

Mental Health Condition and Substance Use Disorder Parity Workgroup Progress Report

**As Required by
H.B. 10, 85th Legislature,
Regular Session, 2017**

**Mental Health Condition and Substance Use
Disorder Parity Workgroup
September 2018**

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Executive Summary

The Mental Health Condition and Substance Use Disorder Parity Workgroup Progress Report is submitted in compliance with House Bill (H.B.) 10, 85th Legislature, Regular Session, 2017. This report was prepared by the Mental Health Condition and Substance Use Disorder (MHCSUD) Parity Workgroup (“Workgroup”) and highlights progress on development of the MHCSUD Strategic Plan, Workgroup activities, and implementation of legislative directives.

In accordance with H.B. 10, the Workgroup was established to study and make recommendations to increase understanding of and compliance with state and federal rules, regulations, and statutes concerning the availability and terms and conditions of benefits for MHCSUDs.

The bill directs the Workgroup to study and make recommendations concerning the following charges:

1. Increase compliance with MHCSUD rules, regulations, and statutes;
2. Strengthen enforcement and oversight of these laws at state and federal agencies;
3. Improve the complaint processes relating to potential violations of these laws for consumers and providers; and
4. Ensure the Texas Health and Human Services Commission (HHSC) and the Texas Department of Insurance (TDI) can accept information on concerns relating to these laws and investigate potential violations based on de-identified information and data submitted to providers in addition to individual complaints; and
5. Increase public and provider education on these laws.

The Workgroup is further required to develop a strategic plan with metrics to serve as a roadmap to increase compliance with MHCSUD rules regulations, and statutes.

This report is intended to provide an update on the progress of the Workgroup in meeting the requirements described above and provided for in H.B. 10. The accomplishments of the Workgroup so far are:

1. Establishment of the Workgroup;
2. Development of a Workgroup vision, mission, and purpose statement;
3. Convening of a subcommittee structure to work on legislative directives;
4. Continued coordination with HHSC and TDI;
 - a. The Behavioral Health Ombudsman (BHO) position within HHSC was selected and is working very closely with the Workgroup and TDI under a newly adopted Memorandum of Understanding (MOU).
 - b. The BHO has met with members and reviewed the complaints process. Also suggestions from members on keeping complainants informed throughout the inquiry/complaints process has been modified to provide more

- coordination with TDI and a soft handoff process. Also the BHO webpage¹ was posted online for access and as a resource for stakeholders.
- c. TDI Consumer Protection staff code complaints to support tracking of parity issues. A complaint may be tracked using “mental health parity” as a reason, or “mental illness,” “chemical dependency,” or “alcoholism” as potential keywords.
 - d. TDI and HHSC have completed the data collection requirements for commercial health plan issuers and Medicaid/CHIP Managed Care Organizations (MCOs), respectively, for analysis and inclusion in related summary reports; and
5. Identification of various stakeholders to gain input on state and federal parity issues.

Currently the Workgroup is researching, fact finding, seeking stakeholder testimony about parity experiences, and identifying study areas to gain an understanding about level-set issues surrounding MHCSUD parity. Once complete, the Workgroup will focus on developing recommendations as prescribed in the legislation.

¹ <https://hhs.texas.gov/behavioral-health-help>

1. Introduction

H.B. 10, 85th Legislature, Regular Session, 2017 requires the MHCSUD Parity Workgroup to submit a progress report each even-numbered year by September 1 to the appropriate legislative committees and state agencies. The progress report must include findings, recommendations, and information on the development of the strategic plan to include the following:

- Increase compliance with the rules, regulations, and statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions and substance use disorders
- Strengthen enforcement and oversight of these laws at state and federal agencies
- Improve the complaint processes relating to potential violations of these laws for consumers and providers
- Ensure the commission and the Texas Department of Insurance can accept information on concerns relating to these laws and investigate potential violations based on de-identified information and data submitted to providers in addition to individual complaints; and
- Increase public and provider education on these laws.

