

Denied Treatment for Autism?

Getting promised benefits from your job-based health plan should not be a struggle. Learn about parity protections.



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autism
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U.S. DEPARTMENT OF LABOR
EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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autism speaks[®]

Mental Health Parity

Federal Legislative & Regulatory History



our mission

Autism Speaks is dedicated to creating an inclusive world for all individuals with autism throughout their lifespan.

We do this through advocacy, services, supports, research and innovation, and advances in care for autistic individuals and their families.

Mental Health & the Autism Community

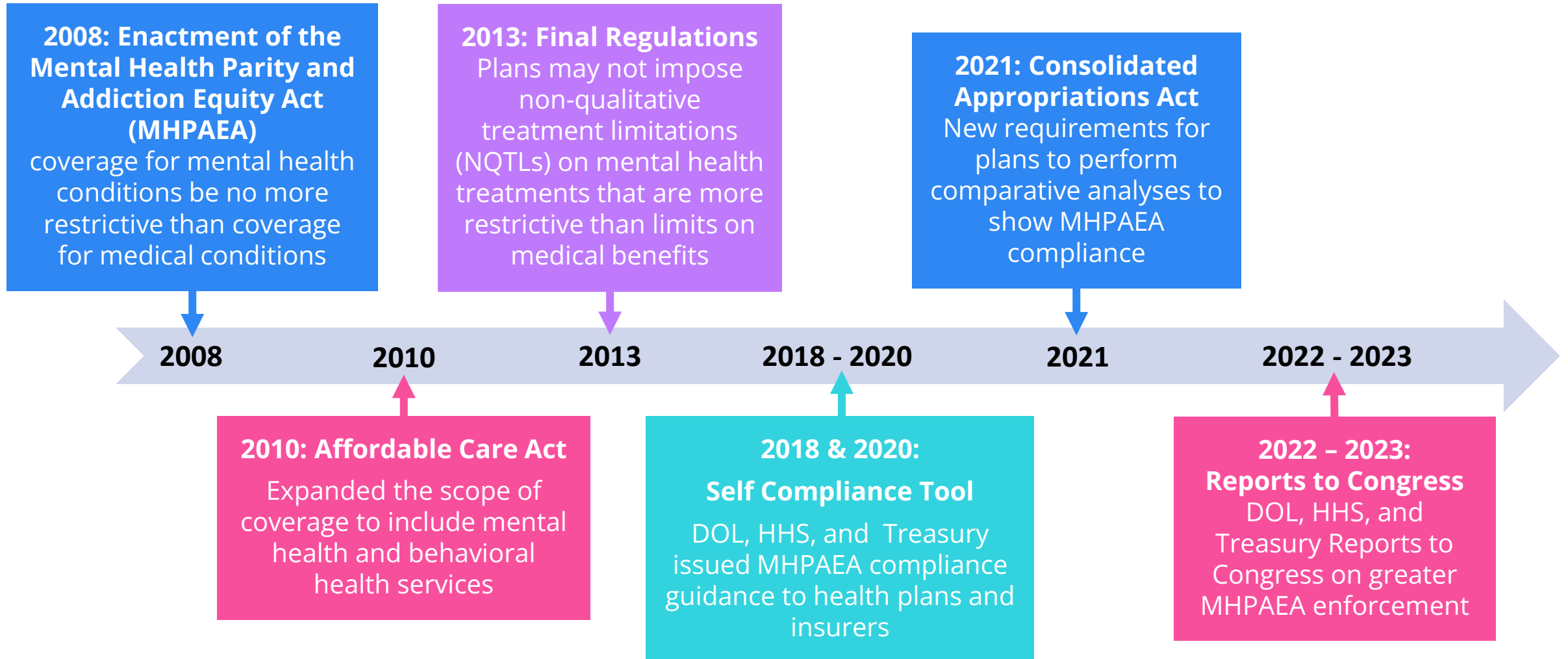
- Autism spectrum disorder (ASD) is a developmental disability that can cause significant social, communication and behavioral challenges.
- According to the Centers for Disease Control (CDC), autism affects an estimated 1 in 36 eight-year-olds and 1 in 45 adults in the United States today.
- Data from the CDC's Autism and Developmental Disabilities Monitoring (ADDM) Network indicate that 35% to 52% of children on the autism spectrum have co-occurring intellectual disability.
- 75% of autistic individuals have a co-occurring mental health condition – including but not limited to: anxiety, depression, and ADHD.
- Autistic individuals require coverage for a variety of mental health treatment regimens, services, and care plans for autism.

