TEX. INS. CODE ANN. §§ 1355.007; 28 Tex. Admin. Code § 21.2404(c).
[25] TEX. INS. CODE ANN. § 1355.015.

individual health plans, benefit coverage for MH and SUD services is contained in the State's EHB benchmark plan[26] but is not addressed in State law.

Both the statutory standards and benchmark benefit standards require close examination and revision to address likely parity violations. The State statutory SUD benefit imposes a lifetime maximum of three episodes of treatment and authorizes plans to set financial and quantitative limits on SUD benefits that are less favorable than limits on medical benefits "if those limits are sufficient to provide appropriate care and treatment under the guidelines and standards adopted" by the Texas Commission on Alcohol and Drug Abuse.[27] The benchmark plan for small group and individual plans also contains several problematic limitations:

- Residential treatment for MH and SUD benefits is excluded – a limitation on the setting for inpatient MH and SUD services that is likely not comparable to coverage of subacute residential services for medical conditions.
- MH benefits are limited to 10 inpatient days and 25 outpatient visits per calendar year – a quantitative limit that does not appear to be in place for medical services.
- Opioid treatment program services are not identified in the benefit coverage; the failure to cover these services would violate parity law if methadone is covered as a prescription drug for medical conditions.

More generally, MH and SUD benefit coverage that is based on EHB requirements is at risk if the ACA is repealed.

Finally, state and local government employee plans are not subject to the State benefit mandates; although plans that cover benefits for serious mental illness cannot offer coverage that is "less extensive" than coverage for physical illness.[28]

Medicaid

While the Texas Medicaid and CHIP programs cover a full range of MH and SUD benefits, access to treatment would be greatly expanded if Texas adopted the Medicaid expansion. Of the 4.8 million uninsured individuals in the State, more than 1 million Texans would gain

[26] BlueCross BlueShield of Texas. *Your Health Care Benefits Program: Certificate of Coverage*. Retrieved from the Center for Medicare & Medicaid Services' website (at Texas 2017-2020 EHB Benchmark Plan Information): **https://www.cms.gov/cciio/resources/data-resources/ehb.html**

[27] TEX. INS. CODE ANN. §§ 1368.005–006.

[28] TEX. INS. CODE ANN. §§ 1551.205(2); 1601.109(2); 1355.151.

coverage through Medicaid expansion, which would greatly expand access to MH and SUD care.[29]

Texas administers MH and SUD benefits under managed care and covers a number of MH and SUD services under the managed care contract, the State Plan, and waivers in the State's CHIP program. A review of 2019 MCO plans indicates that some MCOs may not comply fully with benefit requirements, particularly care coordination services, and may not authorize services by the full range of covered MH practitioners. Certain MCOs provide far better descriptions of covered MH and SUD benefits to assist members.

Insufficient Treatment Capacity

According to stakeholders, Texas has a significant shortage of both behavioral health and medical professionals, particularly in the State's many rural areas. Texas developed a psychiatric crisis system that helped to increase access to timely mental health services and reduce wait lists, but patients in need of SUD treatment are unable to access timely care. Low reimbursement rates and administrative burdens may also deter behavioral health providers from participating in plan networks. Provider shortages and treatment incapacity cannot be addressed by the State's network adequacy requirements alone.

Medical Necessity Determinations

The most common reason for service denials by insurers, both before and after HB 10, is "lack of medical necessity."[30] Medical necessity denials are particularly common for requests for inpatient and residential treatment.[31] Stakeholders describe plans as having a lot of flexibility to determine medical necessity criteria and to use the criteria to deny care.[32] Insurance companies were described as hiding behind medical necessity criteria as a way to reduce costs in the short term and deny care.[33] The State requires health plans to comply with utilization review standards and guidelines established by the Texas Commission on Alcohol and Drug Abuse for admission, continued stay, and discharge.[34] The Court in *Wit v.*

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[29] Norris, L. (2019, January 10). Texas and the ACA's Medicaid expansion. *Healthinsurance.org.* Retrieved from **https://www.healthinsurance.org/texas-medicaid/**.
Kaiser Family Foundation. (2019). *Uninsured Adults in Texas Who Would Become Eligible for Medicaid under Expansion.* Retrieved from **http://files.kff.org/attachment/fact-sheet-medicaid-expansion-TX**.
Berchick, E.R., Hood, E., & Barnett, J.C. (2018). Health Insurance Coverage in the United States: 2017. *United States Census Bureau.* Retrieved from **https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-264.pdf**.

[30] Listening Session, Stakeholder 3

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] 28 TEX. ADMIN. CODE § 3.8001 – 3.8030 (1991).

United Behavioral Health identified these utilization management criteria as governing medical necessity decisions by carriers offering state-regulated plans in Texas and ruled that United had violated these state law requirements.[35] The medical necessity standards used by other carriers should be reviewed to ensure they are consistent with the State-established standards and guidelines.

Ineffective Complaints Process

Consumers can utilize the newly established ombudsman to file complaints, although public awareness of this resource has been hampered by limited marketing.[36] Consumers are also reluctant to take the extra step to contact the ombudsman and file a complaint because the process is difficult to navigate and does not provide a quick resolution.[37]

TDI also has a process for providers to file complaints with an Independent Review Organization (IRO), but stakeholders describe the process as burdensome, costly and not transparent. Unlike TDI, HHSC does not have a provider complaint process nor dedicated staff to respond to complaints.[38]

While Texas' efforts to improve the complaint process with enhanced consumer assistance is important, a complaint-driven process is insufficient to enforce parity or address barriers to MH and SUD care. A compliance review process that requires health plans to demonstrate parity compliance is an essential tool to ensure that consumers gain the full benefit of federal law protections.

[35] Wit v. United Behavioral Health, No. 14-cv-02346-JCS, slip op. at 106, 2019 WL 1033730 (N.D. Cal., Feb. 28, 2019).
[36] Listening Session, Stakeholder 3
[37] *Id.*
[38] Listening Session, Stakeholder 2.

Background

Center on Addiction and the Legal Action Center have prepared the Texas Landscape Review to identify key barriers in mental health and substance use disorder service delivery and enforcement of the Mental Health Parity and Addiction Equity Act (Parity Act). The landscape review is based on a review of state laws, regulations and legislative initiatives, publicly available reports, health plan documents, media coverage and interviews with three stakeholders from the provider and consumer communities. The research was conducted between November 2018 and August 2019 and has been prepared for Arnold Ventures.

This report summarizes the State's:

- Benefit and prescription drug coverage for mental health and substance use disorder services in commercial insurance and Medicaid
- Regulatory standards for provider networks
- Recent legislative initiatives and regulator practices to enforce the Parity Act and improve coverage of MH/SUD treatment
- Response to the opioid epidemic
- Key gaps in Parity Act compliance

The purpose of the Landscape Review is to educate state stakeholders and inform strategies that can be pursued to improve implementation and enforcement of the Parity Act as well as improve access to evidence-based mental health and substance use disorder treatment.

Coverage and Delivery System in Public and Private Insurance

Commercial Plans

State regulated large group health plans are required to cover inpatient and outpatient benefits for serious mental illness (SMI); alternative mental health treatment benefits, which include crisis stabilization services and residential treatment for children and adolescents; psychiatric day treatment and substance use disorders. Benefit mandates for autism are also included in the mental health benefit mandates. The MH and SUD benefit mandates appear in different sections of the State code, and the specific large group plans to which these mandates are applicable are inconsistent, contributing to confusion over benefit coverage. Small employer plans are also subject to the SMI benefit mandate but the employer can reject coverage.[39] Further, the MH benefit mandate permits group health benefit plans to exclude coverage for the treatment of addiction to marijuana or a

[39] TEX. INS. CODE ANN. § 1355.007 (added 2003, eff. 2005); 28 Tex. Admin. Code § 21.2404(b) (2011).

controlled substance used in violation of the law or a mental illness that results from the illegal use of these substances.[40]

The State SUD benefit mandates, which apply to state regulated large and small group health plans, likely contain parity violations. Under State law, SUD coverage is subject to a lifetime maximum of three episodes of treatment per individual.[41] In addition, the State benefit mandate provides that plans may set financial and quantitative limits on SUD benefits that are less favorable than limits on medical benefits "if those limits are sufficient to provide appropriate care and treatment under the guidelines and standards adopted" by the Texas Commission on Alcohol and Drug Abuse.[42]

The State benefit mandates do not apply to State employee plans, nor do they apply to individual plans, although most individual (and small group) plans are required to cover MH/SUD benefits as an Essential Health Benefit, pursuant to the Affordable Care Act.

Medicaid

Texas has not adopted the Medicaid expansion under the Affordable Care Act and therefore has a significant uninsured population. Individuals who meet the categorically needy eligibility for Medicaid receive MH/SUD services through Medicaid managed care. Indigent individuals who are not Medicaid eligible can receive state-funded mental health and substance use disorder services through the Health and Human Services Commission (HHSC).

Parity

Texas enacted a state parity law in 2017 (HB 10) that tracks closely to the federal parity law (the Parity Act). HB 10 provides the Texas Department of Insurance (TDI) with authority to enforce parity in State-regulated plans and requires it to perform certain oversight. TDI has not yet promulgated regulations to implement HB 10. Importantly, the law also establishes an Ombudsman to assist with consumer complaints related to MH/SUD treatment access and coverage.[43]

[40] *Id.* at § 1355.006.
[41] *Id.* at § 1368.006(b).
[42] *Id.* at § 1368.005(b).
[43] Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**.

Key Themes

Treatment Capacity

Texas has a significant shortage of both behavioral health and medical professionals, particularly in the State's many rural areas. Nearly 70 percent (177 of 254) of the State's counties are rural.[44] More than 80 percent of the State's counties are mental health shortage areas (more than 30,000 residents per clinician).[45] There is one licensed psychiatrist in the State for every 13,258 Texans.[46]

An estimated 880,000 adults and 500,000 children in the State are estimated to have a serious mental illness or serious emotional disturbance, respectively, and 1.9 million Texas are estimated to have a substance use disorder.[47] Specific populations that are underserved include those with SUD, co-occurring disorders, or serious mental illness and individuals who are frequently incarcerated or have high utilization of emergency rooms and inpatient services.[48]

Texas developed a psychiatric crisis system that has helped to increase access to timely mental health services and reduce wait lists. Nonetheless, patients are still unable to access SUD services and inpatient care in a timely manner, and individuals often wait for inpatient care in jails and hospital emergency rooms.[49] A recent study examining SUD treatment accessibility and opioid mortality found Texas had the lowest number of treatment programs per 100,000 people (1.4) of any of the states.[50] Indigent patients may have to wait four (4) to twelve (12) weeks on a waiting list before receiving SUD treatment.[51]

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[44] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 11).

[45] *Id.* at p. 53.

[46] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy**. (p. 2).

[47] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf** (p. 13-14).

[48] *Id.* at p. 46.

[49] *Id.* at p. 50.

[50] Langabeer, J.R., Gourishankar,A., Chambers, K.A., Giri, S., Madu, R., & Champagne-Langabeer, T. (2019). Disparities Between US Opioid Overdose Deaths and Treatment Capacity: A Geospatial and Descriptive Analysis. *Journal of Addiction Medicine.* Advance online publication. doi: 10.1097/ADM.0000000000000523. Retrieved from **https://journals.lww.com/journaladdictionmedicine/Pages/articleviewer.aspx?year=9000&issue=00000&article=99381&type=Abstract**.

[51] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from

In addition, MH/SUD providers are not participating with insurance because of low reimbursement rates and administrative burdens, including payment claw-backs. One stakeholder noted that treatment access issues have been well received by the legislature, but no action has been taken to address the issue.[52]

Medical Necessity Criteria

Medical necessity criteria and determinations were identified as a significant barrier to care imposed by health plans. In both the Listening Sessions and a House Hearing on HB 10,[53] stakeholders described how plans use medical necessity determinations to limit care. The State requires health plans to comply with utilization review standards and guidelines established by the Texas Commission on Alcohol and Drug Abuse for admission, continued stay and discharge. The Court in *Wit v. United Behavioral Health* identified these utilization management criteria as governing medical necessity decisions by carriers offering state-regulated plans in Texas and ruled that United had violated these State law requirements.[54] Further, the concurrent review requirements and peer-to-peer reviews used to determine whether care remains medically necessary were described as administratively burdensome for providers.

Benefit Coverage Inconsistencies in State Law

State law contains some benefit limitations. First, the Texas parity law is being interpreted as applying only to adults and not to children and adolescents.[55] In response, advocates are seeking to add serious emotional disturbance (SED) to the parity law. SED is defined under state law as "a diagnosed mental health disorder that substantially disrupts a child's or adolescent's ability to function socially, academically, and emotionally."[56]

Second, the MH benefit mandates are located in several different provisions of State code. Many of the mandates are applicable to large group plans, which are defined differently throughout the various mental health benefit mandates that appear in State code. Nonetheless, according to one stakeholder, the variations in State code do not impact how

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https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf (p. 52)

[52] Listening Sessions, Stakeholder 3.

[53] *Hearing before the House Committee on Public Health for HB 10, Texas House of Representatives,* 85th Session (2017, February 28). Retrieved from **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12797** and **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12788**.

[54] Wit v. United Behavioral Health, No. 14-cv-02346-JCS, slip op. at 106 (N.D. Cal., Feb. 28, 2019).

[55] Listening Session, Stakeholder 3.

[56] 25 TEX. ADMIN. CODE § 416.3 (2014).

the requirements apply to various State-regulated large group plans in practice.[57] Small group plans are subject to the SMI benefit mandate, but employers may reject coverage.[58] The other MH benefit mandates do not apply to small group plans.

Third, large and small group plans are required to cover SUD benefits. Unlike the SMI benefit mandate, small group plans cannot opt out of the SUD benefit mandate.

Fourth, the State benefit mandates do not apply to State employees or individual plans. Nonetheless, due to the Affordable Care Act, individual and small group plans are required to cover MH and SUD treatment as an Essential Health Benefit (EHB); however, that requirement is not codified in State law.

Finally, lifetime limits or caps on care were identified as a barrier to treatment.[59] These limits are common in commercial plans, and the State's benefit mandate for SUD authorizes a lifetime cap of three treatment episodes.[60] State law prohibits the use of lifetime limits on the number of days of inpatient treatment or visits for outpatient treatment for SMI.[61]

High Uninsured Rate

Texas has not adopted the Medicaid expansion under the Affordable Care Act. More than one million of the 4.8 million uninsured Texans would obtain coverage under Medicaid expansion.[62] Approximately one in five Texans are affected by MH/SUD, so a significant number of people are currently without coverage to obtain care.[63]

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[57] Listening Session, Stakeholder 3.
[58] TEX. INS. CODE ANN. § 1355.007 (added 2003, eff. 2005).
[59] Listening Session, Stakeholder 1.
Hearing before the House Committee on Public Health for HB 10, Texas House of Representatives, 85th Session (2017, February 28). Retrieved from **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12797** and **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12788**.
[60] TEX. INS. CODE ANN. § 1368.006(b) (added 2003, eff. 2005).
[61] *Id.* at art. 1355.004(a)(2).
[62] Listening Session, Stakeholder 2.
Norris, L. (2019, January 10). Texas and the ACA's Medicaid expansion. *Healthinsurance.org.* Retrieved from **https://www.healthinsurance.org/texas-medicaid/**.
Kaiser Family Foundation. (2019). *Uninsured Adults in Texas Who Would Become Eligible for Medicaid under Expansion.* Retrieved from **http://files.kff.org/attachment/fact-sheet-medicaid-expansion-TX**.
Berchick, E.R., Hood, E., & Barnett, J.C. (2018). Health Insurance Coverage in the United States: 2017. *United States Census Bureau.* Retrieved from **https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-264.pdf**.
[63] Listening Session, Stakeholder 3.

Insufficient Consumer Complaint-Driven Enforcement Process

Texas created a Behavioral Health Ombudsman Program under the state's recent parity legislation, HB 10. However, there is still confusion about the Ombudsman's mandate, and the Ombudsman is not receiving complaints. Stakeholders noted that the complaints process is lengthy, confusing and does not provide the resolution consumers need – immediate access to treatment.[64]

Fragmented Legislative Approach to MH/SUD

The legislature has not addressed mental health and substance use disorder comprehensively.[65] Instead, the legislature has taken a fragmented approach and addressed mental health in other contexts, including criminal justice and education.[66] This creates "issue wariness" and a perception among legislators that mental health has already been dealt with in past sessions.[67] In the 2019 session, the legislature focused on prioritizing mental health supports in schools.[68] Another bill requires routine training for educators in suicide prevention and integrates suicide prevention programming into school curriculum.[69] Nonetheless, the legislature has addressed MH and SUD in interim sessions and drafted two interim reports between 2016 and 2018 that have guided successful legislative initiatives.[70] Stakeholders also praised the legislature for taking a largely health-based approach to MH and SUD and adopting evidence-based practices, though underfunding remains a significant issue.

Under-Resourced Insurance Department

Although states are responsible for parity enforcement in state-regulated plans, Texas was one of four states for which the Centers for Medicare and Medicaid Services (CMS) was enforcing the federal Parity Act prior to the enactment of HB 10 in 2017.[71] The Texas

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[64] Listening Sessions, Stakeholders 1 and 3.
[65] Listening Sessions, Stakeholders 1, 2 and 3.
[66] Listening Sessions, Stakeholders 2 and 3.
[67] Listening Sessions, Stakeholder 3.
[68] Listening Sessions, Stakeholders 2 and 3.
[69] Listening Sessions, Stakeholder 3.
[70] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/85interim/Interim-Report-Select-Committee-on-Opioids-Substance-Abuse-2018.pdf**.
Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature*. Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/84interim/Mental-Health-Select-Committee-Interim-Report-2016.pdf**.
[71] Centers for Medicare & Medicaid Services. (2017). *Department of Health and Human Services (HHS) Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) Enforcement Report.* Retrieved from

Department of Insurance (TDI) is now responsible for parity enforcement in commercial plans. TDI was described by stakeholders as having a "heightened awareness" of parity and responsive to the required audits in HB 10 and to complaints. TDI was described as understaffed and reactionary, but stakeholders noted that it could take a more proactive approach if it were given greater authority and resources.[72]

https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/HHS-2008-MHPAEA-Enforcement-Period.pdf.

[72] Listening Sessions, Stakeholders 1 and 2.

Research Analysis

MH/SUD Benefit Coverage: Commercial Insurance

Benefit Mandates

The State benefit mandates for mental health and substance use disorder benefits apply to State regulated large group health plans. The SMI benefit mandate applies to small employer plans, although the small employer may reject coverage.[73] The SUD benefit mandate applies to small employer plans and employers cannot reject coverage.[74] The State benefit mandates do not apply to State or local government employee plans, although if such plans cover SMI benefits, such coverage cannot be "less extensive for serious mental illness than the coverage provided for any other physical illness."[75] The State benefit mandates are also not applicable to individual plans, although most individual and small group plans are required to cover MH/SUD benefits as an Essential Health Benefit, pursuant to the Affordable Care Act.

The MH and SUD benefit mandates appear in different sections of the State code, and the lists of large group plans to which the mandate is applicable are inconsistent. In a Listening Session, a stakeholder said that it did not appear that the inconsistent definitions of "large group plans" in the sections of the code that define the benefit mandates affected the type of large group plans to which the mandates apply. *See* Exhibit 1, Benefit Mandates for Health Plans, for a list of the plans subject to the benefit mandates.

SERIOUS MENTAL ILLNESS (SMI)

Texas Insurance Code defines serious mental illness (SMI) to include "bipolar disorders (hypomanic, manic, depressive, and mixed); depression in childhood and adolescence; major depressive disorders (single episode or recurrent); obsessive-compulsive disorders; paranoid and other psychotic disorders; schizo-affective disorders (bipolar or depressive); and schizophrenia," as such illness are defined by the American Psychiatric Association's Diagnostic and Statistical Manual (DSM).[76]

[73] 28 Tex. Admin. Code § 21.2404(b) (2011); TEX. INS. CODE ANN. art. 1355.007 (added 2003, eff. 2005).
[74] *Id.* at § 21.2404(c).
[75] TEX. INS. CODE ANN. § 1355.003(a)(5)-(6); 1355.1511551.205(2); 1601.109(2).
[76] *Id.* at § 1355.001(1).

Group plans, a broadly defined term, are required to cover benefits for SMI.[77] State and local government health plans are not required to cover SMI benefits, but if the plan covers SMI benefits they cannot be "less extensive . . . than the coverage provided for any other physical illness."[78] *See* Exhibit 1, Benefit Mandates for Health Plans, for a specific list of plans that are required to cover SMI benefits and that are explicitly exempt from the mandate. Small group plans are also required to cover SMI benefits, unless "the employer rejects the coverage."[79]

Group plans must cover at least 45 days of inpatient treatment and 60 visits for outpatient treatment (including group and individual) for SMI in each calendar year.[80] Outpatient visits for medication management do not count against the number of outpatient visits.[81] Plans may not impose a "lifetime limitation on the number of days of inpatient treatment or the number of visits for outpatient treatment."[82]

Benefits must be at parity with medical benefits. The statute specifically notes, coverage "must include the same amount limitations, deductibles, copayments, and coinsurance factors for serious mental illness as the plan includes for physical illness."[83] The statute also requires outpatient visits to be covered "under the same terms as the coverage the issuer provides for an outpatient visit for the treatment of physical illness."[84] There is no such language for inpatient treatment.

Group plans are not required to provide coverage for treatment of "mental illness that results from the use of a controlled substance or marihuana in violation of law."[85]

ALTERNATIVE MENTAL HEALTH TREATMENT BENEFITS

A smaller subset of "group plans" are required to cover alternative mental health treatment benefits, which include crisis stabilization services and residential treatment for children and adolescents.[86] *See* Exhibit 1, Benefit Mandates for Health Plans, for a specific list of group plans that are required to cover alternative mental health treatment benefits.

[77] *Id.* at § 1355.002(a)(1).
[78] *Id.* at § 1355.003(a)(5)-(6); 1355.151; 1551.205(2); 1601.109(2).
[79] *Id.* at § 1355.007.
[80] *Id.* at § 1355.004(a)(1).
[81] *Id.* at § 1355.004(b)(1).
[82] *Id.* at § 1355.004(a)(2).
[83] *Id.* at § 1355.004(a)(3).
[84] *Id.* at § 1355.004(b)(2).
[85] *Id.* at § 1355.006(b)(2).
[86] *Id.* at § 1355.051.

Group plans that provide hospital-based coverage for the "treatment of mental or emotional illness or disorder" must also cover "treatment in a residential treatment center[87] for children and adolescents or a crisis stabilization unit[88] that is at least as favorable as the coverage the plan provides for treatment of mental or emotional illness or disorder in a hospital."[89]

Such benefits must be covered for an individual with a serious mental illness that "substantially impairs the individual's thought, perception of reality, emotional process, or judgment," or "as manifested by the individual's recent disturbed behavior, grossly impairs the individual's behavior" and requires confinement in a hospital unless treatment is available in a residential treatment center for children and adolescents or a crisis stabilization unit.[90] Such services must be provided by a State-licensed provider, pursuant to an individual treatment plan.[91]

The financial requirements and quantitative treatment limitations applicable to these benefits are "the same benefit maximums, durational limitations, deductibles, and coinsurance factors that apply to inpatient psychiatric treatment."[92] There is no explicit requirement for parity in financial requirements and quantitative treatment limitations between these benefits and medical benefits.

PSYCHIATRIC DAY TREATMENT

Psychiatric day treatment services must be covered by certain group plans[93] and function as an alternative to inpatient care. *See* Exhibit 1, Benefit Mandates for Health Plans, for a specific list of group plans that are required to cover psychiatric day treatment.

Psychiatric day treatment facilities provide treatment for individuals with acute mental and nervous disorders in a structured psychiatric program supervised by certified psychiatrists, pursuant to individualized treatment plans.[94] These services must be covered by any group plan that covers hospital-based treatment for mental or emotional illness or disorders.[95] Plans can require the psychiatric day treatment facility to be accredited, not treat a patient

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[87] A residential treatment center for children and adolescents is a child-care institution accredited as a residential treatment center that provides residential treatment "for emotionally disturbed children and adolescents." TEX. INS. CODE ANN. § 1355.051(3) (added 2003, eff. 2005).

[88] A crisis stabilization unit is a 24-hour residential program that provides "short term, intensive supervision and highly structured activities to individuals who demonstrate a moderate to severe acute psychiatric crisis." TEX. INS. CODE ANN. § 1355.051(1) (added 2003, eff. 2005).
The crisis stabilization unit must be state licensed or certified. *Id.* at § 1355.056(c).

[89] *Id.* at § 1355.053.

[90] *Id.* at § 1355.054(a).

[91] *Id.* at § 1355.054(b).

[92] *Id.* at § 1355.054(c).

[93] *Id.* at § 1355.102.

[94] *Id.* at § 1355.101.

[95] *Id.* at § 1355.104.

more than 8 hours in a 24-hour period, or for an attending physician to "certify that treatment is in lieu of hospitalization."[96] Any durational limits, deductibles or coinsurance applied to psychiatric day treatment benefits cannot be less favorable than the hospital coverage.[97] The policyholder can reject coverage for psychiatric day treatment for mental or emotional illness and negotiate coverage for an alternative level of benefits.[98]

There is no explicit requirement for parity in financial requirements and quantitative treatment limitations between psychiatric day treatment benefits and medical benefits.

AUTISM

Autism services are also covered under the mental health benefit statute. Autism spectrum disorder is defined as "a neurobiological disorder that includes autism, Asperger's syndrome, or Pervasive Developmental Disorder--Not Otherwise Specified," and a neurobiological disorder is defined as "an illness of the nervous system caused by genetic, metabolic, or other biological factors."[99]

The same group plans that are required to cover benefits for SMI must cover autism services.[100] *See* Exhibit 1, Benefit Mandates for Health Plans, for a specific list of plans that are required to cover autism benefits and that are explicitly exempt from the mandate.

Group plans must cover services for autism spectrum disorder including screenings, evaluation and assessment services, applied behavior analysis, behavior training and management, speech therapy, occupational therapy, physical therapy, and medications or nutritional supplements.[101]
Plans may limit coverage for applied behavior analysis for children aged 10 or older to $36,000 per year.[102]

Parity applies to financial requirements for autism benefits. The statute specifically states that annual deductibles, copayments and coinsurance must be "consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan."[103]

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[96] *Id.* at § 1355.104(c).
[97] *Id.* at § 1355.104(b).
[98] *Id.* at § 1355.106(a)-(b).
[99] *Id.* at § 1355.001(3)-(4).
[100] *Id.* at § 1355.002.
[101] *Id.* at § 1355.015(c).
[102] *Id.* at § 1355.015(c-1).
[103] *Id.* at § 1355.015(d).