This report includes efforts, accomplishments, and activities to date toward development of the strategic plan and recommendations listed in the legislation.

The Workgroup supports the vision of the Texas Statewide Behavioral Health Strategic Plan, to ensure that Texas has a unified approach to the delivery of behavioral health services that allows all Texans to have access to care at the right time and place.

Recommendations made by the Workgroup will align with the following gaps outlined in the Statewide Behavioral Health Strategic Plan:

- Gap 1: Access to Appropriate Behavioral Health Services
- Gap 2: Behavioral Health Needs of Public School Students
- Gap 3: Coordination across State Agencies
- Gap 6: Access to Timely Treatment Services
- Gap 9: Behavioral Health Services for Individuals with Intellectual Disabilities
- Gap 11: Prevention and Early Intervention Services
- Gap 13: Behavioral Health Workforce Shortage

Recommendations made by the Workgroup will align with the following goals outlined in the Statewide Behavioral Health Strategic Plan:

- Goal 1: Program and Service Coordination - Promote and support behavioral health program and service coordination to ensure continuity of services and access points across the state.

- Goal 2: Program and Service Delivery - Ensure optimal program and service delivery to maximize resources in order to effectively meet the diverse needs of people and communities.

2. Background

Mission, Vision, and Values

The MHCSUD Parity Workgroup focused efforts on developing a mission, vision, and values to guide the development of the new MHCSUD Strategic Plan.

Mission

To develop a strategic plan to serve as a roadmap to improve compliance, complaint resolution, education, and outreach relating to the laws concerning benefits for mental health conditions and substance use disorders in Texas.

Vision

To reduce barriers to care that consumers and providers commonly encounter as they seek to obtain, access, and utilize mental health and substance use disorder benefits.

Values

Compliance, education, and outreach efforts relating to the laws concerning benefits for mental health conditions and substance use disorders in Texas must emphasize:

- **Accountability:** All relevant stakeholders will be subject to oversight regarding their obligations under the laws.
- **Timely access to care:** Consumers in need of care deserve access to the right care at the right time.
- **Equity:** Treatment and service determinations must be made fairly and impartially.
- **Awareness:** All relevant stakeholders should have the opportunity to know and understand the laws.
- **Efficiency:** Relevant systems must be streamlined, coordinated, and cost-effective.
- **Continuous improvement and evaluation:** Efforts to reduce barriers to care and increase compliance, education, and outreach must be subject to ongoing and routine continuous improvement and evaluation efforts.
- **User-friendliness:** Relevant systems must be simple, understandable, and navigable.
- **Transparency:** Relevant stakeholders must have a clear window into processes concerning benefits for mental health conditions and substance use disorders.

Workgroup Roles

In an effort to improve MHCSUD in Texas, H.B. 10 directed HHSC to create the MHCSUD Workgroup which expires on September 1, 2021. The Workgroup is comprised of representatives from the following:

- HHSC Medicaid and the Children's Health Insurance Program (CHIP);
- HHSC Office of Mental Health Coordination;
- TDI;
- Medicaid MCO;
- Commercial health benefit plan
- Mental health provider organization;
- Physicians;
- Hospitals;
- Children's mental health providers;
- Utilization review agents;
- Independent review organizations;
- Substance use disorder provider or a professional with co-occurring mental health and substance use disorder expertise;
- Mental health consumer;
- Mental health consumer advocate;
- Substance use disorder treatment consumer;
- Substance use disorder treatment consumer advocate;
- Family member of a mental health or substance use disorder treatment consumer; and
- HHSC Ombudsman for Behavioral Health Access to Care.