Autism Speaks Advocacy on Mental Health Parity

Autism Speaks has long advocated for meaningful health insurance reform to ensure that insurance plans will not deny coverage for any services or treatments that autistic individuals require at any stage in life.

Mental health parity establishes that brain-based conditions are entitled to treatment and coverage as much as physical conditions.

Federal Legislative & Regulatory History



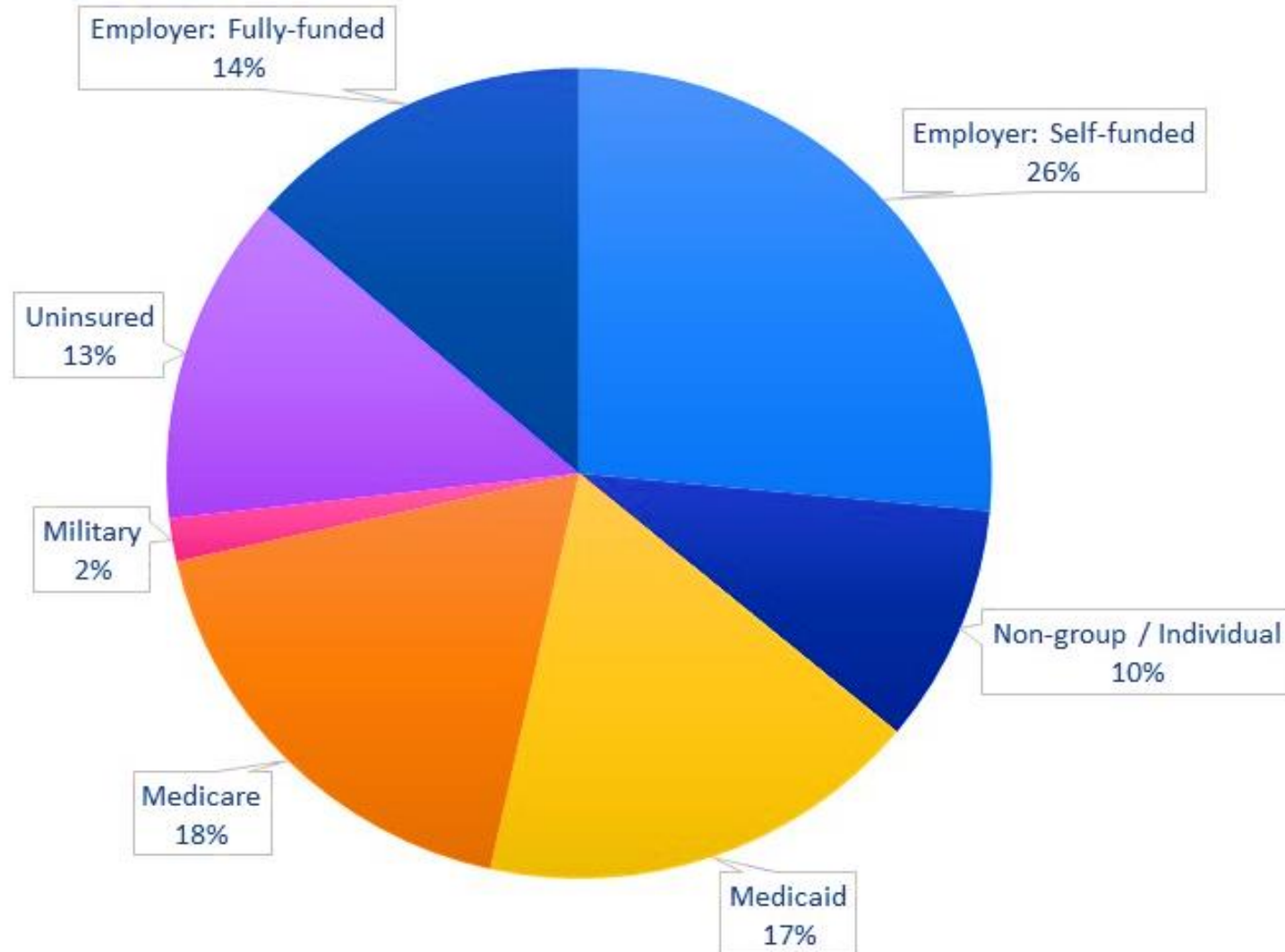


⚙️ **Access to medically necessary care is a priority of Autism Speaks**

Common healthcare services used by those with autism

- Primary care services (check-ups, treatments when sick, referrals to specialists, etc.)
- Developmental pediatrician (children and adolescents)
- Neurologist (differential diagnosis, seizure management)
- Neuropsychological assessments