SUBSTANCE USE DISORDERS

The SUD benefit mandate applies to group health benefit plans that provide "hospital and medical coverage or services" and small employer health plans.[104] The benefit mandate does not apply to individual plans.[105] Nonetheless, individual plans subject to the Affordable Care Act are required to cover substance use disorder treatment as an Essential Health Benefit.[106] *See* Exhibit 1, Benefit Mandates for Health Plans, for a specific list of plans that are required to cover SUD benefits and that are explicitly exempt from the mandate.[107]

Group health plans must provide coverage for the "necessary care and treatment of chemical dependency," defined as "the abuse of, a psychological or physical dependence on, or an addiction to alcohol or a controlled substance."[108]

The State requires health plans to comply with utilization review standards and guidelines established by the Texas Commission on Alcohol and Drug Abuse for admission, continued stay and discharge. The utilization review criteria cover inpatient detoxification services, outpatient detoxification services, inpatient rehabilitation/treatment, partial hospitalization, intensive outpatient rehabilitation/treatment, and outpatient treatment services.[109] The standards/guidelines also define each service and provide a recommended length of stay, pursuant to ongoing concurrent review to demonstrate the patient meets the continued stay criteria. The recommended length of stay for inpatient detoxification services is up to 14 days.[110] For outpatient detoxification, five to ten days is recommended with longer stays for individuals who are pregnant or dependent on high doses of sedatives or opioids.[111] For inpatient rehabilitation/treatment and partial hospitalization services, the recommended length of stay for adults is between 14 and 35 days and between 14 and 60 days for adolescents.[112] Intensive outpatient rehabilitation/treatment services is recommended for four to 12 weeks, meeting at least ten hours per week.[113] For outpatient treatment services, the recommended length of stay is up to six months, meeting at least one hour every two weeks.[114] The Court in *Wit v. United Behavior Health* identified these utilization management criteria as governing medical necessity decisions by carriers offering State-regulated plans in Texas and ruled that United had violated these State law requirements.[115]

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[104] *Id.* at § 1368.002; 28 Tex. Admin. Code § 21.2404(c) (2011).
[105] TEX. INS. CODE ANN. § 1368.003 (added 2003, eff. 2005).
[106] 42 U.S.C. § 300gg-6(a) (2010); 45 CFR § 156.110(a)(5) (2015); 45 CFR § 156.115(a)(3) (2018).
[107] TEX. INS. CODE ANN. § 1368.003 (added 2003, eff. 2005).
[108] TEX. INS. CODE ANN. §§ 1368.001, 1368.004 (added 2003, eff. 2005).
[109] 28 TEX. ADMIN. CODE § 3.8001 – 3.8030 (1991).
[110] *Id.* at § 3.8010.
[111] *Id.* at § 3.8030.
[112] *Id.* at §§ 3.8014; 3.8018.
[113] *Id.* at § 3.8022.
[114] *Id.* at § 3.8026.
[115] Wit v. United Behavioral Health, No. 14-cv-02346-JCS, slip op. at 106 (N.D. Cal., Feb. 28, 2019).

The statute explicitly requires that coverage for SUD benefits "may not be less favorable than coverage provided for physical illness" and must be subject to the same limits, deductibles, and coinsurance as services for physical illness.[116] Despite this requirement, the statute contains provisions that are in direct contradiction. First, SUD coverage "is limited to a lifetime maximum of three separate treatment series[117] for each covered individual."[118] In addition, plans are also permitted to set dollar or durational limits on SUD benefits that are less favorable than limits on medical benefits "if those limits are sufficient to provide appropriate care and treatment under the guidelines and standards adopted" the by Texas Commission on Alcohol and Drug Abuse.[119] This provision violates the Parity Act as this language that would allow such considerations was omitted from the Final Rule.[120]

Group plans are not required to provide coverage for treatment of "addiction to a controlled substance or marihuana that is used in violation of law."[121]

MH/SUD Benefit Coverage: Marketplace Plans

Texas has one of the highest exchange enrollments in the country, even though the State has not adopted the Medicaid expansion and is leading efforts to repeal the ACA.[122] In 2019, eight insurers offer coverage on the exchange. Most insurers' coverage areas, however, are localized, and only one or two insurers offer plans in most counties. The eight insurers offering plans on the exchange include: BlueCross BlueShield of Texas, Celtic/Ambetter, CHRISTUS, Community Health Choice, Molina, Oscar, Sendero, and SHA/First Care.

Texas' Essential Health Benefits (EHB) benchmark plan, the plan that defines the minimum level of SUD benefits that must be covered by the plans offered on the State's exchange, covers inpatient and outpatient treatment and intensive outpatient programs but excludes residential treatment.[123] The plan imposes a lifetime limit of three separate series of inpatient treatment, consistent with the State SUD benefit mandate.[124] The EHB benchmark

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[116] TEX. INS. CODE ANN. § 1368.005 (added 2003, eff. 2005).
[117] A treatment series is "a planned, structured, and organized program to promote chemical-free status that: may include different facilities or modalities" and is completed upon discharge from inpatient detoxification, inpatient rehabilitation/treatment, partial hospitalization/intensive outpatient, or "a series of those levels of treatments without a lapse in treatment," or when the individual fails to comply with the treatment program for a 30-day period. TEX. INS. CODE ANN. § 1368.006 (added 2003, eff. 2005).
[118] *Id.* at § 1368.006(b).
[119] *Id.* at § 1368.005(b).
[120] 78 Fed. Reg. 68240, 68245 (Nov. 13, 2013).
[121] TEX. INS. CODE ANN. § 1355.006(b)(1) (added 2003, eff. 2005).
[122] Norris, L. (2019, July 3). Texas health insurance marketplace: history and news of the state's exchange. *Healthinsurance.org.* Retrieved from **https://www.healthinsurance.org/texas-state-health-insurance-exchange/**.
[123] BlueCross BlueShield of Texas. *Your Health Care Benefits Program: Certificate of Coverage*. Retrieved from the Center for Medicare & Medicaid Services' website (at Texas 2017-2020 EHB Benchmark Plan Information): **https://www.cms.gov/cciio/resources/data-resources/ehb.html**. (pp. 14-15, 30 48)
[124] *Id.* at PDF p. 7.

plan also covers two medications in the Opioid Dependence Treatment Class (buprenorphine, buprenorphine/naloxone and naltrexone), but plan documents are silent on coverage for methadone for opioid use disorder (OUD). The EHB benchmark plan does not cover at least one opioid reversal medication, as required by the Affordable Care Act.[125]

For MH benefits, the EHB plan covers inpatient and outpatient services for serious mental illness and mental health care. The plan imposes a limit of 10 inpatient days and 25 outpatient visits per calendar year.[126] Instead of inpatient hospital treatment, mental health care services can be provided in a psychiatric day treatment facility, crisis stabilization unit/facility, or a residential treatment center for children and adolescents.[127]

The EHB benchmark plan requires prior authorization for inpatient and intensive outpatient MH/SUD treatment as well as psychological and neuropsychological testing and electroconvulsive therapy.[128]

REVIEW OF BENEFITS IN COMMERCIAL PLANS

We reviewed plan documents (Evidence of Coverage, Summary of Benefits and Plan Formulary) for the plans offered in the State's most populated county (Harris County). We reviewed plan documents for Ambetter, Community Health Choice and Molina. BlueCross BlueShield of Texas also offers coverage in this county, but we were unable to obtain the carrier's Evidence of Coverage (EOC) from TDI, and, therefore, did not review plan documents for this carrier. *See* Exhibit 2, Commercial Plan Review, for additional information.

Benefit Coverage

All plans cover inpatient,[129] residential,[130] partial hospitalization,[131] and outpatient treatment[132] for MH/SUD. Ambetter and Molina also cover intensive outpatient treatment

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[125] Centers for Medicare & Medicaid Services. *Texas 2017 EHB Benchmark Plan: Summary Information.* Retrieved from (at Texas 2017-2020 EHB Benchmark Plan Information) **https://www.cms.gov/cciio/resources/data-resources/ehb.html**. (p. 5).
[126] *Id.* at Amendment (PDF p. 110).
[127] *Id.* at p. 30.
[128] *Id.* at pp. 14-16.
[129] Ambetter from Superior Healthplan. (2019). *2019 Major Medical Expense Policy.* (hereinafter, "Ambetter EOC") (pp. 18, 41)
Community Health Choice. (2019). *Health Benefit Plan Evidence of Coverage Heath Insurance Marketplace – Deductible*. (hereinafter, "Community Health Choice EOC") (p. 20)
Molina Healthcare of Texas, Inc. (2019). *Molina Healthcare of Texas, Inc. Agreement and Evidence of Coverage – Molina Marketplace Choice Plan: Texas*. (hereinafter, "Molina EOC") (pp. 41-42, 62-63).
[130] Ambetter EOC (pp. 23, 41); Community Health Choice EOC (pp. 20, 76); Molina EOC. (pp. 60, 63).
[131] Ambetter EOC. (pp. 21, 41); Community Health Choice EOC (pp. 20, 73); Molina EOC (pp. 41-42, 56, 60).
[132] Ambetter EOC (pp. 21, 41-42); Community Health Choice EOC (p. 20); Molina EOC (pp. 40-41, 55-56, 60).

for MH/SUD,[133] but Community Health Choice plan documents are silent on coverage for intensive outpatient services.

All plans also cover MH/SUD preventive care services with an A or B rating from the U.S. Preventive Services Task Force (USPSTF) and in guidelines supported by HRSA, as required by the ACA. For children and adolescents, these include alcohol and drug use assessments for adolescents, autism screenings for children 18-24 months, behavioral health assessments, and depression screenings. For adults, preventive services include tobacco use screening and cessation interventions, alcohol misuse screening and counseling, and depression screening.[134]

Ambetter also covers additional services (covered as outpatient services) such as medication management services, psychological and neuropsychological testing and assessment, applied behavioral analysis (ABA) for autism treatment, telehealth and telemedicine services, electroconvulsive therapy (ECT), and evaluation and assessment for MH/SUD.[135] Ambetter outpatient services include medication-assisted treatment (MAT), which "combines behavioral therapy and medications to treat substance use disorders."[136] However, the EOC also contains an exclusion for "medication that is to be taken by the enrollee, in whole or in part, at the place where it is dispensed," a possible methadone exclusion.[137]

Community Health Choice also contains a possible methadone exclusion, as its EOC contains an exclusion for "any drug, medicine or medication that is consumed, applied or injected at the place where the Prescription is given or dispensed by the Healthcare Practitioner."[138] This exclusion could apply to methadone and injectable medications (e.g., Vivitrol).

Molina covers medical treatment for withdrawal symptoms, but does not specifically reference coverage for methadone or MAT.[139] All plans include coverage of methadone on their formularies for the treatment of pain.[140]

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[133] Ambetter EOC (pp. 18, 42); Molina EOC (pp. 41-42, 56, 60).
[134] Ambetter EOC (pp. 57-58); Community Health Choice EOC (pp. 25-27, 74); Molina EOC (pp. 51-53).
[135] Ambetter EOC (pp. 41-42).
[136] *Id.* at p. 42.
[137] *Id*. at p. 56.
[138] Community Health Choice EOC (p. 38).
[139] Molina EOC (pp. 41, 56, 63).
[140] Ambetter from Superior HealthPlan. (2019). *2019 Prescription Drug List* [Effective July 1, 2019]. Accessed July 9, 2019. Retrieved from **https://ambetter.superiorhealthplan.com/content/dam/centene/Superior/Ambetter/PDFs/2019_tx_formulary.pdf**. (hereinafter, "Ambetter Formulary")
BlueCross BlueShield of Texas. (2019). *Health Insurance Marketplace 6 Tier Drug List* [July 2019]. Accessed July 9, 2019. Retrieved from **https://www.myprime.com/content/dam/prime/memberportal/forms/AuthorForms/HIM/2019/2019_TX_6T_HIM.pdf**. (hereinafter, BCBS Formulary")

Exclusions

Community Health Choice contains an intoxication exclusion.[141]

Community Health Choice also contains exclusions for services such as halfway houses, acupuncture, biofeedback, faith healing, hypnosis, massage therapy, etc.[142] Ambetter contains similar exclusions for services such as wilderness therapy, outdoor therapy, boot camp, equine therapy, and similar programs, as well as an exclusion for "evaluation for the purpose of maintaining employment, inpatient confinement or inpatient mental health services received in a residential treatment facility unless associated with chemical or alcohol dependency in a non-medical transitional residential recovery setting."[143] Molina also excludes coverage for acupuncture, aquatic therapy, massage therapy, hypnotherapy, and similar alternative treatments.[144]

Ambetter contains an exclusion for court-ordered services that applies only to MH services, which is a possible parity violation.[145] In 2016, the U.S. Department of Labor clarified that examples of NQTLs include exclusions for court-ordered care that would otherwise be medically necessary. Court-ordered treatment exclusions are not permissible under the Parity Act if the exclusion applies only to court-ordered treatment for MH/SUD.[146]

Prior Authorization

It is unclear from plan documents whether prior authorization is required for MH/SUD services in the Community Health Choice and Ambetter plans.

Molina requires prior authorization for mental health services including day treatment, ECT, mental health inpatient, neuropsychological and psychological testing, partial hospitalization, and behavioral health treatment for individuals with intellectual developmental disabilities/autism. Prior authorization is also required for SUD services

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Community Health Choice. (2019). *Summary of Formulary Benefits* [Last Updated May 1, 2019]. Accessed July 9, 2019. Retrieved from **https://www.communityhealthchoice.org/media/2173/formulary-2019.pdf**. (hereinafter, "Community Health Choice Formulary")
Molina Healthcare. (2018). *2019 Formulary (List of Covered Drugs): Texas* [March 28, 2019]. Accessed July 9, 2019. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/PDF/Marketplace/formulary-2019.pdf**. (hereinafter, "Molina Formulary").

[141] Community Health Choice EOC (p. 32).
[142] *Id.* at pp. 20, 35-36.
[143] Ambetter EOC (p. 65).
[144] Molina EOC (pp. 78-82).
[145] Ambetter EOC (p. 65).
[146] United States Department of Labor. (2016). *FAQs about Affordable Care Act implementation Part 34 and mental health and substance use disorder parity implementation.* Retrieved from **https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-34.pdf**.

including inpatient services, day treatment, detoxification services, and partial hospitalization.[147]

Parity Provisions

Community Health Choice's EOC notes, "Covered Services for Mental Health are provided under the same terms and conditions applicable to medical and surgical benefits."[148]

Ambetter contains several references to parity throughout the EOC, including, "The coverage described below is intended to comply with requirements under the Paul Wellstone-Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 as well as House Bill 10, which was enacted by the 85th Texas legislature."[149] The plan also notes that deductibles, copayments, and coinsurance amounts and treatment limits for MH/SUD will be applied in the same manner as applied to physical health services. To make coverage determinations, utilization management staff use level of care guidelines and medical necessity criteria based on McKesson's Interqual criteria for MH and ASAM criteria for SUD.[150] This conflicts with the judge's determination in *Wit v. United Behavioral Health*, that the utilization review standards and guidelines established by the Texas Commission on Alcohol and Drug Abuse serve as the utilization management criteria governing medical necessity decisions by carriers offering State-regulated plans in Texas.[151] Medical necessity determinations are made by a qualified licensed mental health professional and services are "provided in the least restrictive clinically appropriate setting."[152]

Molina notes several times that inpatient and outpatient MH/SUD services are provided "on the same terms and conditions as medical or surgical benefit expenses for any other physical illness."[153]

Formulary Coverage

Additionally, we reviewed the formularies for the plans.[154] Our findings are summarized in Exhibit 3, Commercial Plan Formularies. All of the plans cover at least one type of opioid reversal medication (i.e., naloxone, Narcan). All of the plans cover at least one formulation of buprenorphine-naloxone and naltrexone. BlueCross BlueShield is the only plan that covers Vivitrol® (long-acting injectable naltrexone) as a medical benefit. Other plans may

[147] Molina EOC (pp. 40-42).
[148] Community Health Choice EOC (p. 20).
[149] Ambetter EOC (p. 41).
[150] *Id.*
[151] Wit v. United Behavioral Health, No. 14-cv-02346-JCS, slip op. at 106 (N.D. Cal., Feb. 28, 2019).
[152] Molina EOC (p. 41)
[153] Molina EOC (pp. 9, 54, 56, 62, 63).
[154] Versions of formularies reviewed for Ambetter, BCBS (including specialty formulary), Community Health Choice and Molina are on file with Center on Addiction and Legal Action Center.

cover Vivitrol on specialty formularies, but such formularies could not be found (other than BCBS). All of the plans cover at least one alcohol deterrent.

Community Health Choice does not cover any formulation of buprenorphine monotherapy to treat OUD (although it covers patch formulations used exclusively for pain management). BlueCross BlueShield and Community Health Choice do not cover any formulations of an opioid reversal medication on tier 1, and BlueCross BlueShield also does not cover any buprenorphine or buprenorphine-naloxone formulations on tier 1. Only Ambetter and Molina cover buprenorphine-naloxone on tier 1.

Ambetter requires prior authorization for nearly all formulations of buprenorphine-naloxone, while all other carriers have no prior authorization requirements for covered buprenorphine medications.

Parity

BENEFIT MANDATES/SMI PARITY REQUIREMENTS

As previously noted, statutory language throughout the benefit mandates for SMI and SUD states that such benefits must be subject to the same durational limits and financial requirements as coverage for physical illness.[155] Although coverage of SMI benefits by state and local government employee plans is not required, plans cannot offer coverage for SMI benefits that are "less extensive" than coverage for physical illness.[156]

HB 10

In 2017, Texas passed a state parity law (HB 10) that tracks closely to the federal Parity Act.[157] The state parity law applies to individual, small group (ch. 1501), and a broad range of large group plans.[158] *See* Exhibit 1, Benefit Mandates for Health Plans.

Parity Requirements

The law requires health plans to "provide benefits and coverage for mental health conditions and substance use disorders under the same terms and conditions applicable to the plan's medical and surgical benefits and coverage."[159] Mental health conditions and substance use disorders must be defined "in a manner consistent with generally recognized

[155] TEX. INS. CODE ANN. §§ 1355.004(a)(3), (b)(2); 1368.005(a) (added 2003, eff. 2005).
[156] *Id.* at §§ 1551.205(2); 1601.109(2); 1355.151.
[157] Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**.
[158] TEX. INS. CODE ANN. § 1355.252 (2017).
[159] *Id.* at § 1355.254(a).

independent standards of medical practice."[160] Plans are prohibited from imposing quantitative or nonquantitative treatment limitations on mental health or SUD benefits "that are generally more restrictive" than such limitations imposed on medical/surgical benefits.[161] The statute defines a quantitative treatment limitation as "a treatment limitation that determines whether, or to what extent, benefits are provided based on an accumulated amount such as an annual or lifetime limit on days of coverage or number of visits." The term also includes financial requirements such as deductibles, copayments, coinsurance, or other out-of-pocket expenses.[162] A nonquantitative treatment limitation is defined as "a limit on the scope or duration of treatment that is not expressed numerically."[163] The statute lists examples of NQTLs, including medical management standards; formulary design; network tier design; provider network standards; provider reimbursement rates; methods to determine usual, reasonable and customary charges; step therapy protocols; exclusions for failure to complete a course of treatment; geographic/facility type/provider specialty restrictions on care.[164]

Prior to HB 10, CMS was enforcing the Parity Act in the State.[165] HB 10 intended to give TDI, rather than federal regulators, authority over full parity enforcement and insurance-related complaints.[166] HB 10 directed the Texas Department of Insurance (TDI) to enforce parity compliance by evaluating the benefits and coverage offered by health plans as well as the QTLs and NQTLs in each benefit classification (in-network and out-of-network inpatient care; in-network and out-of-network outpatient care; emergency care; and prescription drugs).[167] The Insurance Commissioner is required to adopt rules to implement the State parity law, although regulations have not been promulgated.[168]

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[160] *Id.* at § 1355.256.
[161] *Id.* at § 1355.254(b).
[162] *Id.* at § 1355.251(3).
[163] *Id.* at § 1355.251(2).
[164] *Id.*
[165] Centers for Medicare & Medicaid Services. (2017). *Department of Health and Human Services (HHS) Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) Enforcement Report.* Retrieved from **https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/HHS-2008-MHPAEA-Enforcement-Period.pdf**. (p.1).
[166] *Hearing before the House Committee on Public Health for HB 10, Texas House of Representatives,* 85th Session (2017, February 28). Retrieved from **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12797** and **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12788**. Listening Session; Stakeholder 3.
[167] TEX. INS. CODE ANN. § 1355.255 (2017).
[168] *Id.* at § 1355.258.

Ombudsman

HB 10 created an Ombudsman for Behavioral Health Access to Care.[169] The Ombudsman helps consumers and providers navigate and resolve complaints/issues related to access to behavioral health care.[170] Under the law, the Ombudsman is required to identify, track, and report violations of state and federal laws/regulations/rules regarding MH/SUD benefits, including QTL and NQTL violations and report any violations to the appropriate federal or state regulatory agency.[171] The Ombudsman also receives concerns and complaints related to inappropriate care or mental health commitments, provides consumers with information to help them obtain behavioral health care and information on how to file complaints or appeals with the insurer or the appropriate federal or state agency.[172] TDI must appoint a liaison to the Ombudsman to receive such complaints/issues.[173]

Data Collection and Reporting

HB 10 requires TDI and the Health and Human Services Commission (HHSC) to collect data from health plans (individual, small group and large group plans subject to state parity law) and Medicaid Managed Care Plans on requirements and expenses related to medical/surgical and mental health/substance use disorder benefits and issue a one-time report.[174] Specifically, TDI and HHSC were required to compare requirements for prior authorization and utilization review; medical necessity denials or denials based on experimental/investigational exclusion; and external and internal appeals and appeal approval/denial rates for medical/surgical and MH/SUD benefits.[175]

TDI issued its report in August 2018. The report used claims data from 13 individual, small group, and large group plans (PPOs, EPOs, and HMOs) covering over 3.8 million people to compare out-of-network utilization and utilization management for medical/surgical and MH/SUD services.[176] Notably, the report states: "Evaluating parity in non-quantitative treatment limitations is difficult without a detailed review of a company's health care management policies and procedures. As a result, this report is not meant to be a

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[169]Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**.Codified at TEX. GOV'T CODE ANN. § 531.02251 (2017).
[170] *Id.* at § 531.02251(e)-(f)(1).
[171] TEX. GOV'T CODE ANN. § 531.02251(f)(2)-(3) (2017).
[172] TEX. GOV'T CODE ANN. § 531.02251(f)(5)-(7) (2017).
[173] TEX. GOV'T CODE ANN. § 531.02251(h) (2017).
[174] Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**. **(**§§ 3–4).
[175] *Id.* at §§ 3(b), 4(b).
[176] Texas Department of Insurance. (2018). *Study of Mental Health Parity to Better Understand Consumer Experiences with Accessing Care.* Retrieved from **https://www.tdi.texas.gov/reports/documents/Final-draft-HB-10-report-8.31.18.pdf**. (pp. 3, 6) Claims Denial, pp. 11-12 Prior Authorization pp. 17-18.

demonstration of whether parity does or does not exist, but is intended to highlight areas for further review."[177]

The report found that across all treatment categories and markets, out-of-network utilization was significantly higher for MH/SUD than for medical/surgical services, particularly for inpatient services (114 percent more likely to be out-of-network for MH/SUD than medical/surgical) and residential services (890 percent more likely to be received out-of-network for MH/SUD than for medical/surgical). Consumers were 30 percent more likely to receive outpatient MH/SUD services from out-of-network providers than medical services.[178]

While the percentage of claims denied overall did not differ between medical/surgical and MH/SUD services (roughly 22 percent of claims were denied for both), there was a high percent of denied claims for MH/SUD inpatient treatment (MH/SUD claims were denied over 60 percent more often than medical/surgical claims).[179]

Prior authorization requests were more likely to be denied for medical/surgical benefits than for MH/SUD benefits (15.4 percent compared to 11.7 percent) and were more likely to be approved or denied more quickly for MH/SUD services (both inpatient and outpatient).[180]

Medical/surgical denials were more than twice as likely to be overturned through internal appeals as MH/SUD denials (48 percent of medical/surgical denials compared to only 18.1 percent of MH/SUD denials).[181]

In both the small and large group markets, MH/SUD medications were more likely to be subject to step therapy requirements as compared to other prescription medications.[182]

Finally, TDI found that consumer were ten times more likely to file a complaint about medical/surgical claims than for MH/SUD claims.[183] TDI noted that the low number of MH/SUD claims "does not necessarily mean an absence of claim problems," and that perceived stigma and confusion as to whether a complaint is related to a parity violation may account for the disparity.[184]

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[177] *Id.* at p. 4.
[178] *Id.* at p. 10.
[179] *Id.* at pp. 11-12.
[180] *Id.* at pp. 17-18.
[181] *Id.* at p. 24.
[182] *Id.* at p. 30.
[183] *Id.* at pp. 3, 10.
[184] *Id.* at p. 10.

Texas was described as being "ahead of the curve" with respect to requiring data reporting by commercial and Medicaid plans.[185] Because HB 10 required only one year of data reporting, one stakeholder explained that legislation would be needed to require ongoing reporting to evaluate how HB 10 is working.[186] Ongoing reporting requirements were not adopted in the 2019 legislative session.

Parity Workgroup

HB 10 established the Mental Health Condition and Substance Use Disorder Parity Workgroup within the Office of Mental Health Coordination to increase understanding of, and compliance with, state and federal laws and regulations relating to MH/SUD benefits.[187] The Workgroup includes representatives from Medicaid/CHIP; the Office of Mental Health Coordination; TDI; MCOs; commercial health plans; MH provider organizations; physicians; hospitals; children's MH providers; utilization review agents; independent review organizations; SUD providers or professionals with expertise in co-occurring conditions; a MH consumer and consumer advocate; a SUD treatment consumer and advocate; family members of MH/SUD treatment consumers, and the Ombudsman.[188] The Workgroup must meet at least quarterly and make recommendations on increasing compliance with MH/SUD benefit requirements; strengthening federal and state enforcement and oversight; improving the consumer and provider complaints processes; ensuring HHSC and TDI can accept complaints and investigate potential violations; and increasing public and provider education on parity and MH/SUD benefit requirements.[189] The Workgroup must develop a strategic plan with metrics as well as report any findings, recommendations and the strategic plan by September 1 in any even-numbered year.[190] The Workgroup was established September 1, 2017 and will expire September 1, 2021.[191]

The Workgroup released a progress report in September 2018.[192] It reports as accomplishments the establishment of the Workgroup; the development of its vision, mission, and purpose statement; convening subcommittees to work on legislative directives; continued coordination with HHSC, the Ombudsman and TDI; coding of complaints to support tracking of parity issues, and TDI and HHSC data collection; and the identification of stakeholders to provide input on parity issues.

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[185] Listening Session, Stakeholder 3
[186] *Id.*
[187] TEX. GOV'T CODE ANN. § 531.02252(a) (2017).
[188] *Id.* at § 531.02252(c).
[189] *Id.* at § 531.02252(d)-(e).
[190] *Id.* at § 531.02252(f)-(g).
[191] *Id.* at § 531.02252(h).
[192] Mental Health Condition and Substance Use Disorder Parity Workgroup. (2018). *Mental Health Condition and Substance Use Disorder Parity Workgroup Progress Report*. Retrieved from Texas Health and Human Services, Mental Health TX's website: **https://mentalhealthtx.org/sites/mentalhealthtx/files/docs/mh-condition-substance-use-disorder-parity-workgroup-report.pdf**.