Workgroup Meetings

The MHCSUD Parity Workgroup has met regularly since the passage of the legislation. Meetings were held on:

- November 27, 2017
- February 20, 2018
- April 6, 2018
- June 12, 2018
- July 24, 2018
- July 31, 2018

Meetings include stakeholder testimonials on parity issues from the provider, consumer, and health plan perspective. National parity experts have also presented on best practices, lessons learned, and national parity trends. HHSC's Behavioral Health Ombudsman and Medicaid/CHIP Office provide updates at each meeting on

progress toward implementation of legislative directives. TDI provides regular updates related to H.B. 10 implementation.

3. Workgroup Legislative Directives

The MHCSUD Parity Workgroup must make recommendations in five key areas as specified in the H.B. 10 legislation. Members were surveyed to gain feedback on the process of how to develop Workgroup recommendations. Members agreed to form three subcommittees to focus on the five key areas.

- Subcommittee 1: Compliance, Enforcement, and Oversight
- Subcommittee 2: Complaints, Concerns, and Investigations
- Subcommittee 3: Education and Awareness

Each subcommittee is chaired by a MHCSUD member. To gain additional information, support, and input external stakeholders were invited to participate within the subcommittees. Additional stakeholders may also participate as needed based on their subject matter expertise as needed. Each subcommittee created a purpose statement and goals.

Subcommittee 1: Compliance, Enforcement and Oversight Activities

This subcommittee was created to focus on the first two tasks of H.B. 10

- Increase compliance with the rules, regulations, and statutes concerning the availability of, and terms and conditions of, benefits for MHCSUD; and
- Strengthen enforcement and oversight of these laws at state and federal agencies.

Purpose: To promote compliance and enforcement of MHCSUD rules, regulations, and statutes.

Goal 1: Understand current MHCSUD and parity-related regulatory and statutory landscape.

- Objective 1.1 Identify current processes for MHCSUD parity compliance, enforcement, and oversight.
 - Strategy 1.1.1 Review existing TDI processes and regulations for parity compliance, enforcement, and oversight.
 - Strategy 1.1.2 Review existing HHSC parity compliance evaluation.
 - Strategy 1.1.3 Review current Centers for Medicare and Medicaid Services (CMS) and United States Department of Labor (DOL) parity compliance tools.
- Objective 1.2 Identify best practices for parity compliance, enforcement, and oversight.

- Strategy 1.2.1 Research other states’ regulations, processes, and oversight tools.
- Strategy 1.2.2 Review resources assembled by other stakeholders, leaders, and consultants.

Goal 2: Recommend opportunities for improvement of MHCSUD parity compliance, enforcement, and oversight.

- Objective 2.1 Compare current processes and compliance landscape in Texas to best practices.
 - Strategy 2.1.1 Review data produced by H.B. 10 and HHSC’s completed evaluation.
 - Strategy 2.1.2 Complete a gap analysis to identify practices and regulations missing from the current Texas framework.
 - Strategy 2.1.3 Identify processes and resources needed for effective parity oversight.
- Objective 2.2 Develop recommendations and priorities to improve processes and procedures for compliance, enforcement, and ongoing oversight.
 - Strategy 2.2.1 Maximize state resources by prioritizing quantitative treatment limitations (including financial requirements) and non-quantitative treatment limitations on which to focus oversight efforts.
 - Strategy 2.2.2 Recommend oversight tools, including future data collection and analysis, needed to support ongoing parity oversight.
 - Strategy 2.2.3 Provide a roadmap for payors, regulators, and policymakers to implement best practices, including clear parity standards and common terminology for incorporation into such organizations’ standard operating procedures.

Subcommittee 2: Complaints, Concerns and Investigations Activities

This subcommittee was created to focus on the third and fourth tasks of H.B. 10:

- Improve the complaint processes relating to potential violations of these laws for consumers and providers; and
- Ensure HHSC and TDI can accept information on concerns relating to these laws and investigate potential violations based on de-identified information and data submitted to providers in addition to individual complaints

Purpose: To support consumers, providers, advocates and policymakers by reviewing and improving the process of parity complaints, concerns, and investigations to increase access to care and remove barriers to service.