- Psychiatry (medication management for ASD, co-occurring diagnoses such as ADHD)
- Pulmonology services (sleep disorders)
- Gastroenterology services (digestive-related symptoms)
- Nutritional therapy
- Habilitative therapies: speech therapy, occupational therapy, physical therapy
- Behavioral management therapy: applied behavior analysis (ABA)
- Cognitive behavior therapy (for ASD, co-occurring diagnoses such as anxiety, depression)

U.S. Population by Health Insurance Type



U.S. Population by Health Insurance Type

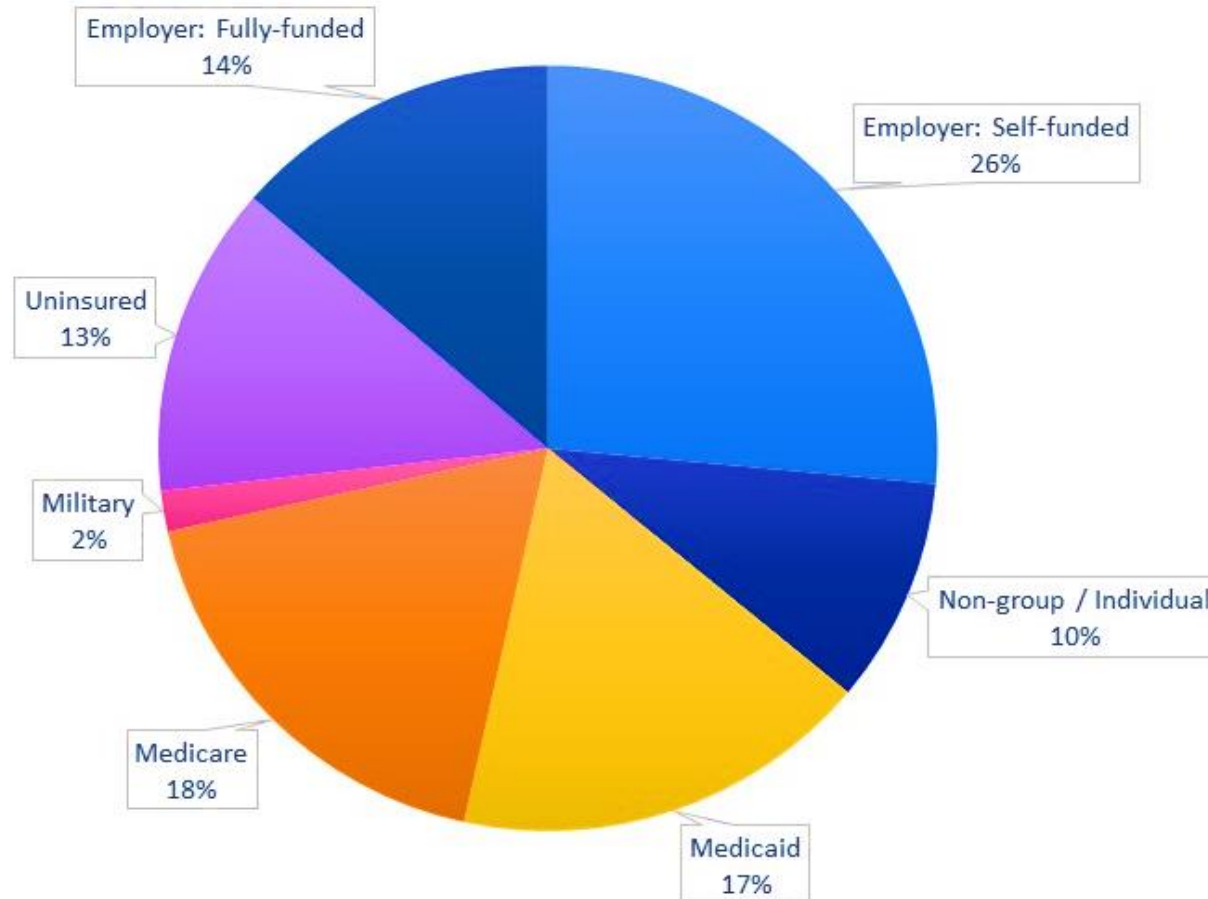


Employer: Fully-funded

This is a type of group plan. Some employers, particularly those that are not large, pay a premium each month to a health insurance company. In return, the insurance company covers the costs of the employees' health care.