The compliance, enforcement, and oversight subcommittee intends to review existing state and federal processes, regulations, and tools to identify best practices for parity compliance, enforcement, and oversight, compare the current processes to best practices and develop recommendations.

The complaints, concerns and investigations subcommittee's goal is to ensure that the complaints process is consumer-centered and supportive of providers. It will develop evaluation tools and metrics to improve the complaints process and a complaint reporting template for agencies to compile data. It will also work to ensure complaints are timely and efficiently investigated and resolved.

The education and awareness subcommittee will develop surveys to establish a baseline of parity knowledge and create basic parity training materials, including various training modules, annual updates to stakeholders, a video on parity, etc. The subcommittee will develop a report on parity education and awareness activities and recommendations for improvement.

Network Adequacy Standards

Insurers offering preferred provider benefit plans must make preferred provider benefits and basic level benefits reasonably available to all enrollees within the plan's service area and contract with a sufficient number of providers to make covered benefits available and accessible.[193] Health Maintenance Organizations are also obligated, as a condition of certification to "ensure both availability and accessibility of adequate personnel and facilities."[194]

WAIT TIME AND DISTANCE STANDARDS

In 2009, the Legislature required TDI to create rules to adopt network adequacy standards for preferred provider benefit plans, and TDI promulgated regulations establishing such wait time and distance standards.[195] The wait time standards for behavioral health care are comparable or more favorable than wait time standards for medical care. Preferred provider benefit plans must contract with general, special and psychiatric hospitals in the plan's service area and ensure that urgent care for both medical and behavioral health conditions is available and accessible from preferred providers in the service area within 24 hours.[196] Routine behavioral health care must be available within two weeks (three weeks for

[193] TEX. INS. CODE ANN. §. 1301.005, 1301.006 (2011).
[194] *Id.* at § 843.082(1)(A)(i).
[195] Texas Legislature. (2009). House Bill 2256, Legislative Session 81(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=81R&Bill=HB2256;**
Codified at TEX. INS. CODE ANN. §. 1301.0055 (2009); 28 TEX. ADMIN. CODE § 3.3704 (2013).
[196] 28 TEX. ADMIN. CODE § 3.3704(f)(5), (9) (2013).

medical).[197] Primary care and general hospital care must be within 30 miles of any point in the service area in non-rural areas and 60 miles in rural areas, and specialty care and specialty hospitals must be within 75 miles of any point in the service area.[198] There are no specific distance standards for behavioral health care providers.

HMOs are subject to similar guidelines for providing timely care.[199] Psychiatric hospital care must be "available and accessible 24 hours per day, seven days per week, within the HMO's service area."[200] Wait time standards for behavioral health care are comparable to or more favorable than wait time standards for medical care. Urgent care for behavioral health conditions must be available within 24 hours (same as medical and dental), and routine behavioral health care must be made available within two weeks (more favorable than medical - 3 weeks - and dental - 8 weeks).[201] The regulations also establish travel distance standards. Primary care and hospital care must be within 30 miles of any point in the service area and specialty care, special hospitals and "single health care service plan physicians or providers" must be within 75 miles of any point in the service area.[202] There are no specific distance standards for behavioral health care providers.

COMPLIANCE WITH NETWORK ADEQUACY REQUIREMENTS

The regulations require preferred provider benefit plans to self-monitor compliance on an ongoing basis and take corrective action to maintain network adequacy.[203] HMOs that are unable to meet the network adequacy metrics are required to file and obtain approval of an access plan that identifies deficiencies, providers with whom it has sought to contract, steps it will take to bring its network into compliance and steps it will take to assist enrollees get services without additional cost.[204] HMOs must also keep a record of complaints related to limited provider networks.[205]

Network Adequacy Reports

Preferred provider benefit plans and HMOs must file a network adequacy report annually and before marketing in a new service area.[206] In addition to attesting whether the plan is compliant with network adequacy requirements, preferred provider benefit plans must also provide data from the prior year on: out-of-network claims; non-preferred provider

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[197] *Id.* at § 3.3704(f)(10).
[198] *Id.* at § 3.3704(f)(8).
[199] *Id.* at § 11.1607.
[200] *Id.* at § 11.1607(c).
[201] *Id.* at § 11.1607(g).
[202] *Id.* at § 11.1607(h).
[203] *Id.* at § 3.3704(g).
[204] *Id.* at § 11.1607(j).
[205] TEX. INS. CODE ANN. § 843.260 (2003).
[206] 28 TEX. ADMIN. CODE §§ 3.3709(a) (2013); 11.1610(a) (2017).

complaints; and enrollee complaints related to claims payments and balance billing, availability of preferred providers and accuracy of the provider directory.[207] HMOs must provide data on out-of-network claims (including those due to unavailability of network providers); provider complaints (including those related to inadequate networks); enrollee complaints (related to balance billing, unavailability of network provider, and reimbursement rates) and provider and enrollee complaints related to accuracy of provider directory.[208] TDI created forms for the Annual Network Adequacy report for preferred provider benefit plans[209] and HMOs.[210]

Local Market Access Plans

Plans that are not in compliance with network adequacy requirements must establish a local market access plan within 30 days (preferred provider plans), identifying the service area with an inadequate network of providers, the reasons network adequacy requirements are not met, the plan's procedures for ensuring members can obtain medically necessary services and limit balance billing (or hold harmless for HMO members), and procedures for handling out-of-network claims and the process for negotiating with out-of-network providers (optional for preferred provider plans).[211] Additionally, preferred provider benefit plans must establish processes to document prior authorization requests for services rendered by providers not available in the plan's network; provide members with estimated payments for out-of-network services; notify members that they may be subject to balance billing; identify out-of-network claims due to inadequate provider network; and make claims payments.[212] HMOs must provide a list of providers the HMO attempted to contract with and the reasons the provider would not contract, as well as steps for bringing the plan into compliance.[213]

Waivers

Within 90 days of noncompliance and annually, preferred provider benefit plans may apply for a waiver from the network adequacy requirements.[214] TDI may approve the waiver for good cause if the plan demonstrates that: there is not an adequate number of providers in the service area with which to contract; or providers have refused to contract with the

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[207] *Id.* at § 3.3709(b)(3), (c).
[208] *Id.* at § 11.1610(c).
[209] Texas Department of Insurance. *Annual Network Adequacy Report, Waiver Request Checklist, & Access Plan Checklist for Preferred Provider Benefit Plan (PPBP) and Exclusive Provider Benefit Plan (EPBP) Networks.* Retrieved from **https://www.tdi.texas.gov/forms/finmcqa/FIN543.pdf**.
[210] Texas Department of Insurance. *Health Maintenance Organization Annual Network Adequacy Report & Access Plan Checklist*. Retrieved from **https://www.tdi.texas.gov/forms/finmcqa/fin601.pdf**.
[211] 28 TEX. ADMIN. CODE §§ 3.3707(i)-(j) § 11.1607(j)-(k).
[212] *Id.* at § 3.3707(k).
[213] *Id.* at § 11.1607(j).
[214] *Id.* at § 3.3707(g),(i).

insurer on "any terms or on terms that are reasonable."[215] The waiver must include a list of providers in the service area with which the plan has attempted to contract; when the provider was last contacted; the provider's reasons for not contracting with the plan; estimated cost savings from use of a local market access plan instead of provider contracting and the impact on premiums; and steps the plan will take to improve network adequacy.[216] Providers can submit a response to the plan's waiver request within 30 days.[217] Waiver approvals must be posted to TDI's website.[218]

Sanctions

TDI may sanction plans with inadequate networks by requiring corrective action, imposing penalties and issuing cease and desist orders to reduce the plan's service area, cease marketing, and withdraw the plan from the market.[219]

PROVIDER DIRECTORIES AND WEBSITES

Preferred and exclusive provider benefit plan websites must contain the provider directory and the plan must disclose whether or not the plan meets network adequacy requirements in each service area.[220] HMO websites must list the provider directory on the website (and update it at least quarterly), including mental health and substance use disorder treatment providers, and whether the provider is accepting new patients.[221]

MH/SUD Benefit Coverage and Delivery System: Medicaid

Delivery System

HHSC is responsible for administering Medicaid. More than 4.3 million residents are enrolled in Medicaid/CHIP. Texas has not expanded Medicaid under the ACA, which would expand coverage to approximately 1.2 million additional people. Texas has the second strictest Medicaid eligibility guidelines in the country for non-disabled adults, as well as the largest coverage gap in the country (with 759,000 residents ineligible for both Medicaid and premium subsidies for private coverage) and the highest uninsured rate in the country.

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[215] *Id.* at § 3.3707(a).
[216] *Id.* at § 3.3707(b).
[217] *Id.* at § 3.3707(e).
[218] *Id.* at § 3.3707(f).
[219] *Id.* at §§ 3.3710 (2013); 11.1610(e)-(f).
[220] *Id.* at § 3.3705(e).
[221] TEX. INS. CODE ANN. § 843.2015 (2003).

Fifteen percent of the State's uninsured population is in the coverage gap and would have coverage access if Texas expanded Medicaid.[222]

Medicaid Managed Care

STAR (State of Texas Access Reform) is Texas's managed care program, which "provides primary, acute care, behavioral health care, and pharmacy services for low-income families, children, pregnant women, as well as some former foster care youth." The State has 13 STAR service areas. In each service area, residents can select from at least two managed care organizations (MCOs), of which there are 18 in total.[223]

All CHIP and most Medicaid services are delivered through managed care plans.[224] The 2014-2015 General Appropriations Act directed HHSC to transition the remaining fee-for-service populations into managed care.[225] As of 2016, managed care served 92 percent of the program's population. In November 2016, Medicaid began transitioning children and young adults into managed care through the STAR Kids program.[226]

Texas Medicaid covers behavioral health services, "which are services used to treat a mental, emotional, alcohol, or substance use disorder."[227] These services are provided in all CHIP and Medicaid managed care programs.[228]

In 2014, mental health targeted case management and mental health rehabilitative services were carved into managed care.[229] MCOs were required to develop a network of public and

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[222] Norris, L. (2019, January 10). Texas and the ACA's Medicaid expansion. *Healthinsurance.org.* Retrieved from **https://www.healthinsurance.org/texas-medicaid/**.

[223] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 13)

[224] Texas Health and Human Services. *About Medicaid and CHIP.* Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/about-medicaid-chip**.

[225] Texas Legislature. (2013). Senate Bill 1, General Appropriations Act for the 2014-15 Biennium, Legislative Session 83(R). Retrieved from the Texas Legislative Budget Board's website: **http://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2014-15.pdf**.
Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 255)

[226] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (Foreword; p. 133)

[227] *Id* at p. 9.

[228] *Id* at p. 9.

[229] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective (11th Ed.).* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. *(*p. 111);
Texas Health and Human Services. *Addition of Mental Health Services*. Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/provider-information/expansion-managed-care/addition-mental-health-services**;

private providers to foster access to such services for adults with serious mental illness and children with serious mental illness or severe emotional disturbance.[230] HHSC developed two Medicaid health home pilot programs in two health service areas of the State for individuals with serious mental illness and a co-occurring chronic condition.[231] HHSC was also required to work with local groups to provide services for homeless individuals with MH/SUD and develop a MH/SUD treatment public reporting system.[232]

Mental Health Benefits

STATE PLAN

Medicaid mental health benefits covered under the State Plan include screening and assessment services;[233] psychiatric diagnostic evaluation and psychotherapy (individual, family, and group); psychological and neuropsychological testing; inpatient psychiatric care in a general acute care hospital; inpatient care in psychiatric hospitals (for individuals under 21 or over 65 years old); psychotropic medications and pharmacological medication management; rehabilitative and targeted case management services for individuals with severe and persistent mental illness or children with severe emotional disturbance; and care and treatment of behavioral health conditions by a primary care provider.[234] *See* Exhibit 4, Medicaid Benefits for additional information.

MANAGED CARE CONTRACT

The Uniform Managed Care Contract includes: inpatient mental health services for adults and children,[235] mental health rehabilitative services and targeted case management,[236] outpatient mental health services,[237] psychiatry services,[238] and counseling services for

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Texas Legislature. (2013). Senate Bill 58, Legislative Session 83(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=83R&Bill=SB58**.
TEX. GOV'T CODE ANN. § 533.00255 (2015).
[230] 1 TEX. ADMIN. CODE §§ 354.2601; 354.2655; 354.2701; and 354.2705.
[231] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 111).
[232] Texas Health and Human Services System. (2014). *Expansion of Medicaid Managed Care Information Session.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/consumer-presentation.pdf**. (p. 20).
[233] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (pp. 107-108).
[234] *Id.* at p. 108.
[235] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. (Attachment B-2 at 4-5; Attachment B-2.2 at 6)
[236] *Id.* at Attachment B-2 at 4, 6; Attachment B-2.2 at 6**;** Attachment B-1 at 8-182.
[237] *Id.* at Attachment B-2 at 4; Attachment B-2.2 at 6.
[238] *Id.* at Attachment B-2 at 4; Attachment B-2.2 at 6.

adults.[239] Pharmacy-dispensed and provider-administered outpatient medications, as well as medications provided in an inpatient setting, are also covered.[240] MCOs also cover hospital services and may provide inpatient services for acute psychiatric conditions "in a free-standing psychiatric hospital in lieu of an acute care inpatient hospital setting." [241]

MCOs must ensure that the service management units coordinate with providers to integrate behavioral and physical health needs and ensure members who lose Medicaid eligibility are referred to community resources such as the local mental health authority (LMHA).[242]

The MCO must require that members "receiving inpatient psychiatric services are scheduled for outpatient follow-up and/or continuing treatment prior to discharge," which must occur within seven days of discharge. The MCO must ensure behavioral health care providers reschedule missed appointments within 24 hours.[243]

CHIP

CHIP-covered services include inpatient and outpatient MH services and do not require referral from a primary care provider. Inpatient mental health services include neuropsychological testing and court-ordered inpatient psychiatric services provided in a free-standing psychiatric hospital, psychiatric units of general acute care hospitals and state-operated facilities, including for serious mental illness. Outpatient mental health services include visits in community-based settings (including school and home-based) or state-operated facilities; neuropsychological and psychological testing; medication management; rehabilitative day treatment; residential treatment services; sub-acute outpatient services (partial hospitalization or rehabilitative day treatment); skills training (psycho-educational skill development); and court-ordered outpatient psychiatric services.[244]

1915(I) STATE PLAN AMENDMENT

Texas has a 1915(i) State Plan Amendment (SPA) for adult mental health home and community-based services. It provides "community-based services and supports for individuals who have experienced extended stays in inpatient psychiatric settings" to help them remain in the community.[245] Services are provided in an individual's home, assisted

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[239] *Id.* at Attachment B-2 at 4; Attachment B-2.2 at 6.
[240] *Id.* at Attachment B-2 at 5; Attachment B-2.2 at 7.
[241] *Id.*at Attachment B-1 at 8-114; Attachment B-2 at 5; Attachment B-2.2 at 6.
[242] *Id*. at Attachment B-1 at 8-183.
[243] *Id.* at Attachment B-1 at 8-112.
[244] *Id.* at Attachment B-2.1 at 11-12.
[245] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 109).

living, or small community-based residence and include "host home/companion care, supervised living services, assisted living, supported home living, psychosocial rehabilitative services, employment services, minor home modifications, home-delivered meals, transition assistance services, adaptive aids, transportation services, community psychiatric supports and treatment, peer support, short-term respite, SUD services, nursing, flexible funds, and recovery management."[246] In 2017, the State extended the SPA to include diversion efforts for adults with frequent arrests or emergency department visits.[247]

YOUTH EMPOWERMENT SERVICES (YES) 1915(C) WAIVER

Texas has a 1915(c) waiver for home and community-based services for children and adolescents aged 3 to 18 with severe emotional disturbances (SED). The YES waiver aims to prevent custody relinquishment of youth with SED and reduce out-of-home placements in foster care and inpatient psychiatric treatment. It also aims to improve access to services by providing a more complete continuum of community-based services to ensure access to parent partners and other support services identified in a family-centered planning process.[248]

Services are provided through managed care and include "adaptive aids and supports; community living supports; employment assistance; family supports; minor home modifications; non-medical transportation; paraprofessional services; pre-engagement service (for non-Medicaid applicants); respite (in-home and out-of-home); specialized therapies (animal-assisted therapy, art therapy, music therapy, nutritional counseling, and recreational therapy); supported employment; supportive family-based alternatives; and transitional services."[249]

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[246] *Id.* at p. 110.
Texas Health and Human Services. *Adult Mental Health Home and Community-based Services*. Retrieved from **https://hhs.texas.gov/services/mental-health-substance-use/adult-mental-health/adult-mental-health-home-community-based-services**.

[247] Centers for Medicare & Medicaid Services. (2017). *Texas State Plan Amendment 16-0001*. Retrieved from **https://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/TX/TX-16-0001.pdf**.

[248] Centers for Medicare & Medicaid Services. (2019). *TX Youth Empowerment Services (YES) (0657.R02.00): Approved Application*. Retrieved from **https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/?entry=8396**.

[249] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 110)
Centers for Medicare & Medicaid Services. (2019). *TX Youth Empowerment Services (YES) (0657.R02.00): Approved Application*. Retrieved from **https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/?entry=8396**.
Texas Health and Human Services. *YES Waiver.* Retrieved from **https://hhs.texas.gov/services/mental-health-substance-use/childrens-mental-health/yes-waiver**.

Substance Use Disorder Benefits

In 2009, the Texas legislature authorized HHSC to add comprehensive SUD benefits for adults in Medicaid.[250] The benefits were implemented in two phases, with most outpatient benefits beginning September 2010 and residential benefits and detoxification (residential and ambulatory) beginning January 2011. The services are provided through State-licensed substance use treatment facilities and narcotic treatment programs.[251]

STATE PLAN

State Plan screening services include Screening, Brief Intervention, Referral to Treatment (SBIRT), which was originally added as a Medicaid benefit in 2009 for adolescents presenting at the emergency department with trauma or injury related to substance use. In 2016, SBIRT coverage was expanded to include adults and community-based settings. The benefit also allows reimbursement for screening-only sessions.[252]

Other State Plan SUD treatment services include assessment; individual and group outpatient counseling; MAT (e.g. methadone for opioid addiction); residential and outpatient detoxification; and residential treatment.[253] *See* Exhibit 4, Medicaid Benefits for additional information.

MANAGED CARE CONTRACT

SUD services in the Uniform Managed Care Contract include outpatient SUD treatment services (including assessment, detoxification services, counseling treatment, and MAT) [254] and residential SUD treatment services (including detoxification services, SUD treatment and room and board).[255] MCOs also cover hospital services, including inpatient and outpatient, and "may provide substance use disorder treatment services in a chemical dependency treatment facility in lieu of an acute care inpatient hospital setting."[256]

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[250] Texas Legislature. (2009). *Conference Committee Report 3rd Printing: S.B. No. 1 General Appropriations Bill*. Retrieved from the Legislative Reference Library of Texas's website: **https://lrl.texas.gov/scanned/ApproBills/81_0/81_R_ALL.pdf**. (pp. II-94, IX-73).
[251] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 109).
[252] *Id.* at p. 108.
[253] *Id.* at p. 109.
[254] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf. (**Attachment B-2 at 4; B-2.2 at 6).
[255] *Id.* at Attachment B-2 at 5; Attachment B-2.2 at 6.
[256] ***Id.*** at Attachment B-2 at 5.

According to the Uniform Managed Care Contract, MCOs must maintain a provider education process to inform SUD treatment providers on referral processes [257] and must ensure care coordination and that members have access to the full continuum of services (assessment, detox, residential, outpatient, and MAT services). [258] MCOs must, to the extent feasible, co-locate physical health and behavioral health care coordination staff and ensure warm call transfers between them.[259] MCOs must also maintain a member education process, including hotlines, manuals, policies, etc., to inform patients of the availability and access to SUD services.[260]

CHIP

CHIP-covered services include inpatient and outpatient SUD services and do not require referral from a primary care provider. Inpatient SUD services include detoxification and crisis stabilization and 24-hour residential rehabilitation programs. Outpatient SUD services include prevention and intervention services such as screening, assessment, and referral; intensive outpatient (non-residential services providing structured group and individual therapy, educational services, and life skills training for at least 10 hours per week, but less than 24 hours per day, for 4-12 weeks); partial hospitalization; and outpatient treatment services (at least one to two hours per week of structured group and individual therapy, educational services, life skills training). Both inpatient and outpatient services include those that are court-ordered. CHIP also covers inpatient and outpatient drugs and offers a tobacco cessation program.[261]

NEONATAL ABSTINENCE SYNDROME PREVENTION PILOT (NAS)

Texas Medicaid includes an NAS Prevention Pilot program, which "focuses on increasing the availability of intervention and treatment for high-risk populations." It provides enhanced screening and outreach to women of childbearing age, including those eligible for Medicaid through pregnancy, and has implemented specialized programs to lessen NAS severity.[262]

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[257] *Id.* at Attachment B-1 §8.2.7.2.2 at 8-181.
[258] *Id.* at Attachment B-1 §8.2.7.2.3 at 8-181.
[259] *Id.* at Attachment B-1 §8.2.7.2.3 at 8-181.
[260] *Id.* at Attachment B-1 §8.2.7.2.4 at 8-182.
[261] *Id.* at Attachment B-2.1 at 12-14.
[262] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 79).

ADDITIONAL MANAGED CARE BENEFITS

MCOs cover emergency behavioral health conditions and urgent behavioral health situations.[263] Behavioral health services also include a behavioral health services hotline that is available 24/7, toll-free, and staffed by qualified behavioral health professionals to assess behavioral health emergencies.[264] The MCOs also provide behavioral health provider network expertise,[265] coordination of behavioral health care,[266] behavioral health quality management,[267] and behavioral health emergency services.[268]

MEDICAL NECESSITY CRITERIA

For members under 21 years old, behavioral health services are medically necessary "to correct or ameliorate a defect or physical or mental illness or condition." For members over age 20, behavioral health services are medically necessary when they "(a) are reasonable and necessary for the diagnosis or treatment of a mental health or chemical dependency disorder, or to improve, maintain, or prevent deterioration of functioning resulting from such a disorder; (b) are in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care; c) are furnished in the most appropriate and least restrictive setting in which services can be safely provided; (d) are the most appropriate level or supply of service that can safely be provided; (e) could not be omitted without adversely affecting the member's mental and/or physical health or the quality of care rendered; (f) are not experimental or investigative; and (g) are not primarily for the convenience of the member or provider."[269]

Court-Ordered Services

MCOs must provide inpatient psychiatric services to members under 20 and over 65 years old who have a court order to receive services and cannot deny or reduce the order. MCOs must also provide medically necessary SUD treatment services required as a condition of probation. MCOs cannot limit SUD treatment or outpatient MH treatment pursuant to a court order or apply its own utilization management criteria for the services. MCOs must coordinate with the Local Mental Health Authority (LMHA) and psychiatric facility for

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[263] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. (Attachment A at 8-9, 19; Attachment B-1 §8.2.2.1 at 8-158).
[264] *Id.* at Attachment B-1 §8.1.15.3 at 8-110.
[265] *Id.* at Attachment B-1 §4.3.13.2 at 4-69.
[266] *Id.* at Attachment B-1 §4.3.13.3 at 4-70.
[267] *Id.* at Attachment B-1 §4.3.13.4 at 4-70.
[268] *Id.* at Attachment B-1 §4.3.13.5 at 4-70.
[269] Texas Health and Human Services. (2019). *Texas Medicaid and CHIP – Uniform Managed Care Manual*. Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/provider-information/contracts-manuals/texas-medicaid-chip-uniform-managed-care-manual**. (Chapter 3.4, Attachment H, pp. 32-33).

admission and discharge planning, treatment objectives, and length of stay for court-ordered treatment.[270]

Medicaid MCO Plan Review

We also reviewed Medicaid managed care plan websites and member handbooks for a description of behavioral health services. We reviewed Aetna, Amerigroup, BlueCross BlueShield, Community First, Community Health Choice, Cook County Children's Health Plan, Dell Children's Health Plan, Driscoll, El Paso Premier Plan, First Care, Molina, Parkland HEALTHfirst, RightCare from Scott and White Health Plans, Superior Health Plan, Texas Children's Health Plan, and UnitedHealthcare Community Plan. *See* Exhibit 5, Medicaid MCO Plan Review for additional information.

Many of the plans offer a standard list of services, including inpatient mental health services; outpatient mental health services; psychiatry services; mental health rehabilitation services (medication training and support, psychosocial rehabilitative services, skills training and development, crisis intervention, day program for acute needs); counseling services for adults; outpatient SUD treatment services (including assessment, detoxification, counseling, and MAT); and residential SUD treatment (including room and board and detoxification services).[271] All plans cover mental health targeted case management.[272]

According to the managed care contract, MCOs must provide care coordination to members with SUD to ensure access to the full continuum of services, including assessment, detoxification, residential, outpatient, and MAT services.[273] MCOs must also provide service management to members with Special Health Care Needs, which includes those with co-occurring mental illness and SUD and those with behavioral issues, SUD, serious emotional disturbance, or serious and persistent mental illness that may affect physical health or treatment compliance.[274] The MCO handbooks largely do not make clear that they cover these services in compliance with these requirements.

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[270] *Id.* at Attachment B-1 §8.1.15.7-8 at 8-112, 8-114.
[271] Amerigroup Handbook (pp. 9-10); Community First Handbook (p. 11); Cook Children's Handbook (p. 12); Dell Children's Handbook (p. 9).
[272] Aetna Handbook (pp. 22, 27); Amerigroup Handbook (p. 10); BCBS Handbook (p. 17); Community First Handbook (p. 12); Community Health Choice Handbook (p. 25); Cook Children's Handbook (p. 19); Dell Children's Handbook (10); Driscoll Handbook (p. 34); El Paso Handbook (p. 26); FirstCare Handbook (p. 34); Molina Handbook (p. 14); Parkland Handbook (p. 25); Scott & White Handbook (p. 11); Superior Handbook (p. 24); Texas Children's Handbook (p. 24); UHC Handbook (p. 27).
[273] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. (Attachment B-1 at p. 8-181).
[274] *Id.* at Attachment B-1 at p. 8-102, 8-104.