Goal 1: Ensure agency complaint processes for MHCSUD and parity-related access to care issues are both consumer-centered and capable of supporting providers.

- Objective 1.1 Ensure improvement of the complaint processes by developing evaluation tools and metrics.
 - Strategy 1.1.1 Identify elements of complaints processes that are key to evaluating user satisfaction, including after complaint has been filed and after complaint has been resolved.
- Objective 1.2 Develop recommendations to mitigate obstacles within current regulatory and oversight agency complaints processes.
 - Strategy 1.2.1 Evaluate current agency complaints processes for simplicity, plain language, readability, and accessibility.

Goal 2: Ensure agency complaints data for MHCSUD and parity-related access to care issues are consistent, transparent, and actionable.

- Objective 2.1 Develop a complaint reporting template in which agencies can compile data to support parity compliance efforts and inform consumers, providers, advocates and policymakers.
 - Strategy 2.1.1 Identify relevant data components captured within existing agency complaint systems.

Goal 3: Ensure complaints for MHCSUD and parity-related access to care issues are investigated and resolved timely, effectively, and equitably.

- Objective 3.1 Support agency efforts to identify parity complaints; evaluate parity compliance; and determine when further investigation is warranted.
 - Strategy 3.1.1 Create or identify a toolkit to guide complaints staff through evaluating potential parity issues.
- Objective 3.2 Provide timely support to consumers seeking access to care, regardless of health plan coverage.
 - Strategy 3.2.1 Identify or create resources to enable agencies to connect consumers with MHCSUD care across the state.

Subcommittee 3: Education and Awareness Activities

This subcommittee was created to focus on the fifth task of H.B. 10:

- Increase public and provider education on MHCSUD regulations and laws.

Purpose: To educate all appropriate stakeholders (including, but not limited to: managed care organizations, commercial insurers, consumers, family members/support systems, advocates, providers, hospitals, public, etc.) on parity laws in order to increase access to care and ensure awareness of avenues to reconciliation of complaints.

Goal 1: To seek to ensure stakeholders understand federal and state parity laws and their impact.

- Objective 1.1 Establish a baseline of parity law understanding.
 - Strategy 1.1.1 Develop audience-specific surveys of relevant stakeholders to understand their current understanding of parity law.
 - Strategy 1.1.2 Review results of surveys to understand gaps in knowledge of parity law.
- Objective 1.2 Create/provide basic teaching and/or training related to parity laws.
 - Strategy 1.2.1 Evaluate resources needed to provide appropriate parity law education to all relevant stakeholders.
 - Strategy 1.2.2 Develop audience-specific parity law training modules, such as webinars, by state agencies to provide fuller understanding of parity law to all relevant stakeholders.
 - Strategy 1.2.3 Provide at least one annual update to each relevant stakeholder group on the status of parity law and how it affects them.
 - Strategy 1.2.4 Consider options outside of Internet trainings for educating all relevant stakeholders, some of whom may not have readily available Internet access.
 - Strategy 1.2.5 Creation of a quick video explaining parity in layman's terms.
 - Strategy 1.2.6 Use shared branding for TDI and HHSC for use on any and all parity publications.

Goal 2: Seek to ensure all stakeholders' needs and perspectives are considered in the development of strategies that improve parity awareness and education.

- Objective 2.1 Address needs of each stakeholder group through education at the level according to the intended audience.
 - Strategy 2.1.1 Evaluate the language used in awareness and education materials to ensure that it is understandable at all reading levels.
 - Strategy 2.1.2 Provide awareness and education materials in a variety of languages to reflect the rich cultural and linguistic diversity of Texas.
 - Strategy 2.1.3 Ensure that parity awareness and educational materials can be accessed by stakeholders who keep varying schedules.
 - Strategy 2.1.4 Use alternate, every day words to describe parity (i.e. fairness, uniformity, access to behavioral health benefits, etc.)