These plans are also referred to as fully-insured plans.

These plans are regulated by both federal & state laws. The applicable state's law is usually based on the location of the employer's corporate headquarters.



Employer: Self-funded

This is a type of group plan. Many employers, particularly large ones, choose to pay for the health care of their employees directly from their own funds rather than purchasing health insurance for them.

The federal law that regulates this type of plan is ERISA (the Employee Retirement Income Security Act of 1974).

Generally, federal law exempts most self-funded plans from state insurance laws / regulations.

Non-group / Individual: Health insurance purchased by individuals directly from an insurance company or through Healthcare.gov/Obamacare. **This insurance is regulated by both federal and state law.**

2 insurance issues that often cause difficulty for autistic patients

1. **Inadequate provider network:**

an insurance plan's network of providers doesn't include a provider who can see the patient within a reasonable period of time

2. **Benefit limitations or exclusions:**

an insurance plan communicates (through plan document or policy decisions) that the service that the patient needs is not a covered benefit

Can federal law help with these problems?

2 insurance issues that often cause difficulty for autistic patients

1. Inadequate provider network
2. Benefit limitations or exclusions

Can MHPAEA help with these problems? In many instances, yes!

MHPAEA states that limits on services to treat mental health conditions **cannot be more restrictive** than limits placed on predominantly all medical/surgical services in the same classification.

- autism (for insurance purposes) is a “mental health condition”
- “medical/surgical services” refers to services to treat physical health conditions
- “classification” refers to 6 service classifications (under MHPAEA, the six classifications are: 1) inpatient, in-network; 2) inpatient, out-of-network; 3) outpatient, in-network; 4) outpatient, out-of-network; 5) emergency care; and 6) prescription drugs)

1) Inadequate provider network

Examples of inadequate provider network:

- Long wait lists
- Significant travel times/distances
- Providers that do not treat those with ASD or autistic patients with certain behaviors, or complexity of diagnoses
- Specialists are not listed in provider directory (e.g., developmental pediatricians)

1) Inadequate provider network

Can MHPAEA be used to combat **inadequate provider network**?

It's not fair to leave you without healthcare or make you pay higher costs, because the health plan doesn't have a sufficiently robust provider network.

- You can request a **network gap exception** to get the care you need from an out-of-network provider without paying more.
- Your plan may refer to a **network gap exception** as a *clinical gap exception, out-of-network exception, network insufficiency exception, or gap waiver*.

A great resource on this:
www.verywellhealth.com/network-gap-exception-what-it-is-how-it-works-1738418

2) Benefit limitations or exclusions

Examples of common benefit limitation or exclusions:

- Plan **excludes applied behavior analysis (ABA)**
 - Or **limits** it by age
 - Or **limits** it by number of visits or hours
 - Or **limits** it setting (examples: only in a clinic, not at school)
 - Or **limits** it by yearly dollar limits

2) Benefit limitations or exclusions

Examples of common benefit limitations or exclusions:

- Plan **excludes habilitative therapies** (speech therapy*, occupational therapy, physical therapy)
- Plan **excludes any habilitative therapies** for treatment of a mental health condition such as autism
- Plan **limits** the number of visits for habilitative therapies

2) Benefit limitations or exclusions

Can MHPAEA be used to combat **exclusions of habilitative therapies or ABA?**

- While MHPAEA does not require that health plans include mental health coverage, it does prohibit discriminatory practices when mental health is a covered benefit.
- The exclusions of ABA and/or habilitative coverage are examples of the discriminatory practices that MHPAEA seeks to address, and the removal of exclusions for services for autism is highlighted in both the 2022 and 2023 MHPAEA Report to Congress.
- Most plans have removed these exclusions. If consumers encounter such an exclusion, it is likely to be a MHPAEA violation.