Nearly all plans specify that referral is not needed for behavioral health services (Amerigroup[275] and Dell Children's Health Plan[276] require preapproval for most behavioral health and substance use services, except routine outpatient and emergency services).[277] Additionally, they all offer a 24/7 hotline[278] and contain standard language on emergency

[275] Amerigroup Corporation. (2019). *STAR*. Retrieved from **https://www.myamerigroup.com/tx/benefits/star-benefits.html**.
Amerigroup. (2017). *Amerigroup STAR Member Handbook*. Retrieved from **https://www.myamerigroup.com/tx/star_star_member_handbooks_eng_pdf.pdf**. (p. 11) (hereinafter, "Amerigroup Handbook).
[276] Dell Children's Health Plan. (2017). *STAR Member Handbook: Your STAR Benefits*. Retrieved from **https://www.dellchildrens.net/wp-content/uploads/sites/66/2018/10/STAR-MHB-ENG.pdf**. (p. 11) (hereinafter, "Dell Children's Handbook").
[277] Aetna Better Health. (2017). *Aetna Better Health Medicaid (STAR) Member Handbook.* Retrieved from **https://www.aetnabetterhealth.com/texas/assets/pdf/member/MemberHanbdooks-double%20logos/MedicaidHandbookEnglish.pdf**. (p. 27) (hereinafter, "Aetna Handbook")
BlueCross BlueShield of Texas. *STAR Member Handbook*. Retrieved from **https://www.bcbstx.com/pdf/medicaid/star-member-handbook-tx.pdf**. (p.17) (hereinafter, "BCBS Handbook")
Community First Health Plans. (2017). *STAR and STAR Kids Member Handbook*. Retrieved from **https://www.cfhp.com/images/uploads/CFP22426_STAR_STAR_Kids_Member_Handbook_Eng_Span1.pdf**. (p. 23) (hereinafter, "Community First Handbook")
Community Health Choice. (2017). *STAR Member Handbook.* Retrieved from **https://www.communityhealthchoice.org/media/1524/star-handbook-eng-march-2017.pdf#page=17**. (p. 24) (hereinafter, "Community Health Choice Handbook")
Cook Children's Health Plan. (2014). *STAR Member Handbook*. Retrieved from **http://www.cookchp.org/SiteCollectionDocuments/STAR-MemberHandbook.pdf**. (pp. 7, 19) (hereinafter, "Cook Children's Handbook")
Driscoll Health Plan. (2018). *STAR Member Handbook*. Retrieved from **http://driscollhealthplan.com/wp/wp-content/uploads/2018/10/STAR-MHB-eng-9.18-103118.pdf?ts=1555104981519**. (p. 14) (hereinafter, "Driscoll Handbook").
El Paso Health. (2019). *STAR Member Handbook*. Retrieved from **http://www.elpasohealth.com/pdf/Premier_Member_handbook.pdf**. (p. 25) (hereinafter, "El Paso Handbook")
FirstCare Health Plans. (2019). *STAR Member Handbook*. Retrieved from **http://www.firstcare.com/FirstCare/media/First-Care/PDFs/Medicaid-CHIP/STAR-Member-Handbook.pdf**. (pp. 1, 32, 34) (hereinafter, "FirstCare Handbook")
Molina Healthcare. (2019). *Welcome to the Molina Family: Molina Healthcare STAR Member Handbook*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/PDF/Medicaid/STAR/star-member-handbook.pdf**. (p. 14) (hereinafter, "Molina Handbook")
Parkland Community Health Plan, Inc. (2018). *2018 STAR Member Handbook.* Retrieved form **https://www.parklandhmo.com/assets/pdf/members/Parkland-Healthfirst-MemberHandbook-2018.pdf**. (p. 25) (hereinafter, "Parkland Handbook")
Scott & White Health Plan, RightCare. (2019). *STAR Member Handbook*. Retrieved from **https://swhp.org/Portals/0/Files/Forms/Medicaid/Member%20Handbook%20PDFs/RCSWHP-2120-Member-Handbook.pdf#page=7**. (p. 10) (hereinafter, "Scott & White Handbook")
Superior HealthPlan. (2018). *STAR Member Handbook*. Retrieved from **https://www.superiorhealthplan.com/content/dam/centene/Superior/Medicaid/PDFs/SHP_20184660-STAR-Handbook-M-EN-508-10082018.pdf**. (pp. 8, 27) (hereinafter, "Superior Handbook")
Texas Children's Health Plan. (2018). *STAR Member Handbook for Harris and Jefferson Service Delivery Areas.* Retrieved from **https://www.texaschildrenshealthplan.org/sites/default/files/pdf/STAR%20Member%20Handbook_MARCH%202018.pdf#page=4**. (pp. 10, 21) (hereinafter, "Texas Children's Handbook")
UnitedHealthcare Community Plan. (2016). *UnitedHealthcare Community Plan STAR Member Handbook*. Retrieved from **https://www.uhccommunityplan.com/assets/plandocuments/handbook/en/TX-star-handbook.pdf**. (pp. 17, 18) (hereinafter, "UHC Handbook").
[278] Aetna Handbook (pp. 9, 20, 21, 27); Amerigroup Member (p. 2);BCBS Handbook (pp. 3, 6, 35); Community First Handbook (p. 1);Community Health Choice Handbook (pp. 19, 24);Cook Children's Handbook (p. 3); Dell

behavioral health conditions and medical necessity for behavioral health care.[279] *See* Exhibit 5, Medicaid MCO Plan Review for additional information.

Molina covers the services listed above, but defines the services in more detail on its webpage - it identifies inpatient mental health services; outpatient mental health services including psychological and neuropsychological testing, psychiatric services (evaluation and medication management), and individual, family, and group counseling services; inpatient SUD treatment services including detoxification, crisis stabilization, and residential treatment services; and outpatient SUD treatment services, including assessment and individual, family, and group counseling services.[280] Molina also covers mental health rehabilitation and mental health targeted case management for adults with severe and persistent mental illness and children with severe emotional disturbance.[281] Molina offers both a customer service and a crisis line for behavioral health services.[282]

Superior Health Plan similarly further explains its services, noting that MH/SUD benefits include mental health targeted case management; education, planning, and coordination of behavioral health services; outpatient MH and SUD services; psychiatric partial and inpatient hospital services for members 21 and younger; non-hospital and inpatient residential detoxification, rehabilitation, and halfway house crisis services; residential care (for members 21 and younger); medications for MH and SUD; lab services; referrals to other community resources; and transitional health care services.[283]

The other plans' websites and member handbooks provide less detail about covered MH/SUD services.

Children's Handbook (p. 2); Driscoll Handbook (p. 2); El Paso Handbook (pp. 2, 16, 25); FirstCare Handbook (pp. 1, 3, 11); Molina Handbook (pp. i, 11, 14); Parkland Handbook (pp. 1, 17, 18, 25); Scott & White Handbook (p. 2); Superior Handbook (pp. b, 2, 22, 27, 40); Texas Children's H Handbook (pp. 13, 21, 22); UHC Handbook (pp. 24, 46).

[279] Aetna Handbook (pp. 23, 26); Amerigroup Handbook (pp. 54, 84); Community First Handbook (pp. 21, 19); Community Health Choice Handbook (pp. 23, 22); Cook Children's Handbook (pp. 11, 13); Dell Children's Handbook (pp. 23, 21); Driscoll Handbook (pp. 17, 15); El Paso Handbook (pp. 21, 19); FirstCare Handbook (pp. 29, 27-28); Molina Handbook (pp. 11, 10); Parkland Handbook (pp. 22, 20) ; Scott & White Handbook (pp. 25, 23-24); Superior Handbook (pp. 20, 23-24); Texas Children's Handbook (pp. 14, 15); UHC Handbook (pp. 29, 28)

[280] Molina Healthcare. *Behavioral Health*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/mem/medicaid/star/coverd/Pages/behhlth.aspx**.

[281] Molina Handbook (p. 14).

[282] Molina Handbook (pp. i, 14).

[283] Superior Healthplan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.

In addition to the aforementioned services, several plans offer additional service:

- Aetna offers health education classes on drug and alcohol awareness and smoking cessation.[284] Amerigroup and Molina offer classes for smoking cessation.[285] Parkland offers health education classes on poison prevention, drug and alcohol awareness, and smoking cessation.[286]
- In BlueCross BlueShield, adult well exams may include talking about substance use, [287] and 12- to 18-year-olds can see a doctor without consent from their parents/guardians for drug and alcohol use treatment and outpatient MH care.[288]
- BCBS also covers Temporary Detention Order (TDO) Services for court-ordered mental health hospitalization.[289]
- Amerigroup and Dell Children's Health Plan have Disease Management Centralized Care Units (DMCCU), teams of licensed nurses and social workers available for those with bipolar disorder, major depressive disorder, schizophrenia, and SUD to teach patients about their health issues and how to manage them.[290] These plans also offer case managers to those with Special Health Care Needs, which include people with MH/SUD.[291] Driscoll offers the same service for those with behavioral health conditions, and El Paso for mental health services.[292] Aetna and Parkland offer care management to children with special behavioral requirements and provide disease management for adults with conditions including depression. [293] Aetna's behavioral health services include a care manager to organize services, and Superior's behavioral health services include coordination.[294]
- Amerigroup and Superior Health offer online mental health resources through myStrength.[295] UnitedHealthcare offers similar resources through Live and Work Well.[296]
- Several plans (Aetna,[297] Driscoll,[298] El Paso Health,[299] First Care,[300] RightCare,[301] and Superior Health[302]) offer gift cards for members who have follow-up visits with a doctor within 7 days

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[284] Aetna Handbook (p. 21).
[285] Amerigroup Handbook (p. 15); Molina Handbook (p. 9).
[286] Parkland Handbook (p. 19).
[287] BCBS Handbook (p. 25).
[288] *Id.* at p. 28.
[289] *Id.* at p. 30.
[290] Amerigroup Handbook (p. 15); Dell Children's Handbook (p. 16).
[291] Amerigroup Handbook (p. 16); Dell Children's Handbook (p. 17).
[292] Driscoll Handbook (p. 32); El Paso Handbook (p. 28).
[293] Aetna. *Understand your benefits.* Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/benefits**.
Parkland Community Health Plan, Inc. *HEALTHfirst Medical Management Programs.* Retrieved from **https://www.parklandhmo.com/members/healthfirst/medmgmt**.
[294] Aetna. *Understand your benefits.* Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/benefits**.
Superior HealthPlan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.
[295] Amerigroup Handbook (pp. 40, 43); Superior Handbook (pp. 40, 43)
[296] UnitedHealthcare. *STAR Links to Health Information.* Retrieved from **https://www.uhccommunityplan.com/tx/medicaid/star/links-health-information**.
UnitedHealthcare. *Live and Work Well*. Retrieved from **https://www.liveandworkwell.com/content/en/member.html**.
[297] Aetna. *Extra Benefits with Aetna Better Health.* Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/value-adds**.
[298] Driscoll Handbook (p. 42).
[299] El Paso Handbook (p. 17).
[300] FirstCare Handbook (p. 24).
[301] Scott & White Handbook (p. 14).
[302] Superior Handbook (p. 39).

of discharge from a behavioral health hospital stay. RightCare also provides gift cards for going to a 30-day follow-up visit.[303]

Some plans include specific references to parity. Community Health Choice notes, "Community Health Choice follows the Mental Health Parity Addiction Equity Act (MHPAEA). We review to make sure that requirements for mental health benefits are the same or less than medical benefits."[304] UnitedHealthcare notes, "Mental health is as important as physical health. That's why we have the same coverage for both."[305] RightCare limits inpatient behavioral health services.[306]

Finally, Community Health Choice (via Beacon Health Options) does not cover services provided by a licensed psychologist, licensed professional counselor, licensed master's social worker, advanced clinical practitioner, or licensed marriage and family therapist for members 21 and older. This exclusion is inconsistent with the list of practitioners that must be included in the MCO's network of outpatient behavioral health service providers.[307]

MEDICAID FORMULARY

Texas Medicaid has both a preferred drug list (PDL) and a formulary. "Preferred drugs are medications recommended by the Texas Drug Utilization Review Board for their efficaciousness, clinical significance, cost effectiveness, and safety." The Medicaid Formulary contains all products, including those on the PDL, available to Medicaid beneficiaries. Preferred drugs do not need prior authorization, but can be subject to a separate clinical prior authorization. Non-preferred drugs on the PDL require prior authorization. Managed care plans are required to follow the PDL. [308]

Medicaid covers at least one formulation of an opioid reversal medication, buprenorphine, buprenorphine-naloxone, and naltrexone as a preferred drug. The formulary, but not the PDL, covers alcohol deterrents. Medicaid also covers Vivitrol as a preferred drug. All covered formulations of buprenorphine and buprenorphine-naloxone require Fee for Service Clinical

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[303] Scott & White Handbook (p. 14).
[304] Community Health Choice Handbook (p. 24).
[305] UnitedHealthcare. *STAR: Benefits & Features.* Retrieved from **https://www.uhccommunityplan.com/tx/medicaid/star**.
[306] Scott & White Handbook (p. 9).
[307] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. (Attachment B-1 at p. 8-57).
[308] Texas Health and Human Services, Vendor Drug Program. (2019). *Preferred Drugs*. Retrieved from **https://www.txvendordrug.com/formulary/prior-authorization/preferred-drugs**.
Texas Health and Human Services Commission. (2019). *Texas Medicaid Preferred Drug List (PDL) and Prior Authorization (PA) Criteria, Effective July 25, 2019*. Retrieved from https://www.txvendordrug.com/sites/txvendordrug/files/docs/formulary/2019-0725-preferred-drug-list.pdf. (p.3).

Prior Authorization and generic buprenorphine-naloxone requires PDL prior authorization.[309] "Clinical prior authorizations are based on evidence-based clinical criteria and nationally recognized peer-reviewed information."[310] HHSC has a chart laying out the usage of prior authorization requirements for different health plans.[311] See Exhibit 6, Medicaid Formulary for additional information.

Under recently enacted legislation, most medication-assisted treatment for substance use disorders must be available without prior authorization, effective September 1, 2019. Methadone is excluded from this new coverage standard.[312]

Parity

Texas delivers MH and SUD services through Medicaid managed care organizations and, therefore, the State's Medicaid program is subject to the Parity Act. The managed care contract states that MCOs must comply with the Parity Act.[313] The Texas Health and Human Services Commission (HHSC) is responsible for parity enforcement in the Medicaid program.

NQTL ANALYSIS (REQUIRED BY HB 10)

In September 2018, HHSC submitted its claims analysis of NQTLs, in compliance with HB 10's requirement that it assess access to MH/SUD services as compared to medical/surgical

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[309] Texas Health and Human Services Commission. (2019). *Texas Medicaid Preferred Drug List (PDL) and Prior Authorization (PA) Criteria, Effective July 25, 2019*. Retrieved from https://www.txvendordrug.com/sites/txvendordrug/files/docs/formulary/2019-0725-preferred-drug-list.pdf.
Texas Health and Human Services, Vendor Drug Program. *Formulary Search.* Retrieved from **https://www.txvendordrug.com/formulary/formulary-search**.
Health Information Designs. (2019). *Texas Prior Authorization Program Clinical Criteria: Opiate/Benzodiazepine/Muscle Relaxant Combinations*. Retrieved from **https://paxpress.txpa.hidinc.com/TX%20PA_Opiate_Benzo_MRv2.pdf**.
Health Information Designs. (2019). *Texas Prior Authorization Program Clinical Criteria: Buprenorphine Agents*. Retrieved from **https://paxpress.txpa.hidinc.com/buprenorphine_agents.pdf**.
Health Information Designs. (2019). *Texas Prior Authorization Program Clinical Criteria: Opiate Overutilization*. Retrieved from **https://paxpress.txpa.hidinc.com/opiate.pdf**.
[310] Texas Health and Human Services. (2019). *Pharmacy Clinical Prior Authorization Assistance Chart*. Retrieved from **https://www.txvendordrug.com/sites/txvendordrug/files/docs/prior-authorization/cpa-assistance-chart.pdf**. (p. 2).
[311] *Id.*
[312] Texas Legislature. (2019). House Bill 3285, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB3285**.
[313] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions* (Version 2.28). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**. (Attachment B-1, § 8.1.15.10, 8-114) (hereinafter, "TX Managed Care Contract").

benefits for Medicaid managed care plans.[314] HHSC noted that the claim-level review is not sufficient to evaluate parity.[315]

The report found that most Medicaid and CHIP MCO claims were for medical/surgical services (88.5 percent and 92.1 percent, respectively). Denial rates for MH/SUD claims were higher than those for medical/surgical claims in Medicaid (26 percent compared to 18.8 percent) but not in CHIP, for which denial rates were slightly higher for medical/surgical claims than for MH/SUD claims (19.6 percent compared to 17.4 percent).[316]

Prior authorization requirements were more likely for MH/SUD services than for medical/surgical services in both Medicaid and CHIP (5.4 percent Medicaid/2.4 percent CHIP compared to 3.1 percent Medicaid/1.7 percent CHIP), but MH/SUD prior authorization requests were more likely to be approved (93.9 percent in Medicaid/93 percent in CHIP compared to 86.8 percent in Medicaid/91.1 percent in CHIP).[317]

Medical/surgical claims were more likely than MH/SUD claims to be denied or partially denied due to medical necessity (6.6 percent in Medicaid/6.4 percent in CHIP compared to 2.5 percent in Medicaid/3.9 percent in CHIP).[318]

Internal appeals of denials for MH/SUD claims were more likely than internal appeals for medical/surgical denials (12.5 percent in Medicaid and 11.4 percent in CHIP for MH/SUD, compared to 6.8 percent in Medicaid and 7.3 percent in CHIP for medical/surgical). MH/SUD denials were more likely to be upheld or partially upheld (80 percent in Medicaid and 82.1 percent in CHIP for MH/SUD compared to 57.6 percent in Medicaid and 56.5 percent in CHIP for medical/surgical). [319]

There were few requests for external appeals for MH/SUD denials (e.g., fair hearing request in Medicaid or independent review organization for CHIP), and even fewer were overturned on external review.[320] Complaints related to medical/surgical benefits were significantly more common than complaints related to MH/SUD benefits.[321]

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[314] Texas Health and Human Services Commission. (2018). *Report to Assess Medical or Surgical Benefits, and Benefits for Mental Health and Substance Use Disorders*. Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2018/hb10-assess-medical-surgical-benefits-sept-2018.pdf**.
[315] *Id.* at p. 21.
[316] *Id.* at p. 1.
[317] *Id.* at pp. 1, 13-14.
[318] *Id.* at pp. 13-14.
[319] *Id.* at p. 1.
[320] *Id.* at p. 1.
[321] *Id.* at pp. 10-11.

Network Adequacy

"All Members must have timely access to quality of care through a Network of Providers designed to meet the needs of the population served," and MCOs are responsible for creating and maintaining a network that can deliver all covered services and complies with travel distance and appointment wait time standards.[322] An MCO's network must include a sufficient number of providers, including outpatient behavioral health service providers, mental health rehabilitative services and targeted case management providers, and psychiatrists, with sufficient capacity to provide timely access to covered services.[323]

ANY WILLING PROVIDER

MCOs are required to enter into a provider contract with "any willing LMHA or LBHA that meets the MCO's credentialing requirements and agrees to the MCO's contract rates and terms."[324]

Providers of SUD services include hospitals, state-licensed chemical dependency treatment facilities, and practitioners of the healing arts. MCOs must contract with any willing SUD Significant Traditional Provider (STP) that meets the requirements and agrees to the MCO's rates and terms. STPs are providers who meet the Medicaid enrollment requirements and have a contract with the Department of State Health Services to receive treatment funding under the federal SAPT block grant.[325]

NETWORK ADEQUACY STANDARDS

Travel Time and Distance Standards

Legislation passed in 2015 required HHSC to establish network adequacy (provider access) standards for Medicaid managed care plans and requires HHSC to oversee MCO compliance with the requirements.[326] HHSC developed distance/travel time standards under a proposed rule, which became effective in 2017; regulations were promulgated effective April 24, 2019.[327]

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[322] TX Managed Care Contract (Attachment B-1 §1.5, p. 1-11).
[323] *Id.* at Attachment B-1 § 8.13.2, p. 8-56.
[324] *Id.* at Attachment B-1 § 8.1.4, p. 8-66.
[325] *Id.* at Attachment B-1, §8.2.7.2.2, p. 8-181.
[326] Texas Legislature. (2015). Senate Bill 760, Legislative Session 84(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=84R&Bill=SB760**.
Codified at TEX. GOV'T CODE ANN. § 533.0061 (2015).
[327] Texas Health and Human Services Commission. (2018). *Proposed rule regarding Title 1, Part 15, Chapter 353.* Retrieved from **https://www.sos.state.tx.us/texreg/archive/October122018/Proposed%20Rules/1.ADMINISTRATION.html.**
Codified at 1 TEX. ADMIN. CODE § 353.411 (2019).

The specific distance/travel time standards in the proposed regulations were updated in the model contract in March 2017.[328] The distance/travel time standards were based on Medicare and TDI standards.[329] At least 90 percent of members in the service area must have access to at least one provider of each type and different standards apply depending on whether the county is designated as metro, micro or rural.[330] For behavioral health outpatient care (licensed clinical social worker, licensed marriage and family therapist, licensed professional counselor, licensed psychologist, psychiatrist, licensed chemical dependency treatment facility, LHMA), mental health rehabilitative services and mental health targeted case management, the distance and travel time is 30 miles or 45 minutes for metro and micro counties and 75 miles or 90 minutes for rural counties.[331] The same standards apply for CHIP members for outpatient behavioral health services providers, including rehabilitative day treatment providers.[332] For psychiatry, the distance and travel time is 30 miles or 45 minutes for metro counties, 45 miles or 60 minutes for micro counties and 60 miles or 75 minutes for rural counties.[333]

The distance/time travel standards for primary care are shorter than behavioral health care (10 miles/15 minutes for metro counties; 20 miles/30 minutes for micro counties; and 30 miles/40 minutes for rural counties) but vary when compared to specialty types.[334] Some specialists have shorter distance/time travel standards, and none has longer time/distance standards than the standards for behavioral health care providers.

MCOs can request exceptions to these standards, which must be submitted in HHSC's template with supporting information and documentation and will be decided on a case-by-case basis.[335]

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[328] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy**. (p. 5-6); TX Managed Care Contract (Attachment B-1, § 8.1.3.2, p. 8-56).
[329] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy**. (pp. 5-6).
[330] TX Managed Care Contract (Attachment B-1, § 8.1.3.2, p. 8-56).
[331] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-57.
[332] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-57.
[333] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-58.
[334] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-56.
[335] *Id.* at Attachment B-1, § 8.1.3.2, p. 8-61.
Texas Health and Human Services Commission. (2018). *Proposed rule regarding Title 1, Part 15, Chapter 353.* Retrieved from **https://www.sos.state.tx.us/texreg/archive/October122018/Proposed%20Rules/1.ADMINISTRATION.html.** Codified at 1 TEX. ADMIN. CODE ANN. § 353.411(d) (2019).

Wait Time Standards

SB 760 also directed HHSC to establish a process to monitor appointment wait times.[336] The wait time standards are set out in the managed care contract and mirror the HMO wait time standard regulations. Urgent behavioral health care must be provided within 24 hours (same as medical) and initial outpatient behavioral health visits (for adults and children) must be available within 14 calendar days (same as routine primary care and shorter than specialty routine care). [337]

Provider-Recipient Ratios

SB 760 requires that HHSC establish benchmark provider-to-recipient ratios in provider networks and report on provider-to-recipient ratios in MCOs.[338] HHSC has not yet established the benchmark ratios.[339]

COMPLIANCE WITH NETWORK ADEQUACY STANDARDS

HHSC must establish a process for evaluating network adequacy.[340] HHSC continually monitors compliance through surveys, member and provider complaints, geo-mapping analyses and out-of-network provider utilization.[341]

On a quarterly basis, HHSC assesses MCO compliance with distance standards by conducting a geo-mapping analysis to determine whether 90 percent of members have access to at least two providers within the maximum distance standard by provider/service type.[342] Annually, HHSC evaluates MCO compliance with time travel standards.[343]

To determine MCO compliance with appointment wait time standards, HHSC conducts "secret shopper" studies for certain categories of services, including behavioral health.[344] HHSC completed appointment availability studies for behavioral health care in 2015 and 2016,[345] and was conducting the 2018 study during the course of this research.

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[336] Codified at TEX. GOV'T CODE ANN. §533.007(k)(l)(1)(B) (2015).
[337] TX Managed Care Contract (Attachment B-1, §8.1.3.1, p. 8-55).
[338] Codified at TEX. GOV'T CODE ANN. §533.0061(c)(2) (2015).
[339] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy.** (p. 25).
[340] SB760, codified at TEX. GOV'T CODE ANN. §533.007 (2015).
[341] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy.** (p. 1).
[342] *Id.* at p. 9.
[343] *Id.* at p. 9.
[344] *Id.* at pp. 14-15.
[345] *Id.* **at** p. 16.