Goal 3: To ensure that stakeholders’ understand the various federal and state agencies’ roles in ensuring compliance with parity laws.

- Objective 3.1: Expand knowledge of existing regulations.
 - Strategy 3.1.1 Identify available resources.
 - Strategy 3.1.2 Provide ongoing parity-related continuing education for providers and parity-related educational materials for prospective and current members and enrollees.

Goal 4: To inform stakeholders about identifying potential parity violations, how to report them, and the resolution process.

- Objective 4.1 Provide culturally sensitive, understandable materials at an appropriate reading level.
 - Strategy 4.1.1 Develop a crosswalk/rubric characterizing or giving examples of potential parity violations.
 - Strategy 4.1.2 Have a “track your package” option available where members can quickly determine what the status is of their complaint.
- Objective 4.2: Identify existing channels within the community to leverage for education.
 - Strategy 4.2.1 Educate Maximus, navigators, marketers, etc.
 - Strategy 4.2.2 Partner with community/faith based entities.
 - Strategy 4.2.3 Support all relevant stakeholders – including advocacy groups and trade associations - to develop and distribute education on MHCSUD parity issues.

- Strategy 4.2.3 Work with Disability Rights Texas to support encouragement of self-advocacy.

Goal 5: To ensure evaluation and continuous improvement of education and awareness efforts.

- Objective 5.1 Develop monitoring program of agencies responsible for education and awareness.
 - Strategy 5.1.1 Ask agencies to report on parity education and awareness activities.
 - Strategy 5.1.2 Provide regular feedback to agencies on parity education and awareness activities and recommend improvements.

4. Strategic Plan Development and Priorities

Workgroup members agreed on a self-imposed deadline for development of the strategic plan. The plan will be finalized September 1, 2019. A report approach and framework will be followed by the subcommittees. They will identify goals, objectives, and strategies to address the five key legislative charges.

Priorities

The following priorities have been identified by the Workgroup as it continues the development of the MHCSUD State Plan:

1. Work with stakeholders to fully understand parity issues;
2. Seek metrics to serve as a roadmap to increase compliance with the rules, regulations, and statues related to MHCSUD benefits;
3. Consult with other states to identify best practices and lessons learned; and
4. Assess feasibility of options for final inclusion in the MHCSUD State Plan.

Challenges/Gaps

The following challenges or gaps have been identified by the Workgroup as it continues the development of the MHCSUD State Plan:

1. Self-funded health plans are not regulated by TDI;
2. Public's lack of understanding about parity requirements;
3. Differentiation between parity issues and non-parity issues;
4. Prioritization of the particular parity issues on which to focus compliance efforts;
5. Addressing consumer-friendliness in the handoffs between agencies as complaints are filed;
6. Consumer and family ability to file complaints and engage in self-advocacy;
7. MHCSUD provider and workforce shortages and building an adequate network of MHCSUD providers; and
8. Consumer ability to find in-network care.

5. Conclusion

Accomplishments

The accomplishments of the Workgroup to date:

1. Establishment of the Workgroup;
2. Development of a Workgroup vision, mission and purpose statement;
3. Convening of a subcommittee structure to work on legislative directives;
4. Continued coordination with HHSC and TDI;
 - a. The BHO position within HHSC was selected. The position works closely with the Workgroup and TDI under a newly adopted MOU.
 - b. The BHO met with members and reviewed the complaints process. BHO conducted educational training with workgroup members to provide detailed information regarding the ombudsman complaint process, and coordinated effort between TDI and HHS to ensure that the complainant is aware of the status of the complaint throughout. Also the BHO webpage² was posted online for access and as a resource for stakeholders.
 - c. TDI Consumer Protection staff code complaints to support tracking of parity issues. A complaint may be tracked using "mental health parity" as a reason, or "mental illness," "chemical dependency," or "alcoholism" as potential keywords.
 - d. TDI and HHSC have completed the data collection requirements for commercial health plan issuers and Medicaid/CHIP MCOs, respectively, for analysis and inclusion in related summary reports; and
5. Identification of various stakeholders to gain input on state and federal parity issues.