2) Benefit limitations or exclusions

Can MHPAEA be used to combat **limits on habilitative therapies or ABA?**

- While MHPAEA does not require that health plans include mental health coverage, it does prohibit discriminatory practices when mental health is a covered benefit
- MHPAEA prohibits quantitative treatment limits (QTLs)
 - QTLs are easily identifiable as virtually any limit that includes a quantity (e.g., visit limits, hour limits, age limits)
- If consumers encounter such limitations, they are likely to be MHPAEA violations

2) Benefit limitations or exclusions

Further information on **limits for habilitative therapies:**

- Just because the plan has a visit limit on therapy visits for medical/surgical services (commonly “rehabilitative therapy”), doesn’t mean the plan can have such a limit for the treatment of mental health condition (such as autism).
- Remember previous slide on the general definition of MHPAEA:
 - MHPAEA states that limits on mental health services (such as ASD) **cannot be more restrictive than** limits placed on predominantly all medical/surgical services (not just services for physical health) in the same classification (e.g., outpatient in-network; outpatient out-of-network)

2) Benefit limitations or exclusions

Other types of “red flags” for violations of MHPAEA:

- Symptom severity standards
- Parent/caregiver participation requirements
- Lack of progress or too much progress (!?!)

All these limitations are concerning because they appear to be instances where the plan has more stringent limits for mental health (autism) services than the limits for physical health services.

How we can help



Monday through Friday | 9 am to 5 pm in all time zones

By phone: Your call will be routed to the team member for your region. We also have a dedicated Spanish language toll-free number.

1-888-AUTISM2 (1-888-288-4762)
En español: 1-888-772-9050

By email:

Reach us at help@autismspeaks.org

By live chat:

Connect at autismspeaks.org

How we can help

Online insurance resources:

- autismspeaks.org/HealthInsurance
- Self-funded plans: autismspeaks.org/self-funded-health-benefit-plans

Online healthcare resources

- Co-occurring medical conditions
- Toolkits for successfully accessing healthcare
- Much, much, more

More partners for help:

U.S. Department of Labor's Employee Benefits Security Administration (**EBSA**) **UP NEXT!**

Consider the services of a patient advocate organization with expertise in health insurance related to autism

- Mental Health & Autism Insurance Project
- Autism Legal Resource Center
- Insurance Resource Center for Autism and Behavioral Health

All these organizations can be found with a google search!



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- Jurisdiction
 - Private-sector employers and unions
 - Mental Health Parity and Addiction Equity Act (MHPAEA)
- Examples of assistance
 - Investigations
 - Informal dispute resolution
- Contact a Benefits Advisor
 - Phone or web inquiry
 - Important information to have

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FY 2023 Results

EBSA's Benefits Advisors

- Individualized assistance / info to:
 - Plan participants
 - Employers
 - Plan officials
 - Service providers
- Informal dispute resolution
- 197,000 inquiries
- \$444.1 million in benefits recovered
- 326 investigations opened from referrals

Enforcement

- Over \$1.4 billion in direct monetary results for plans, participants and beneficiaries
- 731 civil investigations closed



Other contact information

Plan	Agency	Contact Info
Non-federal governmental plan	U.S. Department of Health and Human Services (HHS)	Email HHS: Non-Fed@cms.hhs.gov
Federal employees plan	U.S. Office of Personnel Management (OPM)	https://www.opm.gov/healthcare-insurance/contact-healthcare-insurance/
Marketplace plan	State insurance commissioner	Contact list at: https://content.naic.org/state-insurance-departments

U.S. Department of Labor Federal Mental Health Parity Resources

For more information about the federal mental health and substance use disorder parity law, visit:

Publications on Mental Health Parity Benefits

EBSA's website

["Making the Most of Your Mental Health and Substance Use Disorder Benefits"](#)

["Know Your Rights: Parity for Mental Health and Substance Use Disorder Benefits"](#)

["Parity of Mental Health and Substance Use Benefits with Other Benefits: Using Your Employer-Sponsored Health Plan to Cover Services"](#)

www.dol.gov/agencies/ebsa

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity>

You can also contact a benefits advisor with your questions by visiting www.askebsa.dol.gov or calling 1-866-444-3272.

THANK YOU!!!



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