Report to Legislature

SB 760 required HHSC to report to the Legislature biennially on access to managed care networks and MCO compliance with network adequacy requirements.[346] The report was last issued in December 2018.[347] HHSC found that MCOs were meeting requirements with access to preventive care but had shortages of specialty care providers, particularly in rural areas, and did not meet access standards for behavioral health.[348]

For the provider-to-recipient ratios in MCOs, in the third quarter of 2018, there were 2,513 Medicaid managed care recipients per Medicaid participating psychiatrist.[349] This is far higher compared to the number of Medicaid managed care beneficiaries per Medicaid PCP (126:1).[350] Ratios are more favorable within Medicaid managed care programs than for statewide ratios of PCPs or psychiatrists to individuals.[351] In 2017, there were 13,258 people per licensed psychiatrist and 1,362 people per PCP statewide.[352]

Results from the appointment availability ("secret shopper") studies show that plans are not in compliance with wait time standards for behavioral health care.[353] Results from the 2015 and 2016 appointment availability studies showed that access to behavioral health providers improved between 2015 and 2016. In 2016, program-level compliance with managed care contract requirements for behavioral health (access to a behavioral health care provider within 14 days) was 77.4 percent among child STAR plans, 76 percent for adult STAR plans, and 81.7 percent for STAR+PLUS plans (compared to 65.4, 69.4, and 79.4 percent, respectively, for 2015). [354] Compliance was worse for behavioral health than for primary care.[355] HHSC is expected to identify best practices and make recommendations on interventions upon completion of the 2018 study.[356]

The report also contains results from the geo-mapping analysis for compliance with distance standards. While most plans and service areas met the distance standards for outpatient behavioral health care providers and psychiatrists for at least one provider, they did not meet the standards for two providers, as required.[357] The two primary reasons cited for non-

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[346] Codified at TEX. GOV'T CODE ANN. §533.0061(c) (2015).
[347] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy.**
[348] *Id.* at p. 2.
[349] *Id.* at p. 27.
[350] *Id.* at p. **26.**
[351] *Id.* at p. **26.**
[352] *Id.* at pp. 24-25.
[353] *Id.* at p. 16.
[354] *Id.* at p. 18.
[355] *Id.* at p. 17.
[356] *Id.* at p. 22.
[357] *Id.* a**t** App. E.

compliance with distance standards are a lack of available specialty providers in rural counties and providers who are not interested in participating in managed care.[358]

PENALTIES

For MCOs who do not comply with the network adequacy standards and are determined to not make substantial efforts to mitigate or remedy non-compliance, HHSC may assess penalties, including no longer contracting with the MCO, requiring the MCO to pay liquidated damages, or suspending enrollment for one quarter if non-compliance occurs for two consecutive quarters.[359] HHSC can also issue corrective action plans for MCOs not in compliance with distance and wait time standards and contractual remedies for non-compliance with travel time standards.[360]

HHSC is determining the appropriate corrective actions for the appointment availability ("secret shopper") studies.[361] MCOs proposed conducting provider education, quality audits, provider outreach, online training and better coordination to ensure accuracy of provider directory information.[362]

PROVIDER DIRECTORIES

MCOs must maintain online provider directories unless a paper form is requested by a member.[363] The directory must be updated weekly.[364] The MCO must help members identify and schedule appointments with in-network providers.[365]

MCOs are required to perform Provider Directory Verification Surveys each year to verify the accuracy of information in the provider directory.[366]

EXPEDITED CREDENTIALING

To address inadequate networks and provider shortages and to reduce delays in reimbursement, the Legislature also directed HHSC to establish an expedited credentialing

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[358] *Id.* at p. 33.
[359] TEX. GOV'T CODE ANN. §533.0062 (2015).
[360] Texas Health and Human Services Commission. (2018). *Report on Medicaid Managed Care Provider Network Adequacy*. Retrieved from **https://hhs.texas.gov/reports/2019/01/report-medicaid-managed-care-provider-network-adequacy**. (p. 9).
[361] *Id.* at p. 21.
[362] *Id.* at pp. 21-22.
[363] TEX. GOV'T CODE ANN. §533.0063 (2015).
[364] TX Managed Care Contract (Attachment B-1 §8.1.5.4.2 at 8-84).
[365] TEX. GOV'T CODE ANN. §533.0063 (2015).
[366] TX Managed Care Contract (Attachment B-1, §8.1.3.3, p. 8-61).

process for Medicaid providers seeking to join an MCO's network.[367] Expedited credentialing is available for certain types of providers who must already be enrolled in Medicaid, "be a member of an established health care provider group" that already contracts with an MCO and have submitted documentation to begin the credentialing process.[368] Under expedited credentialing, the provider is treated as an in-network provider and can be reimbursed for services provided to Medicaid recipients while the provider's credentialing application is reviewed.[369]

In 2018, HHSC proposed regulations related to expedited credentialing.[370] Certain MH/SUD providers are eligible for expedited credentialing, including licensed clinical social workers, licensed professional counselors, licensed marriage and family therapists, and psychologists.[371]

Public Health Benefits

A number of State agencies provide behavioral health services to different populations, based on eligibility criteria including need/diagnosis, age and income level.[372] The Texas Health and Human Services Commission (HHSC) provides behavioral health services for Texans who are medically indigent, defined as individuals who do not own property, are not under the care of a legal guardian, and are unable to reimburse the State for treatment costs.[373] Individuals who are below 150 percent of the federal poverty level (FPL) are eligible to receive mental health services fully paid for by the State, while individuals below 200 percent FPL are eligible for State-funded SUD services.[374] Individuals with incomes above these FPLs who still meet criteria for medical indigence pay fees on a sliding income scale.[375] HHSC serves the most patients of any State agency responsible for providing behavioral

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[367] Texas Legislature. (2015). Senate Bill 760, Legislative Session 84(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=84R&Bill=SB760**.
Codified at TEX. GOV'T CODE ANN. §533.0064 (2015).
[368] TEX. GOV'T CODE ANN. §533.0064(d) (2015).
[369] *Id.* at §533.0064(e).
[370] Texas Health and Human Services Commission. (2018). *Proposed rule regarding Title 1, Part 15, Chapter 353.* Retrieved from
https://www.sos.state.tx.us/texreg/archive/October122018/Proposed%20Rules/1.ADMINISTRATION.html.
[371] *Id.* Codified at 1 TEX. ADMIN. CODE ANN. § 353.423(b)(3)-(6) (2019).
[372] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from
https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf. (p. 12).
[373] TEX. HEALTH & SAFETY CODE ANN. § 552.012 (1991).
[374] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from
https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf. (p. 14).
[375] *Id.*

health services, but patients may receive services from multiple programs, and care is not currently well coordinated across agencies.[376]

For behavioral health services, HHSC serves children aged 3-17 with serious emotional disturbance (SED) who have a serious functional impairment or are at risk for disruption in their living arrangement; are enrolled in special education because of the SED diagnosis; or have a dual SED/Intellectual Disability Diagnosis (IDD). Children who qualify for the YES Waiver Program (see below) can receive services through age 18. Adults age 18 and older with a diagnosis of severe and persistent mental illness with significant functional impairment and in need of crisis services and long-term treatment and support are eligible for HHSC services.[377]

For substance use disorder services, all children, youth and adults are eligible for prevention services. Individuals with risky substance use, misuse and SUD are eligible for treatment services. Under federal law, priority is granted to pregnant women and individuals living with or at risk for HIV.[378]

MH Services

HHSC contracts with 37 local mental health authorities (LMHAs) and two local behavioral health authorities (LBHAs) to provide mental health services across the State. The authorities provide services such as case management, pharmacological management, counseling (CBT), medication training and support, psychosocial rehabilitative services, and skills training and development.[379] HHSC is also responsible for care provided in State hospitals.[380] For additional information about mental health services for adults and children provided by HHSC, *see* Exhibit 7, HHSC Services.

SUD Services

Each year, approximately 35,000 adults and 4,500 youth received HHSC SUD services. Texas has 14 Outreach, Screening, Assessment and Referral (OSAR) programs at LMHAs/LBHAs (at least one OSAR in each of the State's 11 Health and Human Service Regions). OSARs are the

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[376] *Id.* at pp. 14-15.
[377] *Id.* at p. F-2.
[378] *Id.* at p. F-2-3.
[379] TEX. HEALTH & SAFETY CODE ANN. tit. 6, subtitle B (Alcohol and Substance Abuse Programs), tit. 7, subtitle A (Services for Persons with Mental Illness or an Intellectual Disability).
Texas Health and Human Services. *Adult Mental Health.* Retrieved from **https://hhs.texas.gov/services/mental-health-substance-use/adult-mental-health**.
[380] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 16).

first point of contact for those seeking SUD treatment services.[381] HHSC also has 111 SUD treatment contractors.[382] For additional information about SUD services for adults and youth provided by HHSC, *see* Exhibit 7, HHSC Services.

Legislative Efforts

Texas convenes legislative sessions in odd-numbered years. In interim years, the legislature creates interim reports. In 2016, a House Select Committee on Mental Health created a report on mental health, which included substance use disorder.[383] The committee was charged with studying a number of issues, including the existing MH/SUD treatment system, how other systems interact and coordinate with the treatment system, costs, challenges to serving specific populations and with developing recommendations for how to improve treatment access and service coordination.[384] The committee was specifically charged with reviewing insurance coverage for MH/SUD treatment and parity compliance.[385] The committee found that despite parity protections, consumers were unable to obtain equal coverage for MH/SUD services through their insurance, and TDI had limited enforcement authority and resources to investigate consumer complaints.[386] The committee recommended providing TDI with authority to enforce parity and resources to investigate behavioral health plans; requiring TDI and HHSC to have parity in reimbursement rates; and enacting a state parity law.[387] In 2017, the Legislature then passed a state parity law (HB 10) that tracks closely to the federal Parity Act.[388] HB 10 was described as "working well" although not yet fully implemented.[389] *See* MH/SUD Benefit Coverage, Commercial Plans, Parity for further discussion on HB 10.

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[381] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/85interim/Interim-Report-Select-Committee-on-Opioids-Substance-Abuse-2018.pdf**. (p. 22).

[382] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 52).

[383] Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature*. Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/84interim/Mental-Health-Select-Committee-Interim-Report-2016.pdf**.

[384] *Id*. at pp. 5-6.

[385] *Id.* at p. 59.

[386] *Id.* at p. 71.

[387] *Id.* at p. 72.

[388] Texas Legislature. (2017). House Bill 10, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=HB10**.

[389] Listening Session, Stakeholder 3.

Enacted Legislation 2019: Insurance Coverage for MH/SUD Treatment

HB 3285, which establishes a number of requirements to address the opioid epidemic, was signed into law on June 14, 2019. The law requires Medicaid to make most medication-assisted treatment for opioid and substance use disorder available without prior authorization, effective September 1, 2019.[390] The law explicitly excludes methadone from the medications for which prior authorization is barred. The provision expires in August 2023. *See* additional provisions in "State's Opioid Epidemic Response" section below.

The following bills were passed in 2017 and address insurance coverage for MH/SUD treatment.

PEER SPECIALIST TRAINING AND CERTIFICATION

In 2017, the legislature passed HB 1486 to require HHSC to cover peer specialist services as a Medicaid benefit. [391]

TARGETED CASE MANAGEMENT AND PSYCHIATRIC REHABILITATIVE SERVICES

In 2017, the legislature passed SB 74 to allow targeted case management and psychiatric rehabilitative services' providers to contract with MCOs to provide these services to children, adolescents, and their families.[392]

Insurance Legislation Introduced in 2019

The following bills address insurance coverage for MH/SUD treatment, but were not enacted prior to the May 27, 2019 end of session.

HB 565 would amend the current parity law, adding definitions for "financial requirement" and "treatment limitation" and extending applicability to a number of other types of insurance products.[393]

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[390] Texas Legislature. (2019). House Bill 3285, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB3285**.
[391] Texas Legislature. (2017). House Bill 1486, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/tlodocs/85R/billtext/pdf/HB01486F.pdf#navpanes=0.**
[392] Texas Legislature. (2017). Senate Bill 74, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/tlodocs/85R/billtext/html/SB00074F.htm**.
[393] Texas Legislature. (2019). House Bill 565, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB565**.

SB 2218 would also extend applicability of the parity law albeit to a more limited number of insurance products. It would also extend the SMI benefit mandate beyond group plans and require individual plans to comply with the SUD benefit mandate.[394]

HB 501 would define serious emotional disturbance of a child and require group plans to cover at least 45 days of inpatient treatment and 60 days of outpatient treatment for SED.[395] The bill would have required that "amount limitations, deductibles, copayments, and coinsurance factors" for SED treatment be the same as the treatment for physical illness.[396] The bill would also requires a study of the claims for SED treatment.[397]

HB 4393 would require group plans to cover at least 90 days for inpatient SUD rehabilitation programs.[398] One stakeholder noted that while this bill is generous, it still applies a quantitative limit and does not account for a patient's individual treatment needs.[399]

HB 4392 would require group plans to cover outpatient rehabilitation for SUD as part of chemical dependency treatment and would prohibit an employer from firing an employee for submitting a claim for SUD treatment. [400]

Regulatory Efforts: Parity Enforcement

Texas Department of Insurance (TDI)

PRIOR TO HB 10

In 2008, TDI issued a bulletin[401] based on the State AG's opinion[402] finding that group health plans in the State are required to provide the same number of outpatient visits for serious

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[394] Texas Legislature. (2019) Senate Bill 2218, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/tlodocs/86R/billtext/html/SB02218I.htm**

[395] Texas Legislature. (2019). House Bill 501, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB501.**

[396] *Id.*

[397] *Id.*

[398] Texas Legislature. (2019). House Bill 4393, Legislative Session 86(R), Retrieved from **https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB04393I.pdf#navpanes=0**.

[399] Listening Session, Stakeholder 1.

[400] Texas Legislature. (2019). House Bill 4392, Legislative Session 86(R), Retrieved from **https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB04392I.pdf#navpanes=0.**

[401] Texas Department of Insurance. (2009, January 16). *Commissioner's Bulletin # B-0003-09, Re: Parity Required for Group Outpatient Serious Mental Illness Coverage*. Retrieved from **https://www.tdi.texas.gov/bulletins/2009/cc2.html**.

[402] Attorney General of Texas Greg Abbott. (2008). *Opinion No. GA-0674, Re: Whether section 1355.004(b)(2) of the Insurance Code requires group health plans that provide more than 60 outpatient visits for physical illnesses to provide the same number for serious mental illnesses (RQ-0695-GA).* Retrieved from **https://www2.texasattorneygeneral.gov/opinions/opinions/50abbott/op/2008/pdf/ga0674.pdf**.

mental illness as for physical illness. (While the statute made clear that group plans must cover no fewer than 60 days of outpatient treatment for SMI, some health plans covered more than 60 days of outpatient medical services and TDI did not, in those cases, require comparable coverage for SMI.) TDI stated its intention to conduct reviews of forms of carriers on file for parity compliance and to issue regulations to implement MHPAEA.[403]

In 2014, TDI released a chart that shows the benefits that must be provided by health plans in the State, including which MH/SUD benefits must be offered by individual, small employer, and large employer plans.[404] It demonstrates that benefits are required to comply with parity.

WEBSITE

TDI has a webpage that defines parity, explains consumer and provider (on behalf of consumer) rights to file an appeal for a denial of MH/SUD treatment service or a complaint, network adequacy requirements and what those requirements mean for consumers seeking care and links to relevant state and federal laws and resources on parity.[405]

REGULATORY ACTIVITY RELATED TO HB 10

TDI has not yet updated administrative rules to reflect HB 10 requirements.[406] TDI has updated its plan review documents and requires plans to include information about parity compliance in its form review checklists.[407] For a discussion on the NQTL analysis required by HB 10, *see* MH/SUD Benefit Coverage: Commercial, Parity section above.

Health and Human Services Commission (HHSC)

The Texas Health and Human Services Commission (HHSC) is responsible for parity enforcement in the Medicaid program.

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[403] The Kennedy Forum & Scattergood Foundation. Regulatory Overview in Texas. *ParityTrack*. Retrieved from **https://www.paritytrack.org/report/texas/texas-regulation/**.

[404] Texas Department of Insurance. (2017). *Mandated Health Benefits as of September 1, 2017.* Retrieved from **https://www.tdi.texas.gov/hmo/documents/manhealthben.pdf**.
The Kennedy Forum & Scattergood Foundation. Regulatory Overview in Texas. *ParityTrack*. Retrieved from **https://www.paritytrack.org/report/texas/texas-regulation/**.

[405] Texas Department of Insurance, Texas Health Options. (2019). *Insurance coverage and parity for mental health and substance use disorder services*. Retrieved from **http://www.texashealthoptions.com/health/mentalhealthcoverage.html.**

[406] Listening Session, Stakeholder 3.

[407] Texas Department of Insurance. *Group Health Large and Small Employer Requirements Checklist.* Retrieved from https://www.tdi.texas.gov/forms/lhlifehealth/ah002.pdf.

HHSC reviews conducted in 2011 and 2014 found that the State's Medicaid program was in full compliance with Parity Act requirements.[408] As required by the Medicaid and CHIP Final Parity Rule issued on March 29, 2016, HHSC completed its review of parity compliance in the Medicaid program.[409] The review identified restrictive QTLs on adult residential treatment services (two episodes per six-month period; four episodes per 12 month period; 45 day limit on episode of care) and counseling services for adults (26 hours per year of individual counseling, 135 hours per year of group counseling). HHSC also examined the use of NQTLs across the Medicaid benefit classes (inpatient, outpatient, emergency services, formulary), as required under HB 10, through claims data analysis and also submitted a qualitative analysis of compliance to CMS in December 2017.[410] According to HHSC's report, the State was working with CMS to validate the qualitative data.[411]

HHSC created a number of tools to address the use of specific NQTLs, including prior authorization,[412] concurrent review,[413] and medical necessity.[414] For a discussion on the NQTL analysis required by HB 10, *see* MH/SUD Benefit Coverage: Medicaid, Parity section above.

OMBUDSMAN

HHSC oversees the behavioral health Ombudsman established by HB 10. HHSC established a website containing information related to the Ombudsman and other parity resources.[415]

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[408] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective* (11th Ed.). Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**. (p. 111)
[409] Texas Health and Human Services. *Summary of Texas' Parity Findings*. Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/programs/mental-health-substance-use-disorder-parity/summary-texas-parity-findings**.
81 Fed. Reg. 18390, 18439 (March 30, 2016).
[410] Texas Health and Human Services. *Summary of Texas' Parity Findings*. Retrieved from **https://hhs.texas.gov/services/health/medicaid-chip/programs/mental-health-substance-use-disorder-parity/summary-texas-parity-findings**.
[411] Texas Health and Human Services Commission. (2018). *Report to Assess Medical or Surgical Benefits, and Benefits for Mental Health and Substance Use Disorders*. Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2018/hb10-assess-medical-surgical-benefits-sept-2018.pdf**. (p. 21).
[412] Texas Health and Human Services. *Instructional Guide: Non-Quantitative Treatment Limitation Tool 1 - Prior Authorization.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/prior-authorization-nqtl-assessment-tool.pdf**.
[413] Texas Health and Human Services. *Instructional Guide: NQTL Tool 2 - Concurrent Review.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/concurrent-review-nqtl-assessment-tool.pdf**.
[414] Texas Health and Human Services. *Instructional Guide: Texas Non-Quantitative Treatment Limitation Tool 3 - Medical Necessity.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/mhsa/medical-necessity-nqtl-assessment-tool.pdf**.
[415] Texas Health and Human Services. *HHS Ombudsman Behavioral Health Help.* Retrieved from **https://hhs.texas.gov/about-hhs/your-rights/office-ombudsman/hhs-ombudsman-behavioral-health-help**.

State's Opioid Epidemic Response

While Texas has high rates of opioid overdose in certain areas, it has not been as hard hit by the opioid crisis as Midwest and Northeast states. Therefore, the State's response to the opioid epidemic has been less urgent than the response from harder hit states.

HB 3285

On June 14, 2019, the Governor signed HB 3285, which requires the implementation of a number of strategies to address opioid addiction and became effective September 1, 2019. The law establishes a public awareness campaign on opioids and requires colleges to include overdose awareness training in any mandatory trainings for residential advisors or officers of student organizations. It also encourages public health research on SUD and establishes a program on expanding the use of telehealth in SUD treatment. The legislation establishes naloxone distribution programs and provides grants for law enforcement agencies to purchase naloxone. The law requires the statewide behavioral health strategic plan to identify strategies for addressing prevention and treatment challenges, evaluating OUD prevalence, and increasing SUD treatment capacity. Opioid prescribers will be required to attend mandatory pain management CMEs and pharmacists will be encouraged to participate in training to identify individuals at risk for SUD. The State will also improve collection and analysis of data related to opioid overdose deaths and co-occurring MH/SUD. As noted above, Medicaid must make the FDA-approved medications, with the exception of methadone, available without prior authorization.[416]

House Select Committee on Opioids and Substance Abuse

In November 2018, the Legislature issued an Interim Report on Opioids and Substance Abuse.[417] The report noted that, while Texas has a lower per capita opioid overdose rate than other states, substance use is a significant problem in Texas and the opioid crisis costs Texas $20 billion per year.[418] Methamphetamine use is prevalent in Texas. The Committee was charged with studying the prevalence and effects of substance use in Texas and developing recommendations to address substance use – including but not limited to opioids – to serve as a framework for legislative and non-legislative changes. The Committee held six public hearings on a broad range of issues, related to its charges, including the

[416] Texas Legislature. (2019). House Bill 3285, Legislative Session 86(R). Retrieved from **https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB3285**.
[417] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/85interim/Interim-Report-Select-Committee-on-Opioids-Substance-Abuse-2018.pdf**.
[418] *Id.* at p. 11-12.

impact of substance use on the criminal justice and child welfare systems, law enforcement, first responders and emergency rooms; controlled substances prescribing regulations; prescription drug monitoring programs; State-funded/administered prescription drug plans; and current laws and regulations. [419]

The Committee identified a number of challenges and recommendations related to its charges and explicitly identified "lack of parity in insurance coverage for mental health and substance use disorders" as one of the challenges and recommended that efforts to ensure the enforcement of parity laws continue.[420]

Federal Funding

TEXAS TARGETED OPIOID RESPONSE (TTOR)

Pursuant to the State Opioid Response Grants initially established by the 21st Century Cures legislation, in both 2017 and 2018 Texas received $27.4 million from SAMHSA for its Texas Targeted Opioid Response grant. The grant focuses on three at-risk populations: residents of major metropolitan areas, pregnant and postpartum women, and people with a history of prescription opioid misuse or at risk for OUD (e.g., chronic pain patients, veterans, residents of rural areas with high opioid use rates). It is estimated to serve approximately 14,700 people over 2 years. The funding is used for prevention, training, outreach, treatment, and recovery support services. [421]

TTOR funding is used to enhance public outreach and education, provide workforce training, and increase access to treatment. Prevention efforts will include: increasing safe drug disposal; a marketing campaign to increase PDMP utilization; distribution of prescribing guidelines to all prescribers and support for safe prescribing; support for overdose prevention education; and expansion of universal prevention programming. Training efforts include education on opioids, opioid misuse prevention, overdose prevention, MAT, and suicide and overdose prevention. Funding will also be used to: increase access to office-based MAT; increase the number of physicians providing buprenorphine and naltrexone; expand capacity at new and existing treatment clinics; increase the number of licensed chemical dependency counselors to OSARs; enhance Mobile Crisis Outreach Teams; and add treatment for co-occurring conditions. Recovery efforts include expanding peer recovery support services, employment services (including supported employment programs partnering with MAT providers), recovery housing, and reentry services. Additionally, the project will support access to services through OSARs and 24/7 community drop-in sites and

[419] *Id*. at p. 1.
[420] *Id.* at p. 30.
[421] Substance Abuse and Mental Health Services Administration. (2017). *TI-17-014: State Targeted Response to the Opioid Crisis Grants (Opioid STR) Individual Grant Awards*. Retrieved from **https://www.samhsa.gov/sites/default/files/grants/pdf/other/ti-17-014-opioid-str-abstracts.pdf**.

will provide 24/7 drop-in pre-arrest diversion services, including induction, recovery support, overdose prevention, and connection to care.[422] TTOR includes pilot programs for supported employment, job development, peer support re-entry, and mobile crisis outreach teams.[423] The EMS Peer Assistance Program helps connect EMS personnel to SUD recovery programs through an EMS Peer Assistance Program Hotline.[424]

CDC COOPERATIVE AGREEMENT FOR OPIOID CRISIS RESPONSE

The Texas Department of State Health Services (DSHS) received a $2.6 million grant to provide community naloxone trainings, increase the number of buprenorphine-waivered providers and establish a Health Data Opioid Dashboard to track opioid-related illnesses and conditions in the State's emergency rooms.[425]

STRATEGIC PREVENTION FRAMEWORK FOR PRESCRIPTION DRUGS AND PARTNERSHIPS FOR SUCCESS

Texas also receives funding through its Strategic Prevention Framework for Prescription Drugs (SPF-Rx) and Strategic Prevention Framework Partnerships for Success (SPF-PFS) federal grants. The SPF-Rx grant was received in 2016 and supports the development and improvement of prescription drug misuse prevention efforts. The program aims to raise awareness about the risks of sharing prescription drugs and to work with the pharmaceutical and medical communities to address the risks of overprescribing to young adults. The grant supports prevention and education in schools and communities and

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[422] Texas Health and Human Services. (2019). *Texas Targeted Opioid Response*. Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/tx-targeted-opioid-response-march-2019.pdf**.

[423] Texas Health and Human Services. *Texas Targeted Opioid Response Providers*. Retrieved from **https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/texas-targeted-opioid-response-providers**.

Texas Health and Human Services. *Mobile Crisis Outreach Team*. Retrieved from **https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/crisis-service-providers/mobile-crisis-outreach-team**.

Gaines, S., & Ramirez, L. (2017, March 27). *Presentation to the House Select Committee on Opioids & Substance Abuse.* Retrieved from **https://hhs.texas.gov/reports/2018/03/presentation-house-select-committee-opioids-substance-abuse**. (p. 23-26).

[424] Texas Health and Human Services. *Rescuing our Rescuers: Substance use recovery programs helping EMS personnel.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/mental-health-substance-use/ems-peer-assistance.pdf**.

TEX. HEALTH & SAFETY CODE ANN. § 773.013 (2015).

[425] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 35).

among parents, prescribers, and patients, using statewide data to target areas with the most prevalent misuse. Six high-need communities are being targeted.[426]

The SPF-PFS grant supports evidence-based environmental strategies for prevention and the establishment of a sustainable prevention infrastructure by contracting with community providers in high-need areas to address underage drinking and prescription drug misuse among young adults. Four high-need counties and three border counties are currently funded. There are trainings and resources for youth and young adults, youth-serving organizations, parents, businesses, media, schools, law enforcement, social hosts, faith-based organizations, civic and volunteer groups, health care providers, government agencies, and the recovery community and LMHAs.[427]

Opioid Prescribing

Texas passed several laws in 2017 focused on curtailing opioid prescribing. SB 315 provides the State medical board with increased authority to inspect and increase enforcement of pain clinics and requires the board to adopt guidelines on naloxone co-prescribing.[428] HB 2561 requires the State Board of Pharmacy to identify harmful prescribing practices and patient prescription patterns that suggest diversion or abuse. It also requires pharmacists to check the prescription drug monitoring program (PDMP) before dispensing opioids, benzodiazepines, barbiturates, or carisoprodols and requires the issuance of guidelines on responsible prescribing for each of those substances.[429]

As part of the AG's effort to combat the opioid crisis, State health officials unveiled a new website in January 2019 to educate people about prescription opioid misuse and encourage safe disposal of unused medications. The "Dose of Reality" website includes free education materials on preventing opioid misuse, safe storage of medications, and how to respond to an overdose.[430] It also includes an interactive map that shows prescription medication drop-off locations.

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[426] Texas Health and Human Services. *Strategic Prevention Framework for Prescription Drugs.* Retrieved from **https://hhs.texas.gov/doing-business-hhs/grants/behavioral-health-services/strategic-prevention-framework-prescription-drugs**.

[427] Texas Health and Human Services. *Behavioral Health Services Grants.* Retrieved from **https://hhs.texas.gov/doing-business-hhs/grants/behavioral-health-services-grants**.
Texas Health and Human Services. *Strategic Prevention Framework Partnerships for Success.* Retrieved from **https://hhs.texas.gov/doing-business-hhs/grants/behavioral-health-services/strategic-prevention-framework-partnerships-success#smooth-scroll-top**.

[428] Texas Legislature. (2017). Senate Bill 315, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=85R&Bill=SB315**.

[429] Texas Legislature. (2017). House Bill 2561, Legislative Session 85(R). Retrieved from **https://capitol.texas.gov/tlodocs/85R/billtext/html/HB02561I.htm**.

[430] Office of the Attorney General of Texas, Texas Health and Human Services, & Texas Department of State Health Services. *Dose of Reality*. Retrieved from the Texas Dose of Reality website: **https://doseofreality.texas.gov/**.

Naloxone

The State has a standing order for naloxone and a Good Samaritan provision to protect prescribers and laypersons from civil or criminal liability for administering naloxone.[431]

Neonatal Abstinence Syndrome

The 2014/2015 biennium provided $11.2 million to establish the Texas NAS Initiative to support new and existing services to decrease the incidence and severity of NAS by "increasing targeted outreach services to engage women earlier in care, increasing the availability of behavioral health intervention and treatment services for pregnant and postpartum women to improve birth outcomes, and implementing specialized programs to reduce the severity of NAS."[432]

The Texas AIM (Alliance for Innovation in Maternal Health) program is developing and implementing an Obstetric Care for Women with OUD Bundle, which "will provide participating doctors and hospitals with evidence-based practices and data-driven quality improvement strategies to improve substance use disorder screening, treatment, and education for pregnant women and mothers."[433] A pilot program began in September 2018 and the program will launch statewide in 2020.[434]

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[431] TEX. HEALTH & SAFETY CODE ANN. §§ 483.102, 483.106 (2015).

[432] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* Retrieved from **https://house.texas.gov/_media/pdf/committees/reports/85interim/Interim-Report-Select-Committee-on-Opioids-Substance-Abuse-2018.pdf**. (p. 39).
Texas Health and Human Services. (2016). *Texas Statewide Behavioral Health Strategic Plan: Fiscal Years 2017-2021.* Retrieved from **https://hhs.texas.gov/sites/default/files/050216-statewide-behavioral-health-strategic-plan.pdf**. (p. 17).