Next Steps

The Workgroup has been very productive in identifying, planning, and organizing processes for collecting information and establishing recommendations for the strategic plan. The Workgroup and subcommittees will coordinate with each other and work independently to create recommendations and a roadmap on achieving MHCSUD parity in Texas. The recommendations will impact various stakeholders by increasing compliance, education and awareness, and improving the complaints process for MHCSUD benefits.

² <https://hhs.texas.gov/behavioral-health-help>

List of Acronyms

Acronym	Full Name
BHO	Behavioral Health Ombudsman
CHIP	Children’s Health Insurance Plan
CMS	Centers for Medicare and Medicaid Services
DOL	United States Department of Labor
H.B.	House Bill
HHSC	Health and Human Services Commission
MCO	Managed Care Organization
MH	Mental Health
MHCSUD	Mental Health Condition and Substance Use Disorder
MHPAEA	Mental Health Parity and Addiction Equity Act
MOU	Memorandum of Understanding
SUD	Substance Use Disorder
TDI	Texas Department of Insurance

Glossary of Terms

Behavioral Health

Mental health and Substance Use Disorder (addiction).

Commercial Health Plan

For the purposes of this report, the term “commercial health plan” refers to health benefit plans offered by entities listed in Texas Insurance Code, Chapter 1355, Subchapter F, Section 1355.252.

Medicaid/CHIP Managed Care Organizations

Managed Care is a health care delivery system in which the overall care of a patient is coordinated by or through a single provider or organization. Managed Care Organizations are contracted by HHSC to provide services for Medicaid and CHIP managed care clients.

Mental Health Benefit

A benefit relating to an item or service for a mental health condition, as defined under the terms of a health benefit plan and in accordance with applicable federal and state law.

Non-quantitative Treatment Limitation

A limit on the scope or duration of treatment that is not expressed numerically. The term includes specific limitations described in Texas Insurance Code, Chapter 1355, Subchapter F, Section 1355.251(2).

Quantitative Treatment Limitation

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 includes a deductible, copayment, coinsurance, or another out-of-pocket expense or annual or lifetime limit, or another financial requirement.

Self-funded Health Plan

A self-funded health plan is one in which the employer pays claims itself. The employer may hire an insurance company, HMO, or another entity to manage healthcare for clients.

Substance Use Disorder

Substance use disorders can refer to drug and alcohol dependence.