[433] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* (p. 21).

[434] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 36).

Listening Sessions

In March of 2019, listening sessions were held with three stakeholders from the provider and consumer communities who have been active in State efforts to expand access to mental health and substance use disorder treatment. We also reviewed videos of the Hearing of the House Committee on Public Health for HB 10, held February 28, 2017 (hereinafter, "House Hearing on HB 10").[435]

Political/Regulatory Environment

Legislature

Stakeholders reported that the legislature has made mental health more of a priority in the last six to eight years.[436] Overall, there is increased understanding that mental health is a medical condition, rather than a moral issue, and that people with mental health conditions should not be "locked up."[437] The legislature has dealt with mental health as it relates to criminal justice and schools.[438] The legislature tends to focus on one issue per session and therefore, mental health is often addressed in a fragmented way.[439] This also creates "issue wariness" and a perception that mental health has already been dealt with in past sessions.[440] The focus of the 2019 session was education, and the legislature focused on increasing mental health services in schools as a way to prevent school shootings.[441] Although there is not a strong connection between mental health and school violence, advocates are supportive of the legislature's efforts to increase school-based mental health services.[442]

The legislature has been particularly receptive to the fiscal argument that the system incurs huge costs attributed to untreated MH and SUD and that treating these illnesses is more cost-effective than hospitalization and incarceration.[443] Legislators have also been swayed

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[435] *Hearing before the House Committee on Public Health for HB 10, Texas House of Representatives,* 85th Session (2017, February 28). Retrieved from **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12797** and **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12788**.
[436] Listening Session, Stakeholder 2.
[437] *Id.*
[438] *Id.*
[439] *Id.*
[440] Listening Sessions, Stakeholder 3.
[441] Listening Session, Stakeholder 2.
[442] Listening Sessions, Stakeholders 2 and 3.
[443] *Id.*

by the argument that investing in state services reduces costs to localities because the local sheriffs' association has been effective in making that case.[444]

Despite making a greater investment in mental health, services for mental health, and SUD in particular, are still significantly underfunded.[445] Community Mental Health Grants were provided to communities for mental health treatment, and advocates are seeking to add SUD services to these grants.[446]

Texas Department of Insurance (TDI)

TDI oversees health plans that cover approximately 20 percent of Texans.[447] TDI was generally described by stakeholders as having a heightened awareness around parity, responsive to HB 10, and performing the required audits.[448]

TDI created a self-audit survey for insurers, which was described as "thorough."[449] The Parity Workgroup will be analyzing the results of the survey.[450] One stakeholder suggested that while TDI has the authority to evaluate compliance, responsibility should lay with insurers not to sell non-complaint plans.[451]

Stakeholders said TDI is underfunded and understaffed.[452] They are not proactive but could be if they had more resources and greater enforcement authority.[453]

History of Stakeholder Advocacy to Expand Treatment Access and Parity Enforcement

Stakeholder 1 reported advocating for parity prior to passage of the Mental Health Parity and Addiction Equity Act in 2008. In 2011, advocates reached out to TDI to encourage better parity enforcement. The legislature began to examine parity in 2016, while creating the Interim Report on Mental Health, which then led to HB 10.[454]

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[444] Listening Sessions, Stakeholder 3.
[445] Listening Sessions, Stakeholders 2 and 3.
[446] Listening Sessions, Stakeholder 2.
[447] Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature*. (p. 61).
[448] Listening Session, Stakeholder 1.
[449] *Id.*
[450] *Id.*
[451] *Id.*
[452] Listening Session, Stakeholder 2.
[453] *Id.*
[454] Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature*.

Key Parity Act Compliance Issues

One stakeholder shared that there are fewer parity violations overall than five years ago.[455] Although there are still issues with parity and access to MH/SUD care, there has been improvement with compliance.[456]

Medical Necessity Denials

Denials of care for lack of medical necessity are the most common type of denial by insurers, both before and after HB 10.[457] The plans were described as having a lot of flexibility to determine medical necessity criteria and to use it to deny care.[458] Insurance companies were described as hiding behind medical necessity criteria as a way to reduce costs in the short term and deny care.[459] Medical necessity denials are particularly common for requests for inpatient and residential treatment.[460] This issue was detailed by the Houston Chronicle in an article published in 2015.[461] In a House Hearing on HB 10, a representative of NAMI cited a 2015 NAMI parity report which found that nearly one-third of respondents reported denials of MH care on the basis of medical necessity – more than twice the percentage for other health care.[462] In the report required by HB 10, TDI found that while the percentage of claims denied overall did not differ between medical/surgical and MH/SUD services (roughly 22 percent of claims were denied for both), claims for MH/SUD inpatient treatment were denied over 60 percent more often than medical/surgical claims.[463]

In a hearing before the House on HB 10, Jacob Cuellar from TX Hospital Association and the CEO of Laurel Ridge Treatment Center provided specific examples of patients with severe

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[455] Listening Session, Stakeholder 1.
[456] *Id.*
[457] Listening Session, Stakeholder 3.
[458] *Id.*
[459] *Id.*
[460] *Id.*
[461] Deam, J. (2015, October 17). 'Medical necessity' decried as a loophole for insuring the mentally ill. *Houston Chronicle*. Retrieved from **https://www.houstonchronicle.com/business/medical/article/Medical-necessity-decried-as-a-loophole-for-6576016.php**.
[462] *Hearing before the House Committee on Public Health for HB 10*, *Texas House of Representatives,* 85th Session (2017, February 28). Retrieved from **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12797** and **http://tlchouse.granicus.com/MediaPlayer.php?view_id=40&clip_id=12788.** (Testimony of Deborah Rosales Elkins, Peer policy fellow of NAMI Texas)
National Alliance on Mental Illness. (2015). *A Long Road Ahead: Achieving True Parity in Mental Health and Substance Use Care.* Retrieved from **https://www.nami.org/About-NAMI/Publications-Reports/Public-Policy-Reports/A-Long-Road-Ahead/2015-ALongRoadAhead.pdf.** (p. 4).
[463] Texas Department of Insurance. (2018). *Study of Mental Health Parity to Better Understand Consumer Experiences with Accessing Care.* Retrieved from **https://www.tdi.texas.gov/reports/documents/Final-draft-HB-10-report-8.31.18.pdf**. (pp. 11-12).

mental health conditions or substance use disorders who were denied admission by their insurance company.[464] Another witness testified that a large MCO consistently required at least one-half of treatment requests for child psychiatric care to go through peer-to-peer reviews, which was creating a workforce shortage because psychiatrists were on the phone dealing with the review instead of providing care to patients.[465]

A stakeholder described the health plan doctors involved in making determinations and peer-to-peer reviews as not always knowledgeable about SUD care.[466] The stakeholder noted that it would be ideal to require plans to cover the full continuum of care and require the use of ASAM Criteria for level of care and medical necessity determinations.[467] Per the court's ruling in *Wit v. United Behavioral Health*, carriers offering plans in Texas should comply with utilization review standards and guidelines established by the Texas Commission on Alcohol and Drug Abuse for admission, continued stay and discharge.[468]

Parity Interpreted as Applying only to Adults

One stakeholder shared that the Texas parity law is being interpreted to apply only to adults so they are working to define serious emotional disturbance in the insurance law to make clear that the parity law also applies to children and adolescents (HB 501).[469]

Network Adequacy

Many MH/SUD providers do not participate with insurance and only accept out-of-pocket payments.[470] This puts care out of reach for many individuals.[471] Specifically, more psychologists/psychiatrists are moving to private pay and are therefore inaccessible to low-income patients.[472] Providers may elect not to participate with insurance because the reimbursement rates are too low or because they have more flexibility and can assess fees to patients who do not keep appointments, a practice which may not be permitted by insurers.[473] Other issues that contribute to provider reluctance to participate with networks include administrative burden and untimely payments. In fact, some providers contract with

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[464] *Hearing before the House Committee on Public Health for HB 10*, *Texas House of Representatives,* 85th Session (2017, February 28).
[465] *Id*. (Testimony of Christine Bryant).
[466] Listening Session, Stakeholder 1.
[467] *Id.*
[468] Wit v. United Behavioral Health, No. 14-cv-02346-JCS, slip op. at 106 (N.D. Cal., Feb. 28, 2019).
28 TEX. ADMIN. CODE § 3.8001 – 3.8030 (1991).
[469] Listening Session, Stakeholder 3.
[470] Listening Session, Stakeholder 2.
[471] *Id.*
[472] *Id.*
[473] *Id.*

carriers who offer lower reimbursement rates but are easier to work with and pay quickly.[474] Providers who are part of a larger health system have more support to deal with the administrative burden but those in private practice are essentially small business owners who do not have electronic health records, which makes plan administrative requirements more burdensome.[475] Audits are another burden imposed on providers by plans.[476]

Reimbursement Rates

One stakeholder noted that Texas is a "right to work" state, so providers are prohibited from discussing rates. There isn't transparent information about reimbursement rates.[477] In Medicaid, social workers, marriage and family therapists and counselors are paid 70 percent of the psychiatrist rate.[478] In 2016, the Legislature recommended that HHSC address this disparity.[479]

Payment Claw-Backs

There is not alignment between the rules in Medicaid and private insurance for clawing back payments made to providers.[480] While commercial plans have 180 days to recoup payments, Medicaid can claw-back payments for up to two years.[481] This creates a lot of uncertainty for providers and disincentivizes them from participating in the Medicaid program.[482]

Complaints Process

TDI has a process for providers to file complaints with an Independent Review Organization (IRO). One stakeholder, who works for a treatment center, explained that the facility does not take complaints to the IRO because the issue can frequently be resolved with the insurance company and it "takes a lot of manpower" to bring a complaint and may cost more to bring the complaint than would be recovered if resolved.[483] There is also a lack of transparency around the review and whether or not it is truly independent.[484] The treatment facility does not file parity complaints because they are also difficult and patient

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[474] *Id.*
[475] *Id.*
[476] *Id.*
[477] *Id.*
[478] *Id.*
[479] Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature*. (p. 72).
[480] Listening Session, Stakeholder 2.
[481] *Id.*
[482] *Id.*
[483] Listening Session, Stakeholder 1.
[484] Listening Session, Stakeholder 2.

authorization is required.[485] Nonetheless, TDI was described as good at responding to complaints.[486] In 2015, TDI reported receiving only ten complaints related to parity.[487]

Unlike TDI, HHSC does not have a provider complaint process nor dedicated staff to respond to complaints.[488]

Although the Ombudsman was created to help consumers, the Ombudsman is not receiving complaints.[489] Often, consumers are not aware of the option to contact the Ombudsman.[490] The Ombudsman was not well advertised and only a few fact sheets have been developed.[491] There was no money in HB 10 to advertise the Ombudsman, and one stakeholder suggested a public awareness campaign is needed.[492] Nonetheless, even when provided with the information, consumers are reluctant to take the extra step to contact the Ombudsman and file a complaint.[493] The complaints process was described as difficult even for an educated and experienced person, much less a person who is in crisis.[494] In addition, one stakeholder added that "people don't trust the process" because there is no guarantee of a quick resolution.[495] The complaints process is lengthy and does not provide treatment on the day that it is needed.[496]

The Ombudsman was described as a "last resort" when all other options have been exhausted.[497] The Ombudsman is only allowed to work with consumers.[498] Advocates are pushing for a parallel system for providers by establishing an arbitrator.[499] There is also confusion around the role of the Ombudsman and whether the Ombudsman is responsible for addressing parity or whether its role is limited to helping consumers find providers and care.[500] The Ombudsman serves an important role as a single point of entry for complaints but needs a clear mandate about how to refer consumers.[501]

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[485] Listening Session, Stakeholder 1.
[486] Listening Session, Stakeholder 2.
[487] Texas Legislature, House Select Committee on Mental Health. (2016). *Interim Report to the 85th Texas Legislature* (p. 62).
[488] Listening Session, Stakeholder 2.
[489] Listening Session, Stakeholder 3.
[490] *Id.*
[491] *Id.*
[492] *Id.*
[493] *Id.*
[494] Listening Session, Stakeholder 1.
[495] Listening Session, Stakeholder 3.
[496] Listening Sessions, Stakeholders 1 and 3.
[497] Listening Session, Stakeholder 1.
[498] Listening Session, Stakeholder 2.
[499] *Id.*
[500] *Id.*
[501] *Id.*

One stakeholder noted that only 16-17 percent of people in Texas are covered by plans subject to TDI's jurisdiction.[502] Most people with private insurance are covered under self-insured plans under the Department of Labor's (DOL) jurisdiction. The stakeholder reported that the treatment facility had not previously worked with DOL or EBSA on parity complaints for self-insured plans.[503]

Stakeholders agreed that a consumer or provider complaint process is insufficient for enforcing parity and that proactive investigations are needed.[504]

Penalties/Enforcement Mechanism

There are no penalties or enforcement mechanisms for non-compliance, although the Parity Workgroup is currently reviewing this and may make recommendations to establish penalties.[505] The stakeholder also noted that DOL does not have an effective enforcement mechanism for parity compliance.[506]

Prior Authorization/Concurrent Review

In a hearing before the House on HB 10, several witnesses testified that prior authorization requirements were a barrier to care.[507] However, in more recent interviews, stakeholders did not identify prior authorization as a significant barrier "because of parity."[508] In the report required by HB 10, TDI found that prior authorization requests were more likely to be denied for medical/surgical benefits than for MH/SUD benefits (15.4 percent compared to 11.7 percent) and were more likely to be approved or denied more quickly for MH/SUD services (both inpatient and outpatient).[509] Continuing care/concurrent review certifications were identified as a bigger issue.[510] In a hearing before the House on HB 10, one witness testified that some plans require daily concurrent review.[511] According to the witness, this

[502] Listening Session, Stakeholder 1.
[503] *Id.*
[504] Listening Session, Stakeholder 2.
[505] Listening Session, Stakeholder 1.
[506] *Id.*
[507] *Hearing before the House Committee on Public Health for HB 10*, *Texas House of Representatives,* 85th Session (2017, February 28).
[508] Listening Sessions, Stakeholders 1 and 2.
[509] Texas Department of Insurance. (2018). *Study of Mental Health Parity to Better Understand Consumer Experiences with Accessing Care.* Retrieved from **https://www.tdi.texas.gov/reports/documents/Final-draft-HB-10-report-8.31.18.pdf**. (pp. 17-18).
[510] Listening Session, Stakeholder 1.
[511] *Hearing before the House Committee on Public Health for HB 10*, *Texas House of Representatives,* 85th Session (2017, February 28). (Testimony of Jacob Cuellar, TX Hospital Association, CEO of Laurel Ridge Treatment Center)

became so burdensome administratively that the hospital had to hire additional case managers and staff with a salary burden of roughly half a million dollars per year.[512]

Non-Medical Switching of Medications

One stakeholder described efforts to pass legislation to end "non-medical switching" of medications to prevent insurers from forcing patients to change medications, for which they are approved and using successfully, based on formulary changes and other policies that limit access to the medication.[513]

Lifetime Limits

Many individuals have commercial policies that impose a lifetime limit of three series of treatment.[514] Stakeholder 1 shared that these types of restrictions are common in commercial policies. They are also permitted under the State's SUD benefit mandate.

Treatment Capacity

Stakeholders noted there are not enough providers to meet the demand for treatment.[515] Nearly 70 percent (177/254) of the State's counties are rural.[516] Many of these areas also have a shortage of health care providers.[517] The State has large rural areas where there is limited or no access to medical or MH/SUD providers.[518]

Treatment capacity issues for SUD services are particularly acute. HHSC's SUD treatment contractors are located in urban areas, and patients in rural areas, particularly on the southern border, may not be able to access services.[519] Patients without access to outpatient care may end up with residential treatment if outpatient treatment is too far away.[520]A 2018 Interim Report on Opioids and Substance Abuse identified a number of specific treatment capacity issues, including: too few OSARs; the need for services regularly

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[512] *Id.*

[513] Listening Session, Stakeholder 3.

[514] Listening Session, Stakeholder 1.

[515] Listening Session, Stakeholder 2.

[516] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/hb1-statewide-behv-hlth-idd-plan-feb-2019.pdf**. (p. 11).

[517] Listening Session, Stakeholder 2.

[518] *Id.*

[519] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* (p. 52).

[520] *Id.* at p. 52.

exceeding capacity, resulting in waiting lists for care; underserved areas and populations, including rural areas, women and individuals with co-occurring MH/SUD being unable to access to access treatment; lack of screening/referrals from the health care system; and limited access to MAT, including a low number of providers licensed to prescribe methadone and buprenorphine.[521]

Many practitioners are nearing retirement age and there are not enough providers graduating from State schools to meet demand.[522] The State has created student loan repayment programs to incentivize behavioral health providers to serve communities with provider shortages.[523]

Medicaid Expansion

Texas has not elected to accept expansion of its Medicaid program under the Affordable Care Act; one million individuals would be eligible for coverage under the expansion.[524]

Lack of Coordination

One stakeholder noted that most people with mental health issues enter through the physical health care system and need to be linked with a mental health professional.[525] The legislature can incentive better care coordination through reimbursing for referrals and oversight.[526]

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[521] Texas Legislature, House Select Committee on Opioids and Substance Abuse. (2018). *Interim Report to the 86th Texas Legislature.* (p. 30).
[522] Texas Health and Human Services. (2019). *Texas Statewide Behavioral Health Fiscal Years 2017-2021 Strategic Plan Update and the Foundation for the IDD Strategic Plan.* (p. 53).
[523] *Id.* at pp. 36-37.
[524] Norris, L. (2019, January 10). Texas and the ACA's Medicaid expansion. *Healthinsurance.org.* Retrieved from **https://www.healthinsurance.org/texas-medicaid/**.
Kaiser Family Foundation. (2019). *Uninsured Adults in Texas Who Would Become Eligible for Medicaid under Expansion.* Retrieved from **http://files.kff.org/attachment/fact-sheet-medicaid-expansion-TX**.
Berchick, E.R., Hood, E., & Barnett, J.C. (2018). Health Insurance Coverage in the United States: 2017. *United States Census Bureau.* Retrieved from **https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-264.pdf**.
[525] Listening Session, Stakeholder 2.
[526] *Id.*

CONCLUSION

Texas has only recently begun to address parity, and stakeholders report improved parity compliance since the adoption of the State's parity law, HB 10. Prior to 2017, the federal government was responsible for parity enforcement. In a short period of time, Texas has implemented several effective parity enforcement strategies, including establishing a Parity Task Force to develop recommendations for implementation, compliance and enforcement. The law also required data reporting on NQTL compliance, and reports were prepared and submitted by TDI and HHSC in 2018. The reports provide baseline data on prior authorization and utilization review requirements, medical necessity denials, and external and internal appeals and appeal approval/denial rates for medical/surgical and MH/SUD benefits. It also identifies important trends in carrier and MCO practices that affect access to MH/SUD services. While HB 10 established a one-time data reporting requirement, the Parity Workgroup may recommend adoption of ongoing data reporting. HB 10 also established an Ombudsman to assist with consumer complaints, but it remains to be seen whether consumers will utilize the Ombudsman.

Texas has adopted benefit mandates for serious mental illness, alternative mental health benefits and psychiatric day treatment, but those mandates apply inconsistently to different types of plans. The State's benefit mandates for mental health and SUD should be revised to apply consistently to the full range of group plans and extended to small group (for mental health benefits) and individual plans, removing any option for employers to opt out of coverage. The SUD benefit mandate should be revised to remove the lifetime limit of three series of treatment and ensure the mandate is parity compliant.

In Medicaid, mental health and SUD benefits are covered under the State plan, waivers and through managed care. Nonetheless, more than one million Texans are uninsured because the State has not elected to expand Medicaid under the Affordable Care Act.

Texas has adopted quantitative metrics to define network adequacy and regulatory processes to monitor compliance in both public and private insurance. Nonetheless, stakeholders noted low network participation among MH/SUD providers in private insurance networks. In addition, treatment capacity remains a significant issue in the State with many rural Texans unable to access care. Reimbursement rates and other barriers to network participation should be closely reviewed to identify strategies for increasing access to affordable care. Stakeholders also identified barriers related to medical necessity, concurrent review and provider contracting.

While the State has made progress in increasing mental health treatment access, SUD treatment access remains a significant problem. The legislature has been more focused on

mental health than substance use disorder services and has addressed mental health in other contexts (e.g., criminal justice system and schools). Substance use has likely been less of a priority for the legislature because the State has not been as hard hit by the opioid epidemic as other eastern and mid-western states. Nonetheless, methamphetamine and alcohol use are significant problems in the State and increased treatment access is needed.

Texas has adopted several promising strategies, including data reporting requirements, an Ombudsman and quantitative metrics for network adequacy, which can be used as models in other states. Nonetheless, a high uninsured rate, particularly among individuals who would be eligible for coverage under Medicaid expansion, and an insufficient number of MH/SUD providers to treat individuals in need, particularly in rural areas, are significant barriers to expanding access to affordable life-saving care.

Acknowledgements

This work was funded, in part, with generous support from Arnold Ventures.

EXHIBITS

Exhibit 1: Benefit Mandates for Health Plans

Type of group policy (issued by):	Benefits for Serious Mental Illness[527]	Alternative mental health treatment benefits[528]	Psychiatric Day Treatment[529]	Autism Services[530]	Substance Use Disorder Benefits[531]	Parity[532]
Accident and health insurance group policies (ch. 1201)	☒[533]	☒	☒	☒[534]	☒	☒[535]
Group hospital service corporations (ch. 842)	☒	☒	☒	☒	☒	☒
Health Maintenance Organizations (ch. 843)	☒	☒	Silent	☒	☒	☒
Fraternal benefit societies (ch. 885)	☒	Silent	Silent	☒	Silent	☒

[527] TEX. INS. CODE ANN. art. 1355, Subchapter A.
[528] TEX. INS. CODE ANN. art. 1355, Subchapter B.
[529] TEX. INS. CODE ANN. art. 1355, Subchapter B. Note policyholders may reject coverage and select an alternative level of benefits. TEX. INS. CODE ANN. art. 1355.106.
[530] TEX. INS. CODE ANN. art. 1355, Subchapter A.
[531] TEX. INS. CODE ANN. art. 1368.
[532] TEX. INS. CODE ANN. art. 1355, Subchapter F.
[533] Not explicitly listed but presumed to be included in definition of a group insurance policy, agreement, hospital service corporation or evidence of coverage offered by an insurance company. TEX. INS. CODE ANN. art. 1355.002(1)(a).
[534] Not explicitly listed but presumed to be included in definition of a group insurance policy, agreement, hospital service corporation or evidence of coverage offered by an insurance company. TEX. INS. CODE ANN. art. 1355.002(1)(a).
[535] Not explicitly listed but presumed to be included in definition of group health benefit plan that provides hospital and medical coverage offered by an insurer. TEX. INS. CODE ANN. art. 1368.002(1).

Type of group policy (issued by):	Benefits for Serious Mental Illness[527]	Alternative mental health treatment benefits[528]	Psychiatric Day Treatment[529]	Autism Services[530]	Substance Use Disorder Benefits[531]	Parity[532]
Stipulated premium companies (ch. 884)	☒	Silent	Silent	☒	Silent	☒
Multiple employer welfare arrangements and "analogous benefit requirements" under ERISA (ch. 846)	☒	Silent	Silent	☒	Silent	☒
Basic plans (ch. 1575)	☒	Silent	Silent	☒	Silent	Silent
Primary care coverage plans (ch. 1579)	☒	Silent	Silent	☒	Silent	Silent
Texas employee group plans (ch. 1551)	Explicitly Exempt	Silent	Silent	Explicitly Exempt	Silent	If covered, SMI benefits cannot be "less extensive" than coverage for "any physical illness"[536]
Group plans for employees of Texas universities (ch. 1601)	Explicitly Exempt	Silent	Silent	Explicitly Exempt	Silent	If covered, SMI benefits cannot be "less extensive" than coverage for "any physical illness"[537]
Local government plans (ch. 1355.151)	Explicitly Exempt	Silent	Silent	Explicitly Exempt	Silent	If covered, SMI benefits cannot be "less extensive" than coverage for

[536] TEX. INS. CODE ANN. art. 1551.205(2) (2003).
[537] TEX. INS. CODE ANN. art. 1601.109(2) (2003).

Type of group policy (issued by):	Benefits for Serious Mental Illness[527]	Alternative mental health treatment benefits[528]	Psychiatric Day Treatment[529]	Autism Services[530]	Substance Use Disorder Benefits[531]	Parity[532]
						"any physical illness"[538]
Employer, trustee, or other self-funded or self-insured plan or arrangement with more than 250 employees	Silent	Silent	Silent	Silent	☒	Silent
Plans with less than 250 members/employees	Silent	Silent	Silent	Silent	Explicitly Exempt	Silent
Individual plan (policies and HMOs)	Silent	Silent	Silent	Silent	Explicitly Exempt	☒
Small employer plans	☒ (employer may reject coverage)	Silent	Silent	☒ (employer may reject coverage)	☒	☒
Health insurance policy that provides only: cash indemnity for hospital or other confinement benefits, supplemental or limited benefit coverage, coverage for specified diseases or accidents, disability income	Silent	Silent	Silent	Silent	Explicitly Exempt	Silent

[538] TEX. INS. CODE ANN. art. 1355.151 (2005).

Type of group policy (issued by):	Benefits for Serious Mental Illness[527]	Alternative mental health treatment benefits[528]	Psychiatric Day Treatment[529]	Autism Services[530]	Substance Use Disorder Benefits[531]	Parity[532]
coverage, or any combination of those benefits or coverages						
Blanket insurance policy	Explicitly Exempt	Silent	Silent	Explicitly Exempt	Explicitly Exempt	☒
Medicare policies	Explicitly Exempt	Silent	Silent	Explicitly Exempt	Explicitly Exempt	Explicitly Exempt
HMOs subject to a collective bargaining agreement in effect as of January 1, 1982	Silent	Silent	Silent	Silent	Explicitly Exempt	Silent
Reciprocal Exchange (ch. 942)	Silent	Silent	Silent	Silent	Silent	☒
Lloyd's Plan (ch. 941)	Silent	Silent	Silent	Silent	Silent	☒
Approved nonprofit health corporation w/ certificate of authority (ch. 844)	Silent	Silent	Silent	Silent	Silent	☒

Exhibit 2: Commercial Plan Review

Plan documents retrieved from SERFF and on file with Center on Addiction and Legal Action Center

	Ambetter[539]	Community Health Choice[540]	Molina[541]
Inpatient	MH, SUD (pp. 18, 41)	MH, SUD (p. 20)	MH, SUD (PA) (pp. 41-42, 62-63)
Residential	MH, SUD (pp. 23, 41)	MH, SUD (p. 20, 76)	MH, SUD (pp. 60, 63)
Intensive Outpatient	MH, SUD (pp. 18, 42)		MH, SUD (pp. 40-41, 56, 60)
Partial Hospitalization	MH, SUD (pp. 21, 41)	MH, SUD (pp. 20, 73)	MH, SUD (PA) (pp. 41-42, 56, 60)
Outpatient	MH, SUD (pp. 21, 41-42)	MH, SUD (p. 20)	MH, SUD (pp. 40-41, 55-56, 60)
Emergency/ Crisis Intervention			MH (pp. 43, 60)
Methadone/OTP			
Medication Assisted Treatment[542]	SUD (p. 42)		
Detoxification/Medical treatment for withdrawal symptoms	SUD (p. 42)		SUD (PA) (pp. 41-42, 56, 63)
Electro-convulsive therapy (ECT)	MH, SUD (pp. 41-42)		MH (PA) (p. 41)
Telemedicine	MH, SUD (p. 42)		
Medication management	MH, SUD (p. 41)		
Psychological and neuropsychological testing and assessment	MH (p. 41)		MH (PA) (p. 41)
Evaluation and assessment	MH, SUD (p. 42)		MH, SUD (pp. 40-41, 54, 56)
Preventive Services and Screenings (alcohol and drug screening/assessment and counseling, depression screening, behavioral assessments)	MH, SUD (pp. 57-58)	MH, SUD (pp. 25-27, 74)	MH, SUD (pp. 51-53)

[539] Ambetter from Superior Healthplan. (2019). *2019 Major Medical Expense Policy.*
[540] Community Health Choice. (2019). *Health Benefit Plan Evidence of Coverage Heath Insurance Marketplace – Deductible*.
[541] Molina Healthcare of Texas, Inc. (2019). *Molina Healthcare of Texas, Inc. Agreement and Evidence of Coverage – Molina Marketplace Choice Plan: Texas*.
[542] This includes coverage for medication assisted treatment specifically noted in the Evidence of Coverage documents and does account for medications that may be covered on the formulary. For information on medication coverage in commercial plans, see Exhibit 3, Commercial Plan Formularies.