Substance Use Disorder Benefit

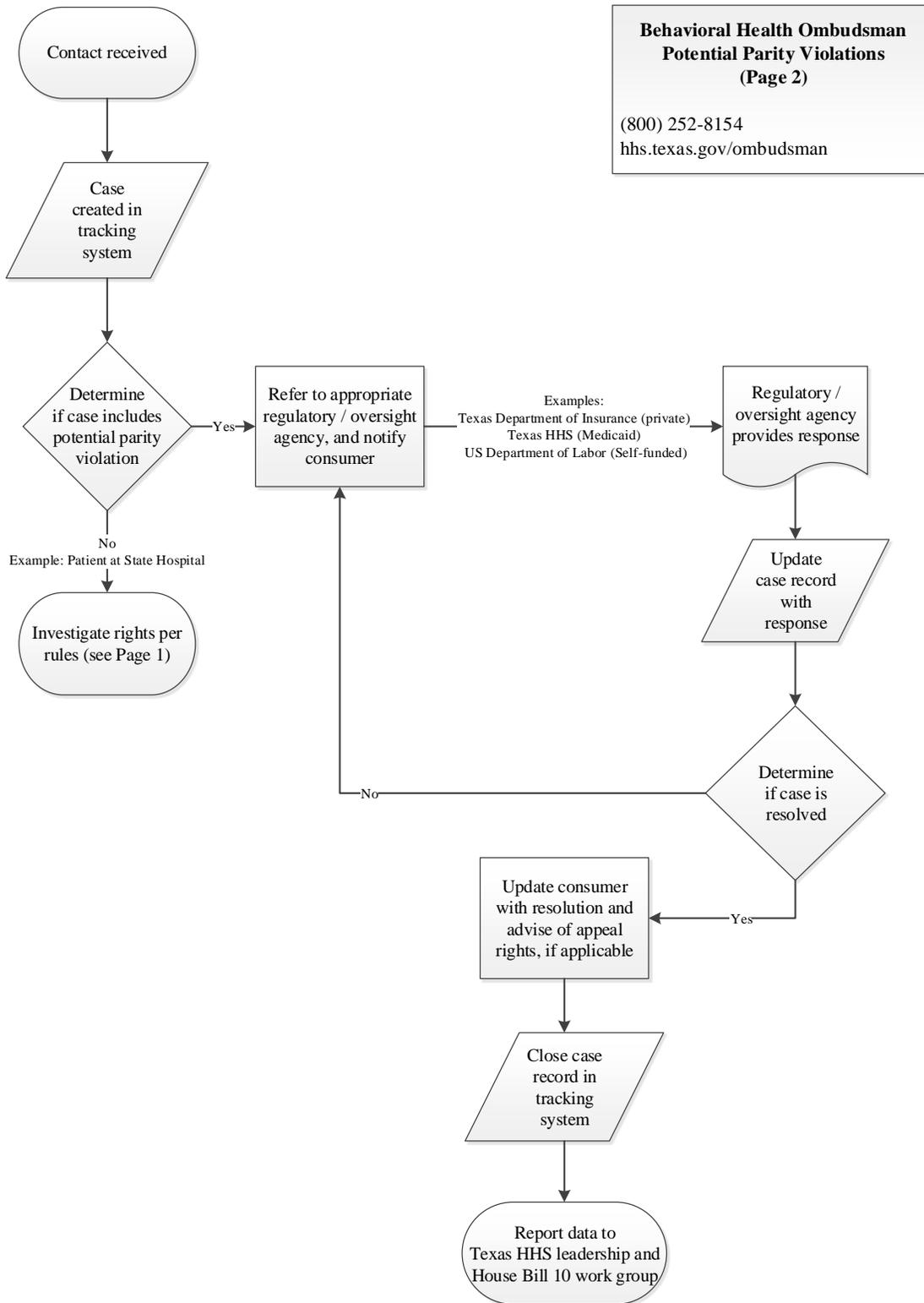
A benefit relating to an item or service for a substance use disorder, as defined under the terms of a health benefit plan and in accordance with applicable federal and state law.

Appendix A. Mental Health Condition and Substance Use Disorder

Parity Workgroup Members

Naomi Garcia Alvarez Representative of Medicaid managed care organizations	Bill Bailey Family Member
Joe. A. Bedford Representative of commercial health benefit plan	Christine Bryan Representative of children’s mental health providers
Luis Calo Representative of utilization review agents	Diane J. Felder, Vice Chair Representative of physicians
Tracy Vilella Gartenmann Family Member	Greg Hansch, Chair Representative of mental health consumer advocate
Meredith Stacy Jones Advocate	Sherri Layton Representative of substance use disorder provider or a professional with co-occurring mental health and substance use disorder expertise
Debbie A. Mitchell Consumer	Andrea Ramirez Representative of mental health provider organization
VACANT Consumer	Alba Villegas Representative of mental health provider organization
VACANT Representative of the Office of Mental Health Coordination at HHSC	Joyce Pohlman Representative of Medicaid and CHIP at HHSC
Avril Hunter HHSC, Office of the Ombudsman	Rachel Bowden Representative of TDI
Soila Villarreal HHSC, Committee and Council Liaison	

Appendix B. Behavioral Health Ombudsman Parity Contacts Process



Appendix C: Texas Department of Insurance Parity Process