	Ambetter[539]	Community Health Choice[540]	Molina[541]
Exclusion: drugs consumed at the time and place where dispensed	General Exclusion (p. 56)	General Exclusion (p. 38)	
Exclusion: wilderness treatment programs, outdoor therapy, equine therapy, halfway houses, hypnosis, etc.	General Exclusion (p. 65)	MH/SUD Exclusion (halfway house) and General Exclusion (pp. 20, 35-36)	General Exclusion (pp. 78-82)
Exclusion: Court-ordered services	MH Exclusion (p. 65)		General Exclusion (p. 78)
Exclusion: services for an illness/injury incurred as a result of intoxication or being under the influence of narcotics or controlled substance (not prescribed)		General Exclusion (p. 32)	

Exhibit 3: Commercial Plan Formularies

	Ambetter[543]	BlueCross BlueShield[544]	Community Health Choice[545]	Molina[546]
Opioid Reversal	Naloxone (T1) Narcan (T3, QL)	Naloxone (T2*, T4*) Narcan (T3)	Naloxone (T2*, T3*, QL*) Narcan (T2, QL)	Naloxone (T1) Narcan (T2)
Opioid Dependence Treatments: Buprenorphine	Buprenorphine (T1, QL*)	Buprenorphine (T2, QL)		Buprenorphine (T1)
Opioid Dependence Treatments: Buprenorphine-Naloxone	Buprenorphine-Naloxone (T1, PA*, QL) Bunavail® (T3, PA) Suboxone® (T3, PA, QL) Zubsolv® (SP, PA) Probuphine® (SP, PA)	Buprenorphine-Naloxone (T2, QL) Suboxone® (T3, QL)	Buprenorphine-Naloxone (film only, T2) Bunavail® (T2) Suboxone® (film only, T2) Zubsolv® (T2)	Buprenorphine-Naloxone (T1)
Opioid Dependence Treatments: Naltrexone	Naltrexone (T1)	Naltrexone (T2) Vivitrol® (M)	Naltrexone (T1) Revia® (T3)	Naltrexone (T1)
Alcohol Deterrents	Acamprosate (T1) Disulfiram (T1)	Acamprosate (T2) Disulfiram (T2)	Acamprosate (T2) Disulfiram (T1) Antabuse® (T3) Campral® (T3)	Acamprosate (T2, PA) Disulfiram (T1)

[543] Ambetter from Superior HealthPlan. (2019). *2019 Prescription Drug List* [Effective July 1, 2019]. Accessed July 9, 2019. On file with Center on Addiction or Legal Action Center.
[544] BlueCross BlueShield of Texas. (2019). *Health Insurance Marketplace 6 Tier Drug List* [July 2019]. Accessed July 9, 2019. On file with Center on Addiction or Legal Action Center.
BlueCross BlueShield of Texas. (2019). *AllianceRx Walgreens Prime Specialty Pharmacy Drug Management List [March 1, 2019].* Accessed July 9, 2019. On file with Center on Addiction or Legal Action Center.
[545] Community Health Choice. (2019). *Summary of Formulary Benefits* [Last Updated May 1, 2019]. Accessed July 9, 2019. On file with Center on Addiction or Legal Action Center.
[546] Molina Healthcare. (2018). *2019 Formulary (List of Covered Drugs): Texas* [March 28, 2019]. Accessed July 9, 2019. On file with Center on Addiction or Legal Action Center.

	Ambetter[543]	BlueCross BlueShield[544]	Community Health Choice[545]	Molina[546]
Not Covered	Evzio Sublocade Belbuca Subutex® Vivitrol® Revia® Depade® Antabuse®† Campral®	Evzio Sublocade Belbuca Subutex® Bunavail® Zubsolv® Probuphine® Revia®† Depade® Antabuse®† Campral®	Evzio Buprenorphine Sublocade Belbuca Subutex® Probuphine® Vivitrol® Depade®	Evzio Sublocade Belbuca Subutex® Bunavail® Suboxone® Zubsolv® Probuphine® Vivitrol® Revia® Depade® Antabuse® Campral®

T = Tier PA = Prior Authorization QL = Quantity Limitations ST = Step Therapy E = May be excluded from coverage
SP = Specialty Drug MDD = Maximum Daily Dose LA = Limited Availability M = covered as a medical benefit
** = Only applies to some formulations † = Covered as the generic version of the drug ‡ = Covered as an alcohol deterrent*
†† = Covered as the brand version of the drug

Exhibit 4: Medicaid Benefits

Service	MH/SUD	Covered Under	Description	Limitations
Health and Behavior Assessment and Intervention (HBAI)	MH/SUD	State Plan Service per Texas Medicaid and CHIP in Perspective[547] (p. 107)	"Designed to identify psychological, behavioral, emotional, cognitive, and social factors that are important to prevent, treat, or manage physical health symptoms . . . [and] promote physical and behavioral health integration."	Up to age 20
PCP screening and evaluation	MH/SUD	Uniform Managed Care Contract[548] (Attachment B-1 at 8-111-112)	PCPs must have "screening and evaluation procedures for the detection and treatment of, or referral for," behavioral health problems.	
Texas Health Steps (THSteps) Mental Health Screening	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)	MH screening required at each THSteps medical checkup	Through age 20 One-time MH screening for children 12-18 using 1 of 4 standardized screening tools is separately payable to providers as of 2015
Psychiatric diagnostic evaluation and psychotherapy	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)	Performed by psychiatrists, psychologists, licensed clinical social workers, licensed professional counselors, and licensed marriage and family therapists.	
Psychological and neuropsychological testing	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)	Performed by psychologists and physicians	

[547] Texas Health and Human Services Commission. (2017). *Texas Medicaid and CHIP in Perspective*. Retrieved from **https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2017/medicaid-chip-perspective-11th-edition/11th-edition-complete.pdf**.

[548] Texas Health and Human Services Commission. (2019). *Uniform Managed Care Terms & Conditions.* Retrieved from **https://hhs.texas.gov/sites/default/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf**.

Service	MH/SUD	Covered Under	Description	Limitations
Inpatient	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108) Uniform Managed Care Contract (Attachment B-2, 4-5; Attachment B-2.2 at 6)	Psychiatric care in a general acute care hospital and psychiatric hospital.	Inpatient care in a psychiatric hospital is for individuals under 21 or 65+
Inpatient psychiatric care follow-up	MH	Uniform Managed Care Contract (Attachment B-1 at 8-112)	Members receiving inpatient psychiatric services must be "scheduled for outpatient follow-up and/or continuing treatment prior to discharge," which must occur within 7 days of discharge.	
Acute Inpatient	MH	Uniform Managed Care Contract (Attachment B-2 at 4)		Adults
Outpatient	MH	Uniform Managed Care Contract (Attachment B-2 at 4; Attachment B-2.2 at 6)		
Psychiatry Services	MH	Uniform Managed Care Contract (Attachment B-2 at 4; Attachment B-2.2 at 6)		
Counseling Services	MH	Uniform Managed Care Contract (Attachment B-2 at 4; Attachment B-2.2 at 6)		Adults 21+
Medications and medication management	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)	Psychotropic medications and pharmacological management of medications	
Mental health rehabilitation	MH/SUD	State Plan[549] (PDF p. 504-507; 732-735)	Services to reduce disability related to SMI, SED, and mental illness, restore	For adults with severe and persistent mental

[549] Texas Health and Human Services Commission. (2019). *State Plan Attachments*. Retrieved from **https://apps.hhs.texas.gov/documents/medicaid-chip-state-plan-attachments.pdf**.

Service	MH/SUD	Covered Under	Description	Limitations
		State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108) 1 Tex. Admin. Code §353.1401 Uniform Managed Care Contract (Attachment B-2 at 4; Attachment B-2.2 at 6; Attachment B-1 at 8-182)	functioning, maintain independence, and/or remain in the community. Services include: medication training and support; psychosocial rehabilitative services; skills training; crisis intervention and day programs.	illness and children and adolescents 3-17 diagnosed with a mental illness or SED.
Mental health targeted case management	MH/SUD	State Plan (p. 292-295) State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108) 1 Tex. Admin. Code §353.1401 et. Seq. Uniform Managed Care Contract (p. Attachment B-2 at , 6; Attachment B-2.2 at 6; Attachment B-1 at 8-182;)	Provide referrals to medical, social, educational, and other services and supports, based on care plan.	For adults with severe and persistent mental illness and children and adolescents 3-17 diagnosed with a mental illness or SED. Eligibility determined by a standardized assessment.
Primary care provider behavioral health treatment	MH	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)	Care and treatment of behavioral health conditions by a PCP.	
Emergency and urgent behavioral health conditions	MH/SUD	Uniform Managed Care Contract	An emergency behavioral health condition is “any condition, without regard to the nature or cause of the condition, which in the opinion of a prudent layperson possessing an average knowledge of health and medicine: (1) requires immediate	

Service	MH/SUD	Covered Under	Description	Limitations
			intervention and/or medical attention without which Members would present an immediate danger to themselves or others, or (2) renders Members incapable of controlling, knowing or understanding the consequences of their actions." (Attachment A at 8) An urgent behavioral health situation is "a behavioral health condition that requires attention and assessment within 24 hours but which does not place the Member in immediate danger to himself or herself or others and the Member is able to cooperate with treatment." (Attachment A at 19)	
Service management	MH/SUD	Uniform Managed Care Contract (Attachment B-1 at 8-104)	Service management includes "the development of a Service Plan and ensuring access to treatment by a multidisciplinary team when necessary." The MCO must develop a "seamless package of care in which primary, Acute Care, and specialty service needs are met."	Members with Special Health Care Needs (MSHCN), which includes "members with mental illness and co-occurring substance abuse diagnoses" and "members identified by the MCO as having behavioral health issues, including substance use disorders, or serious emotional disturbance or serious and persistent mental illness, that may affect their physical health or treatment compliance." (Attachment B-1 at 8-102.)

Service	MH/SUD	Covered Under	Description	Limitations
Home and community-based services	MH	1915(i) SPA State Plan (p. 840)	"Host home/companion care, supervised living services, assisted living, supported home living, psychosocial rehabilitative services, employment services, minor home modifications, home-delivered meals, transition assistance services, adaptive aides, transportation services, community psychiatric supports and treatment, peer support, short-term respite care, SUD services, nursing, flexible funds, and recovery management." (Texas Medicaid and CHIP in Perspective p. 110) Services provided in an individual's home, assisted living, or small community-based residence (Texas Medicaid and CHIP in Perspective p. 110)	Adults 18+ with SMI who: Require services to "improve or maintain functioning, prevent relapse to a lower level of functioning, and maintain residence in the community," as determined through Adult Needs and Strengths Assessment; and: have had 3+ years of inpatient psychiatric hospitalization during the past 5 years; or 2+ psychiatric crises and 4+ repeated discharges from correctional facilities in the past 3 years; or 2+ psychiatric crises and 15+ total ED visits in the past 3 years Expanded eligibility criteria in 2017 to include "adults with a diagnosis of serious mental illness (SMI) who have a history of psychiatric crisis and repeated discharges from correctional facilities, as well as adults with a diagnosis of SMI who have a pattern of emergency department utilization." (SPA 16-0001)

Service	MH/SUD	Covered Under	Description	Limitations
Youth Empowerment Services (YES)	MH	1915(c) waiver	Intensive community-based services "Adaptive aids and supports; community living supports; employment assistance; family supports; minor home modifications; non-medical transportation; paraprofessional services; pre-engagement service (for non-Medicaid applicants); respite (in-home and out-of-home); specialized therapies (animal-assisted therapy, art therapy, music therapy, nutritional counseling, and recreational therapy); supported employment; supportive family-based alternatives; and transitional services." (Texas Medicaid and CHIP in Perspective p. 110)	Children and adolescents 3-18 with SED and their families
Health home services for co-occurring disorders	MH	SB 58[550] (Tex. Gov't Code Ann. §533.00255)	Two Medicaid health home pilot programs in two health service areas of the state	Individuals with SMI and a co-occurring chronic condition
SBIRT	SUD	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108)		Included in 2009 to provide SBIRT intervention for adolescents who present at EDs for trauma or injury; expanded in 2016 to include adults and community-based settings. Also allows for reimbursement for screening-only sessions

[550] Texas Legislature. (2013). Senate Bill 58, Legislative Session 83(R). Retrieved from **https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=83R&Bill=SB58**.

Service	MH/SUD	Covered Under	Description	Limitations
Outpatient	SUD	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 108-09) Uniform Managed Care Contract (Attachment B-2 at 4; B-2.2 at 6)	Assessment, detoxification services, counseling treatment, MAT (Attachment B-2 at 4; B-2.2 at 6)	
Screening/Assessment/ Evaluation	SUD	State Plan (p. 518, 519; 746, 747) Uniform Managed Care Contract (Attachment B-2 at 4; B-2.2 at 6)	Assessment to determine need for services (State Plan Service per Texas Medicaid and CHIP in Perspective p. 109) "Evaluation using a nationally-recognized tool to identify the medically appropriate duration of service based on medical need and severity of addiction," conducted by licensed practitioner. (State Plan pp. 518-519)	
Care planning	SUD	State Plan (p. 519; 747)	"Development of a goal-oriented written plan of care designed to promote treatment and recovery and prevent relapse, and that is recommended by a licensed practitioner of the healing arts"	
Counseling	SUD	State Plan (p. 520, 748) Uniform Managed Care Contract (Attachment B-2 at 5; B-2.2 at 6)	Individual and group outpatient SUD treatment counseling (State Plan Service per Texas Medicaid and CHIP in Perspective p. 109) Therapeutic modalities include motivational interviewing and individual, group and family counseling; psycho-education on the effects of substance use (State Plan p. 520; 748)	

Service	MH/SUD	Covered Under	Description	Limitations
Medication Assisted Therapy	SUD	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 109) Uniform Managed Care Contract (Attachment B-2 at 5; Attachment B-2.2 at 6)	"Medication assisted therapy (e.g., methadone for opioid addiction)" (State Plan Service per Texas Medicaid and CHIP in Perspective p. 109)	
Medication Management	SUD	State Plan (p. 520; 748)		
Detoxification	SUD	State Plan (p. 518-519; 746-747) Uniform Managed Care Contract (Attachment B-2 at 5; Attachment B-2.2 at 6)	Outpatient and residential "Evaluation to determine the level of intoxication or withdrawal potential and determine the client's treatment plan; monitoring mental status, vital signs, and complications; medication therapy to manage the client's immediate withdrawal symptoms; and counseling." (State Plan p. 519)	
Residential	SUD	State Plan Service per Texas Medicaid and CHIP in Perspective (p. 109) Uniform Managed Care Contract (Attachment B-2 at 5; Attachment B-2.2 at 6)	Detoxification services, SUD treatment (including room and board).	
Care Coordination	SUD	Uniform Managed Care Contract (Attachment B-1 at 8-181)	"MCOs must ensure care coordination is provided to Members with a substance use disorder. MCOs must work with Providers, facilities, and Members to coordinate care for Members with a substance use disorder and to ensure Members have access to the full continuum of Covered Services (including without limitation assessment, detoxification,	

Service	MH/SUD	Covered Under	Description	Limitations
			residential treatment, outpatient services, and medication therapy) as Medically Necessary and appropriate."	
Relapse Prevention	SUD	State Plan (p. 520; 748)		
Peer Specialist Services	MH/SUD	SPA 18-0011	"Recovery-oriented, person-centered, relationship-focused, and trauma-informed" (PDF p. 5) Provided individually or in a group setting (p. 5) Recovery and wellness support (information, support, assistance planning for recovery); mentoring (assistance in finding services); advocacy (p. 5).	Adults 21+ (p. 6)
NAS Prevention Pilot	SUD	Service per Texas Medicaid and CHIP in Perspective (p. 79)	Increase availability of intervention and treatment for high-risk populations. "Provides enhanced screening and outreach to women of childbearing age, including those certified for Medicaid for Pregnant Women, and has implemented specialized programs to reduce the severity of Neonatal Abstinence Syndrome."	

Exhibit 5: Medicaid MCO Plan Review

	Aetna[551]	Amerigroup[552]	BlueCross BlueShield[553]	Community First[554]
MH services	MH (p. 27)	MH (pp. 9-10)	MH (p. 17)	MH (p. 11)
SUD services	SUD (p. 27)	SUD (pp. 9-10)	SUD (p. 17)	SUD (p. 11)
24/7 Hotline	MH/SUD (pp. 9, 20, 21, 27)	MH/SUD (p. 2)	MH/SUD (pp. 3, 6, 35)	MH/SUD (p. 1)
Emergency behavioral health conditions	MH/SUD (pp. 23, 26)	MH/SUD (pp. 21, 19)	MH/SUD (pp. 54, 84)	MH/SUD (pp. 21, 19)
Inpatient		MH (p. 9)		MH (p. 11)
Detoxification				
Crisis stabilization				
Residential substance use disorder treatment (including room and board and detoxification services)		SUD (p. 10)		SUD (p. 11)
Psychiatric partial and inpatient hospital services				
Non-hospital and inpatient residential detoxification, rehabilitation, and halfway house crisis services				
Outpatient	MH/SUD[555]	MH/SUD (pp. 9-10)		MH/SUD (p. 11)
Assessment, treatment planning	MH/SUD[556]	SUD (p. 10)		SUD (p. 11)
Detoxification		SUD (p. 10)		SUD (p. 11)
Counseling		MH (for adults)/SUD (p. 10)		MH (for adults)/SUD (p. 11)
MAT		SUD (p. 10)		SUD (p. 11)

[551] Aetna Better Health of Texas. (2019). *Medicaid (STAR)*. Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/**.
Aetna Better Health. (2017). *Aetna Better Health Medicaid (STAR) Member Handbook.* Retrieved from **https://www.aetnabetterhealth.com/texas/assets/pdf/member/MemberHanbdooks-double%20logos/MedicaidHandbookEnglish.pdf**.
[552] Amerigroup Corporation. (2019). *STAR*. Retrieved from **https://www.myamerigroup.com/tx/benefits/star-benefits.html**.
Amerigroup. (2017). *Amerigroup STAR Member Handbook*. Retrieved from **https://www.myamerigroup.com/tx/star_star_member_handbooks_eng_pdf.pdf**.
[553] Health Care Service Corporation, BlueCross BlueShield of Texas. (2019). *Medicaid (STAR, STAR Kids) and CHIP Plans*. Retrieved from **https://www.bcbstx.com/medicaid/**.
BlueCross BlueShield of Texas. *STAR Member Handbook*. Retrieved from **https://www.bcbstx.com/pdf/medicaid/star-member-handbook-tx.pdf**.
[554] Community First Health Plans. (2019). *STAR/Medicaid.* Retrieved from **https://www.cfhp.com/members/starmedicaid/**.
Community First Health Plans. (2017). *STAR and STAR Kids Member Handbook*. Retrieved from **https://www.cfhp.com/images/uploads/CFP22426_STAR_STAR_Kids_Member_Handbook_Eng_Span1.pdf**.
[555] Aetna. *Understand your benefits.* Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/benefits**.
[556] *Id.*

	Aetna[551]	Amerigroup[552]	BlueCross BlueShield[553]	Community First[554]
Psychiatry services		MH (p. 9)		MH (p. 11)
Mental health rehabilitation services	MH (p. 27)	MH (p. 9)	MH (p. 17)	MH (pp. 11, 12)
Medication training and support		MH (p. 24)	MH (p. 17)	
Psychosocial rehabilitative services		MH (p. 24)		
Skills training and development		MH (p. 24)	MH (p. 17)	
Crisis intervention		MH (p. 24)	MH (p. 17)	
Day program for acute needs		MH (p. 24)	MH (p. 17)	
Mental health targeted case management	MH (pp. 22, 27)	MH (p. 10)	MH (p. 17)	MH (p. 12)
Psychological and neuropsychological testing				
Temporary Detention Order (TDO) Services for court-ordered MH hospitalization			MH (p. 30)	
Medications for MH/SUD				
Medication management	MH/SUD[557]			
Care management/care coordination	MH/SUD[558]	MH/SUD (pp. 15-17)		
Lab services				
Referrals to other community resources				
Transitional health care services				
Health education classes on MH/SUD	SUD (drug and alcohol services, smoking cessation) (p. 21)	SUD (smoking cessation) (p. 15)		
Gift cards for follow-up visits following behavioral health hospital stays	MH/SUD[559]			
Online mental health resources		MH (pp. 40, 43)		
Exclusion: Services provided by a licensed psychologist, licensed professional counselor, licensed master's social worker, advanced clinical practitioner, or licensed marriage and family therapist for members 21 and older				

[557] *Id.*
[558] *Id.*
[559] Aetna. *Extra Benefits with Aetna Better Health.* Retrieved from **https://www.aetnabetterhealth.com/texas/members/medicaid/value-adds**.

	Community Health Choice[560]	Cook County Children's Health Plan[561]	Dell Children's Health Plan[562]	Driscoll[563]
MH services	MH (p. 17)	MH (p. 12)	MH (p. 9)	MH (pp. 34-35)
SUD services	SUD (p. 17)	SUD (p. 12)	SUD (p. 9)	SUD (pp. 34-35)
24/7 Hotline	MH/SUD (pp. 19, 24)	MH/SUD (p. 3)	MH/SUD (p. 2)	MH/SUD (p. 2)
Emergency behavioral health conditions	MH/SUD (pp. 23, 22)	MH/SUD (pp. 11, 13)	MH/SUD (pp. 23, 21)	MH/SUD (pp. 17, 15)
Inpatient		MH (only for children under 21) (p. 12)	MH (p. 9)	
Detoxification				
Crisis stabilization				
Residential substance use disorder treatment (including room and board and detoxification services)		SUD (p. 12)	SUD (p. 9)	
Psychiatric partial and inpatient hospital services				
Non-hospital and inpatient residential detoxification, rehabilitation, and halfway house crisis services				
Outpatient		MH/SUD (p. 12)	MH/SUD (p. 9)	
Assessment, treatment planning	MH/SUD (p. 17)	SUD (p. 12)	SUD (p. 9)	

[560] Community Health Choice. (2019). *STAR Medicaid.* Retrieved from **https://www.communityhealthchoice.org/en-us/member-resources/star-medicaid/**.
Community Health Choice. (2017). *STAR Member Handbook.* Retrieved from **https://www.communityhealthchoice.org/media/1524/star-handbook-eng-march-2017.pdf#page=17**.

[561] Cook Children's Health Plan. (2019). *Welcome STAR Members*. Retrieved from **http://www.cookchp.org/English/members/STAR-members/Pages/default.aspx**.
Cook Children's Health Plan. (2014). *STAR Member Handbook*. Retrieved from **http://www.cookchp.org/SiteCollectionDocuments/STAR-MemberHandbook.pdf**.

[562] Dell Children's Medical Center of Central Texas. (2019). *Dell Children's Health Plan*. Retrieved from **https://www.dellchildrens.net/health-plan/**.
Dell Children's Health Plan. *Behavioral Health*. Retrieved from **https://www.dellchildrens.net/health-plan/wp-content/uploads/sites/66/2016/12/DCHP-Behavioral-Health-English.pdf**.
Dell Children's Health Plan. (2017). *STAR Member Handbook: Your STAR Benefits*. Retrieved from **https://www.dellchildrens.net/wp-content/uploads/sites/66/2018/10/STAR-MHB-ENG.pdf**.

[563] Driscoll Health Plan. (2019). *STAR*. Retrieved from **http://driscollhealthplan.com/programs/star**.
Driscoll Health Plan. (2018). *STAR Member Handbook*. Retrieved from **http://driscollhealthplan.com/wp/wp-content/uploads/2018/10/STAR-MHB-eng-9.18-103118.pdf?ts=1555104981519**.

	Community Health Choice[560]	Cook County Children's Health Plan[561]	Dell Children's Health Plan[562]	Driscoll[563]
Detoxification		SUD (p. 12)	SUD (p. 9)	
Counseling	MH/SUD (p. 17)	MH (for adults)/SUD (p. 12)	MH (for adults)/SUD (p. 9)	
MAT		SUD (p. 12)	SUD (p. 9)	
Psychiatry services		MH (p. 12)	MH (p. 9)	
Mental health rehabilitation services	MH (p. 25)	MH (p. 19)	MH (p. 9)	MH (p. 34)
Medication training and support		MH (p. 19)	MH (p. 27)	MH (p. 34)
Psychosocial rehabilitative services		MH (p. 19)	MH (p. 27)	MH (p. 34)
Skills training and development		MH (p. 19)	MH (p. 27)	MH (p. 34)
Crisis intervention		MH (p. 19)	MH (p. 27)	MH (p. 34)
Day program for acute needs		MH (p. 19)	MH (p. 27)	MH (p. 34)
Mental health targeted case management	MH (p. 25)	MH (p. 19)	MH (p. 10)	MH (p. 34)
Psychological and neuropsychological testing				
Temporary Detention Order (TDO) Services for court-ordered MH hospitalization				
Medications for MH/SUD				
Medication management				
Care management/care coordination			MH/SUD (p. 16)	MH/SUD (p. 32)
Lab services				
Referrals to other community resources				
Transitional health care services				
Health education classes on MH/SUD				
Gift cards for follow-up visits following behavioral health hospital stays				MH (p. 42)
Online mental health resources				
Exclusion: Services provided by a licensed psychologist, licensed professional counselor, licensed master's social worker, advanced clinical practitioner, or licensed marriage and family therapist for members 21 and older	MH/SUD (p. 17)			

	El Paso Premier Plan[564]	FirstCare[565]	Molina[566]	Parkland HEALTHfirst[567]
MH services	MH (pp. 14, 25-26)	MH (p. 23)	MH (p. 14)	MH (p. 25)
SUD services	SUD (pp. 14, 25-26)	SUD (p. 23)	SUD (p. 14)	SUD (p. 25)
24/7 Hotline	MH/SUD (pp. 2, 16, 25)	MH/SUD (pp. 1, 3, 11)	MH/SUD (pp. i, 11, 14)	MH/SUD (pp. 1, 17, 18, 25)
Emergency behavioral health conditions	MH/SUD (pp. 21, 19)	MH/SUD (pp. 29, 27-28)	MH/SUD (pp. 11, 10)	MH/SUD (pp. 22, 20)
Inpatient		MH (p. 23)	MH/SUD[568]	
Detoxification			SUD[569]	
Crisis stabilization			SUD[570]	
Residential substance use disorder treatment (including room and board and detoxification services)			SUD[571]	
Psychiatric partial and inpatient hospital services				
Non-hospital and inpatient residential detoxification, rehabilitation, and halfway house crisis services				

[564] El Paso Health. *Members*. Retrieved from **http://www.elpasohealth.com/members/**.
El Paso Health. (2019). *STAR Member Handbook*. Retrieved from **http://www.elpasohealth.com/pdf/Premier_Member_handbook.pdf**.
[565] FirstCare Health Plans. (2019). *FirstCare STAR Program.* Retrieved from **http://www.firstcare.com/en/Individuals-and-Families/STAR-CHIP/STAR-Medicaid**.
FirstCare Health Plans. (2019). *STAR Member Handbook*. Retrieved from **http://www.firstcare.com/FirstCare/media/First-Care/PDFs/Medicaid-CHIP/STAR-Member-Handbook.pdf**.
[566] Molina Healthcare. (2019). *About STAR: What's Covered*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/mem/medicaid/star/coverd/Pages/coverd.aspx**.
Molina Healthcare. (2018). *Molina Healthcare Benefits at a Glance: STAR Covered Services September 1, 2018*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/PDF/Medicaid/STAR/benefits-at-a-glance-star.pdf**.
Molina Healthcare. (2019). *Welcome to the Molina Family: Molina Healthcare STAR Member Handbook*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/PDF/Medicaid/STAR/star-member-handbook.pdf**.
[567] Parkland Community Health Plan, Inc. (2019). *HEALTHfirst benefits*. Retrieved from **https://www.parklandhmo.com/members/healthfirst/benefits**.
Parkland Community Health Plan, Inc. (2018). *2018 STAR Member Handbook.* Retrieved form **https://www.parklandhmo.com/assets/pdf/members/Parkland-Healthfirst-MemberHandbook-2018.pdf**.
[568] Molina Healthcare. *Behavioral Health*. Retrieved from **https://www.molinahealthcare.com/members/tx/en-US/mem/medicaid/star/coverd/Pages/behhlth.aspx**.
[569] *Id.*
[570] *Id.*
[571] *Id.*

	El Paso Premier Plan[564]	FirstCare[565]	Molina[566]	Parkland HEALTHfirst[567]
Outpatient		MH/SUD (p. 23)	MH/SUD[572]	
Assessment, treatment planning		SUD (p. 23)	SUD[573]	
Detoxification		SUD (p. 23)		
Counseling		MH (for adults)/SUD (p. 23)	MH/SUD[574]	MH/SUD (p. 17)
MAT		SUD (p. 23)		
Psychiatry services		MH (p. 23)	MH[575]	
Mental health rehabilitation services	MH (p. 26)	MH (p. 34)	MH (p. 14)	MH (p. 25)
Medication training and support	MH (p. 26)			
Psychosocial rehabilitative services				
Skills training and development	MH (p. 26)			
Crisis intervention				
Day program for acute needs				
Mental health targeted case management	MH (p. 26)	MH (p. 34)	MH (p. 14)	MH (p. 25)
Psychological and neuropsychological testing			MH[576]	
Temporary Detention Order (TDO) Services for court-ordered MH hospitalization				
Medications for MH/SUD				
Medication management			MH (included in psychiatric services)[577]	
Care management/care coordination	MH (including assessment, planning, facilitation, care coordination, evaluation,			MH[578]

[572] *Id.*
[573] *Id.*
[574] *Id.*
[575] *Id.*
[576] *Id.*
[577] *Id.*
[578] Parkland Community Health Plan, Inc. *HEALTHfirst Medical Management Programs.* Retrieved from **https://www.parklandhmo.com/members/healthfirst/medmgmt**.

	El Paso Premier Plan[564]	FirstCare[565]	Molina[566]	Parkland HEALTHfirst[567]
	advocacy, services to meet comprehensive care needs) (p. 28)			
Lab services				
Referrals to other community resources				
Transitional health care services				
Health education classes on MH/SUD			SUD (smoking cessation) (p. 9)	SUD (poison safety, drug and alcohol awareness, and smoking cessation) (p. 19)
Gift cards for follow-up visits following behavioral health hospital stays	MH/SUD (members under 21) (p. 17)	MH/SUD (p. 24)		
Online mental health resources				
Exclusion: Services provided by a licensed psychologist, licensed professional counselor, licensed master's social worker, advanced clinical practitioner, or licensed marriage and family therapist for members 21 and older				

	RightCare from Scott and White Health Plans[579]	Superior Health Plan[580]	Texas Children's Health Plan[581]	UnitedHealthcare Community Plan[582]
MH services	MH (p. 10-11)	MH (pp. 24, 27)	MH (p. 21)	MH (pp. 18, 32)
SUD services	SUD (p. 10-11)	SUD (pp. 24, 27)	SUD (p. 21)	SUD (pp. 18, 32)
24/7 Hotline	MH/SUD (p. 2)	MH/SUD (pp. b, 2, 22, 27, 40)	MH/SUD (pp. 13, 21, 22)	MH/SUD (pp. 24, 46)
Emergency behavioral health conditions	MH/SUD (pp. 25, 23-24)	MH/SUD (pp. 20, 23-24)	MH/SUD (pp. 14, 15)	MH/SUD (pp. 29, 28)
Inpatient	MH/SUD[583]	MH/SUD (p. 24)	MH/SUD (p. 21)	
Detoxification			SUD (p. 21)	
Crisis stabilization	SUD[584]			
Residential substance use disorder treatment (including room and board and detoxification services)	SUD[585]	SUD (p. 24)		
Psychiatric partial and inpatient hospital services		MH (for members 21 and under)[586]		

[579] Scott and White Health Plan. (2019). *RightCare Program Overview.* Retrieved from **https://rightcare.swhp.org/en-us/**.
Scott & White Health Plan, RightCare. (2019). *STAR Member Handbook*. Retrieved from **https://swhp.org/Portals/0/Files/Forms/Medicaid/Member%20Handbook%20PDFs/RCSWHP-2120-Member-Handbook.pdf#page=7**.
[580] Centene Corporation, Superior HealthPlan. (2019). *Medicaid & CHIP Plans*. Retrieved from **https://www.superiorhealthplan.com/members/medicaid.html**.
Centene Corporation, Superior HealthPlan. (2019). *Behavioral Health*. Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.
Superior HealthPlan. (2018). *STAR Member Handbook*. Retrieved from **https://www.superiorhealthplan.com/content/dam/centene/Superior/Medicaid/PDFs/SHP_20184660-STAR-Handbook-M-EN-508-10082018.pdf**.
[581] Texas Children's Health Plan. (2019). *STAR*. Retrieved from **https://www.texaschildrenshealthplan.org/for-members/star**.
Texas Children's Health Plan. (2018). *STAR Member Handbook for Harris and Jefferson Service Delivery Areas.* Retrieved from **https://www.texaschildrenshealthplan.org/sites/default/files/pdf/STAR%20Member%20Handbook_MARCH%202018.pdf#page=4**.
[582] UnitedHealthcare Services, UnitedHealthcare Community Plan. (2019). *Plan Details: STAR*. Retrieved from **https://www.uhccommunityplan.com/tx/medicaid/star.html**.
UnitedHealthcare Community Plan. (2016). *UnitedHealthcare Community Plan STAR Member Handbook*. Retrieved from **https://www.uhccommunityplan.com/assets/plandocuments/handbook/en/TX-star-handbook.pdf**.
[583] Scott & White Health Plan, RightCare. (2019). *Prior Authorization List*. Retrieved from **https://swhp.org/Portals/0/Files/Forms/Providers/PA_List_June_2019.pdf**.
[584] *Id.*
[585] *Id.*
[586] Superior HealthPlan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.

	RightCare from Scott and White Health Plans[579]	Superior Health Plan[580]	Texas Children's Health Plan[581]	UnitedHealthcare Community Plan[582]
Non-hospital and inpatient residential detoxification, rehabilitation, and halfway house crisis services		SUD[587]		
Outpatient	MH/SUD[588]	MH/SUD (p. 24)	MH/SUD (p. 21)	MH/SUD (p. 32)
Assessment, treatment planning		MH/SUD[589]		
Detoxification			SUD (p. 21)	
Counseling	MH/SUD[590]		MH/SUD (p. 21)	
MAT	SUD[591]			
Psychiatry services		MH (p. 24)		
Mental health rehabilitation services	MH (p. 11)	MH (p. 24)	MH (p. 24)	MH (p. 47)
Medication training and support	MH (p. 11)			
Psychosocial rehabilitative services	MH (p. 11)			
Skills training and development	MH (p. 11)			
Crisis intervention	MH (p. 11)			
Day program for acute needs	MH (p. 11)			
Mental health targeted case management	MH (p. 11)	MH (p. 24)	MH (p. 24)	MH (p. 47)
Psychological and neuropsychological testing	MH[592]			
Temporary Detention Order (TDO) Services for court-ordered MH hospitalization				
Medications for MH/SUD		MH/SUD[593]		MH[594]
Medication management				
Care management/care coordination		MH/SUD[595]		
Lab services		MH/SUD[596]		

[587] *Id.*
[588] Scott & White Health Plan, RightCare. (2019). *Prior Authorization List*. Retrieved from **https://swhp.org/Portals/0/Files/Forms/Providers/PA_List_June_2019.pdf**.
[589] Superior HealthPlan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.
[590] Scott & White Health Plan, RightCare. (2019). *Prior Authorization List*. Retrieved from **https://swhp.org/Portals/0/Files/Forms/Providers/PA_List_June_2019.pdf**.
[591] *Id.*
[592] *Id.*
[593] Superior HealthPlan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.
[594] UnitedHealthcare. *STAR: Benefits & Features.* Retrieved from **https://www.uhccommunityplan.com/tx/medicaid/star**.
[595] Superior HealthPlan. *Behavioral Health.* Retrieved from **https://www.superiorhealthplan.com/members/medicaid/health-wellness/behavioral-health.html**.
[596] *Id.*

	RightCare from Scott and White Health Plans[579]	Superior Health Plan[580]	Texas Children's Health Plan[581]	UnitedHealthcare Community Plan[582]
Referrals to other community resources		MH/SUD[597]		
Transitional health care services		MH/SUD[598]		
Health education classes on MH/SUD				
Gift cards for follow-up visits following behavioral health hospital stays	MH/SUD (p. 14)	MH/SUD (members under 21) (p. 39)		
Online mental health resources		MH (pp. 40, 43)		MH[599]
Exclusion: Services provided by a licensed psychologist, licensed professional counselor, licensed master's social worker, advanced clinical practitioner, or licensed marriage and family therapist for members 21 and older				

[597] *Id.*
[598] *Id.*
[599] UnitedHealthcare. *STAR Links to Health Information.* Retrieved from **https://www.uhccommunityplan.com/tx/medicaid/star/links-health-information**. UnitedHealthcare. *Live and Work Well*. Retrieved from **https://www.liveandworkwell.com/content/en/member.html**.

Exhibit 6: Medicaid Formulary

	Medicaid
Opioid Reversal	Naloxone (P) Narcan (P)
Opioid Dependence Treatments: Buprenorphine	Buprenorphine (P, PA*)
Opioid Dependence Treatments: Buprenorphine-Naloxone	Buprenorphine-Naloxone (NP, PA†) Bunavail® (P, PA**) Suboxone® (P, PA**) Zubsolv® (P, PA**)
Opioid Dependence Treatments: Naltrexone	Naltrexone (P) Vivitrol® (P)
Alcohol Deterrents	Acamprosate‡ Disulfiram‡ Antabuse®‡
Not Covered	Evzio Sublocade Subutex® Probuphine® Revia® Depade® Campral®

P = Preferred NP = Non-preferred PDL = Preferred Drug List ‡ = listed on the formulary, but not the PDL
PA = Prior Authorization (PA criteria include treatment failure with preferred drugs within any subclass; contraindication to preferred drugs; allergic reaction to preferred drugs; Clinical Prior Authorization Applies)
PA* = All formulations on the formulary require FFS Clinical Prior Authorization, only some formulations require PDL Prior Authorization
PA** = All formulations on the formulary require FFS Clinical Prior Authorization, none require PDL Prior Authorization
PA† = All formulations on the formulary require FFS Clinical Prior Authorization and PDL Prior Authorization

Exhibit 7: HHSC Services

Service	MH/SUD	Covered Under	Description	Limitations
Assessment	MH	HHSC (Assessment)	Free mental health assessment	Residents 18+
Counseling	MH	HHSC (Counseling)	Counseling for Depression: Cognitive Behavioral Therapy Counseling for Trauma or Post-Traumatic Stress Disorder: Cognitive Processing Therapy	18+ with primary diagnosis of major depressive disorder, who are not at risk of harming themselves of others, and can benefit from psychotherapy are eligible for CBT
Medication management	MH	HHSC (Medication management)	Tracking and organizing prescriptions	People 18+ with mental illness
Assertive Community Treatment (ACT)	MH	HHSC (ACT)	A team of mental health professionals assist people in need of help at home or in a facility to support their recovery.	People 18+ who have been diagnosed with mental illness and have been admitted to a psychiatric hospital multiple times
Case Management	MH	HHSC (Case Management)	Case managers help coordinate and monitor services for persons with mental illness.	People 18+ who have a mental illness
Coordinated specialty care for first episode psychosis	MH	HHSC (Coordinated specialty care for first episode of psychosis)	"Coordinated specialty care is designed to meeting the needs of people with early onset of psychosis."	People 15-30 who have a psychotic disorder diagnosed within the past 2 years and who live in the service area of a coordinated specialty care program provider
Home and Community-Based Services	MH	HHSC (Home and Community-Based Services)	Recovery services for adults with serious mental illness provided in the home or community. Recovery managers trained in the Person Centered Recovery Planning model helps people in their recovery from mental illness. The client chooses a provider agency to provide the program services. HCBS-AMH services include:	Residents 18+ with mental illness and Medicaid who spent 3+ of the past 5 years in a psychiatric hospital, had 4+ arrests in the past 3 years and a history of MH crises, or had 15+ ED visits in the past 3 years and a history of MH crises

Service	MH/SUD	Covered Under	Description	Limitations
			Community Supports; Mental health services; Employment services Nursing services; Peer support; Adaptive Aids; Short-term respite care; and SUD services.	
Supportive Housing	MH	HHSC (**Housing**)	Projects for Assistance in Transition from Homelessness (PATH): Outreach program that helps individuals with mental illness or SUD and their families who are homeless or at risk of becoming homeless by find housing, employment, education support and connection to primary healthcare. The Healthy Community Collaborative: provides community resources to secure stable housing. The Project Access Pilot Program: provides rental assistance to people leaving a psychiatric hospital.	PATH: Amarillo, Austin, Beaumont, Conroe, Corpus Christi, Dallas, El Paso, Fort Worth, Galveston, Harlingen, Houston, Laredo, Lubbock, San Antonio and Waco Healthy Community Collaborative: Adults 18+ who are homeless and have a mental illness or co-occurring SUD or other primary care health issues Project Access Pilot Program: Adults leaving psychiatric hospitals (must submit an application)
Supported Employment Services	MH	HHSC (**Supported Employment)**	Services for individuals 17 and older with mental illness, intellectual or developmental disabilities and traumatic brain injuries to find jobs in integrated settings in the community.	People 17+ who get services at a LMHA or LBHA or who have a disability and want to find a competitive job
Child and Youth Assessment Services (Children's MH service)	MH	HHSC (**Children's Mental Health Child and Youth Assessment Services**)	Intake and uniform assessment to determine child's eligibility for services, gather required information, evaluate clinical needs, determine needs for MH/SUD treatment, and enroll or refer to services.	All children and youth eligible for an intake and uniform assessment. Service eligibility is based on assessment.

Service	MH/SUD	Covered Under	Description	Limitations
Community MH Services (Children's MH service)	MH	HHSC (**Community MH Services for Children**)	Services to support families to help children recover from mental illness and foster resilience, including crisis intervention, skills training and development, counseling, supportive employment, medication training and support, case management, and peer services (family partner support services).	Children age 3-17 with a mental health diagnosis who are at risk of having to move away from home or school or who are enrolled in special education
Family Partner Support Services (Children's MH service)	MH	HHSC (**Children's Mental Health Family Partner Support Services**)	Services for the primary caregiver of a child receiving MH services, including introduction to the MH treatment process, modeling of advocacy skills, information, referrals, skills training, and help identifying supports for the child and family.	Primary caregivers of children eligible to receive services at LMHAs/LBHAs
Medication training and support services (Children's MH service)	MH	HHSC (**Mental Health Medication Training and Support Services for Children**)	Training and support for children and caregivers to help them learn about medications and the MH diagnosis.	Children with a mental illness who are being treated by a prescribing MH professional such as a doctor, advanced nurse practitioner, or physician assistant
Mental health case management services (Children's MH service)	MH	HHSC **(Mental Health Case Management Services for Children**)	"Services that help children and caregivers gain access to services and resources in the community."	Children 3-17 with SED and their caregivers; children must be enrolled in MH services; caregivers must be Texas residents and meet financial eligibility requirements
MH counseling services (Children's MH service)	MH	HHSC (**Mental Health Counseling Services for Children**)	Individual, family, or group counseling to address personal, family, and situational problems.	Children with a mental illness who are Texas residents, whose caregivers meet financial requirements for MH services, and who would benefit from counseling services as determined by a MH professional Provided by a licensed counselor or therapist

Service	MH/SUD	Covered Under	Description	Limitations
Skills Training Services (Children's MH service)	MH	HHSC (Mental Health Skills Training Services for Children)	Services for "children and their primary caregivers to improve a child's ability to live, deal with feelings, cope with problems, and work well with others."	Children with MH diagnoses, whose caregiver lives in Texas and meets the financial requirements of MH services
Transition-Age Youth Services (Children's MH service)	MH	HHSC (Children's Mental Health Transition-Age Youth Services)	Services that provide resources and strategies to help youth transition into the adult world, including employment, education, counseling, and skills to promote independent living in the community.	Youth 16-20 who meet the requirements of an assessment conducted by a MH professional
Residential Treatment Center Relinquishment Avoidance Project	MH	HHSC (Residential Treatment Center Relinquishment Avoidance Project)	Residential treatment and services including weekly individual, group, and family counseling.	Children between the ages of 5 and 17 whose parents have been referred by the Texas Department of Family and Protective Services
Community Hospital Services	MH	HHSC (Community Hospital Services)	Admission to a community hospital at the recommendation of an LMHA or LBHA based on a crisis assessment	Assessment by LMHA/LBHA indicates the individual is a danger to self or others or cannot care for themselves
Crisis Respite Unit	MH	HHSC (Crisis Units)	People at low risk of harm to self or others can stay in respite units for up to 7 days; professional staff available to provider counseling and medication.	Admission to persons 18 and older (or younger in some communities) based on assessment and availability.
Crisis Residential Unit	MH	HHSC (Crisis Units)	Short-term crisis services in a home-like environment for people who might harm themselves or others; participants receive services from a team of professionals including a psychiatrist, nurse, and social worker; other services include referrals to outpatient MH services.	Admission to people 18+ based on assessment and availability.
Extended Observation Unit	MH	HHSC (Crisis Units)	People at high risk of harm to self or others are treated in a secure environment for up to 48 hours; professional staff provide counseling and medication services	People 18+ who need acute MH treatment
Crisis Stabilization Unit	MH	HHSC (Crisis Units)	To treat symptoms of mental illness for those who are at high risk of admission to a psychiatric hospital; counseling and medication provided in a secure environment for up to 14 days	People 18+ who need help stabilizing symptoms of mental illness

Service	MH/SUD	Covered Under	Description	Limitations
Court-ordered outpatient mental health services	MH	HHSC (Jail Diversion Services)	People court-ordered to undergo MH treatment for temporary or extended commitment, under Texas Health and Safety Code, Chapter 574.	People ordered by a non-criminal court to receive outpatient MH services
Harris County Mental Health Jail Diversion (MHJDP)	MH	HHSC (Jail Diversion Services)	Pilot to help people with MH diagnoses get services without going to jail	Adults who live in Harris County with a mental illness, with or without an SUD, and with a history of law violations
Jail-Based Competency Restoration (JBCR)	MH	HHSC (Jail Diversion Services)	Training and education services and services to reduce symptoms of mental illness (medications, nursing, and counseling) for persons charged with crimes but found incompetent to stand trial	Adults found incompetent to stand trial who have a court order for competency restoration services
Mental Health Deputy	MH	HHSC (Jail Diversion Services)	Trained MH police officer helps people experiencing a MH crisis receive proper treatment	Any person experiencing a mental health crisis, depending on availability.
Outpatient Competency Restoration	MH	HHSC (Jail Diversion Services)	Intensive court-ordered program for people incompetent to stand trial; mental health services as an alternative to state hospital or jail-based competency restoration treatment	Adults found incompetent to stand trial who have a court order for competency restoration services
Mobile Crisis Outreach Teams	MH	HHSC (Mobile Crisis Outreach Teams)	Provides counseling services to people at risk of harm to self or others at their home, school, or other location; available 24/7 Prompt assessment at any location, reduction of risk of harm to self or others, connection to physical health or MH services	Available to anyone.
Suicide prevention	MH	HHSC (Suicide Prevention)	National and local MH services offer telephone and face-to-face counseling for people at risk of suicide, including the Suicide Prevention Lifeline, Veterans Crisis Line, and Texas Suicide Prevention (free resources, educational information, phone apps, training)	
Peer Support	MH	HHSC (Peer Support)	Peer specialists provide support and help individuals navigate family relationships, housing, and employment.	Residents 18+ who are admitted for services by a state-funded provider. ”

Service	MH/SUD	Covered Under	Description	Limitations
MAT	SUD	HHSC (MAT)	The use of prescribed medications, in combination with counseling, case management and referrals, to treat opioid use disorder.	Residents 18+ with moderate to severe OUD for at least 12 consecutive months. Financial eligibility determination is made.
Detoxification Services	SUD	HHSC (Detoxification Services)	"Medical services for withdrawal from addictive substances, including counseling, education, case management and referrals to treatment and other community services. Ambulatory and residential.	Residents 18+ who are physically dependent or withdrawing from alcohol or other drugs. Financial eligibility determination is made.
Intensive Residential Treatment Services	SUD	HHSC (Intensive Residential Treatment Services)	Counseling, case management, education, skills training; at least 30 hours of intensive services per week	Adults diagnosed with moderate or severe SUD. Financial eligibility determination is made.
Supportive Residential Treatment Services	SUD	HHSC (Supportive Residential Treatment Services)	Counseling, case management, education, skills training; at least 6 hours per week; stay at licensed treatment center but allowed to leave and seek employment or job training	Residents 18+ with moderate to severe SUD Financial eligibility determination is made.
Co-occurring psychiatric and SUD services	SUD	HHSC (Co-occurring psychiatric and SUD)	Coordination of resources and care between mental health professionals or agencies.	Clinical screening process and financial eligibility determination.
Specialized Female Services	SUD	HHSC Adult SUD Women and Children Residential Services	SUD services include specialized female services (adult and youth). Substance use treatment services for women and children living together in a licensed residential facility, including counseling, parenting education, health education, skills training and case management services.	Women and Children Residential Services: women with moderate or severe SUD in at least their third trimester of pregnancy or with dependent children or children in custody of the state who can attend treatment with the mother

Service	MH/SUD	Covered Under	Description	Limitations
				Financial eligibility determination is made.
NAS Services	SUD	HHSC (NAS)	Educational resources and information on NAS to mothers and providers	
Outpatient	SUD	HHSC (Outpatient Program)	Counseling, education, and support services	Residents 18+ diagnosed with SUD Financial eligibility determination is made.
Oxford House	SUD	HHSC (Oxford House)	Peer-run, sober living residences for adults in recovery from SUD.	Must be free of alcohol and mood altering substances Generally, for individuals upon completion of a treatment program or at least a 5 to 10-day detoxification program.
Prevention	SUD	HHSC (Prevention)	Skill development to reduce the likelihood of substance use through education, skills for healthy behavior and positive family bonding. Substance misuse prevention program services are available through: prevention resource centers, community coalition programs, youth prevention programs and other programs.	Youth and caregivers in specific counties
Recovery Support	SUD	HHSC (Recovery Support Service Organizations)	Texas has 21 Recovery Support Service Organizations (RSSOs), which provide peer services including counseling, sober housing, transportation, and medications.	Individuals with history of SUD, co-occurring MH, seeking recovery, or concerned significant others.
Youth SUD Services	SUD	HHSC Youth Substance Use Prevention Treatment and Recovery Services	Youth SUD services include prevention, as well as treatment (counseling, case management, education and skills training) and recovery service including intensive residential treatment services (at least 45 hours per week), supportive residential treatment services (at least 21 hours per week), outpatient	Prevention programs: youth grades K-12 and their families Treatment and recovery services: residents 13-17 with SUD; young adults 18-21

Service	MH/SUD	Covered Under	Description	Limitations
		Youth SUD	services (at least 15 hours per week in community clinic setting), and recovery communities.	may be admitted if screening shows needs are similar to those of youth; meet financial requirements.
HIV Services	SUD	HIV services	HIV Early Intervention services for adults with HIV who have substance use problems, HIV outreach (HIV and hepatitis testing and assessment, referrals to testing and SUD services, etc.), and HIV residential treatment with specialized services for people with HIV and SUD	HIV Early Intervention: Adults with HIV who also have substance use problems HIV Outreach: People at high risk for HIV who misuse substances or have SUD HIV Residential: Residents 18+ diagnosed with SUD and HIV positive. Financial eligibility determination is made.
Parenting Awareness and Drug Risk Education (PADRE)	SUD	Parenting Awareness and Drug Risk Education	Community-based, gender-specific intervention services for fathers and soon-to-be fathers involved with the Department of Family and Protective Services who have or are at risk of developing SUD	Men referred by DFPS who have or are at risk of developing SUD and who have children under the age of 6
Pregnant and Postpartum Intervention (PPI) program	SUD	Pregnant and Postpartum Intervention	Case management addressing parent and children needs, referrals to community services, helping parents get education/ services/supplies), home visits, and education	Pregnant and postpartum women who have or are at risk of developing SUD and women referred by the Texas Department of Family and Protective Services with children under 6 years old
Rural Border Intervention Program (RBI)	SUD	Rural Border Intervention Program (RBI)	Home and community-based SUD prevention and intervention services in remote, rural border areas	Individuals who live in rural border counties in Regions 8, 10, and 11 and within 62 miles of the border