



# ASPE

## RESEARCH BRIEF

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### **Affordable Care Act Will Expand Mental Health and Substance Use Disorder Benefits and Parity Protections for 62 Million Americans**

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The Affordable Care Act will provide one of the largest expansions of mental health and substance use disorder coverage in a generation. Beginning in 2014 under the law, all new small group and individual market plans will be required to cover ten Essential Health Benefit categories, including mental health and substance use disorder services, and will be required to cover them at parity with medical and surgical benefits. The Affordable Care Act builds on the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA, or the federal parity law), which requires group health plans and insurers that offer mental health and substance use disorder benefits to provide coverage that is comparable to coverage for general medical and surgical care.

While almost all large group plans and most small group plans include coverage for some mental health and substance use disorder services, there are gaps in coverage and many people with some coverage of these services do not currently receive the benefit of federal parity protections. The final rule implementing the Essential Health Benefits directs non-grandfathered<sup>1</sup> health plans in the individual and small group markets to cover mental health and substance use disorder services as well as to comply with the federal parity law requirements beginning in 2014.<sup>2</sup>

#### Mental Health and Substance Use Disorder Benefits Prior to the Affordable Care Act

About one-third of those who are currently covered in the individual market have no coverage for substance use disorder services and nearly 20 percent have no coverage for mental health services, including outpatient therapy visits and inpatient crisis intervention and stabilization.<sup>3</sup> In addition, even when individual market plans provide these benefits, the federal parity law does not apply to these plans to ensure that coverage for mental health and substance use disorder services is generally comparable to coverage for medical and surgical care.

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<sup>1</sup> “Grandfathered” plans are plans that were in place when the Affordable Care Act was enacted that have not been changed in certain specified ways.

<sup>2</sup> The Essential Health Benefits, Actuarial Value, and Accreditation Final Rule was released February 20, 2013.

<sup>3</sup> ASPE Issue Brief, "Essential Health Benefits: Individual Market Coverage," ed. U.S. Department of Health & Human Services (2011).

In the small group market, coverage of mental health and substance use disorder treatment is more common than in the individual market. We estimate that about 95 percent of those with small group market coverage have substance abuse and mental health benefits.<sup>4</sup> Again, the federal parity law does not apply to small group plans. In many states, state parity laws offer those covered in this market some parity protection, but most state parity laws are narrower than the federal parity requirement.

In addition, 47.5 million Americans lack health insurance coverage altogether,<sup>5</sup> and 25 percent of uninsured adults have a mental health condition or substance use disorder or both.<sup>6</sup>

### The Affordable Care Act: Better Coverage for Mental Health and Substance Use Disorders

The Affordable Care Act and its implementing regulations, building on the Mental Health Parity and Addiction Equity Act, will expand coverage of mental health and substance use disorder benefits and federal parity protections in three distinct ways: (1) by including mental health and substance use disorder benefits in the Essential Health Benefits; (2) by applying federal parity protections to mental health and substance use disorder benefits in the individual and small group markets; and (3) by providing more Americans with access to quality health care that includes coverage for mental health and substance use disorder services.

#### 1. Essential Health Benefits

- First, under the statute, treatment for mental health and substance use disorders is a benefit category covered as part of the package of Essential Health Benefits available to all Americans in non-grandfathered plans in the individual and small group markets as of January 1, 2014. The Essential Health Benefits final rule, released today, ensures that consumers purchasing insurance can be confident that their health plan will provide the care they need if they get sick. Including mental health and substance use disorder treatment in this package means—
  - About 3.9 million people currently covered in the individual market will gain either mental health or substance use disorder coverage or both;<sup>7</sup>
  - Also, we estimate that 1.2 million individuals currently in small group plans will receive mental health and substance use disorder benefits under the Affordable Care Act.<sup>8</sup>

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<sup>4</sup> ASPE Issue Brief, “Essential Health Benefits: Comparing Benefits in Small Group Products and State and Federal Employee Plans,” ed. U.S. Department of Health & Human Services (2011).

<sup>5</sup> Estimated based on the US Census Bureau’s 2011 American Communities Survey.

<sup>6</sup> Garfield RL, Lave JR, Donahue JM, “Health reform and the scope of benefits for mental health and substance use disorder services.” *Psychiatric Services* 61:1081-1086 (2010).

<sup>7</sup> Estimate based on 2011 Medical Loss Ratio filings indicating that 11 million people are covered in the individual market, and 35% lack mental health coverage, substance use coverage, or both. This estimate includes some individuals currently enrolled in grandfathered coverage.

<sup>8</sup> Estimate based on the finding that approximately 95% of small group plans cover mental health and substance use disorder services. See Issue Brief, “Essential Health Benefits: Comparing Benefits in the Small Group Products and State and Federal Employee Plans,” ed. U.S. Department of Health and Human Services (2011). This estimate includes some individuals currently enrolled in grandfathered coverage.

## 2. Parity in the Individual and Small Group Markets

Second, HHS finalized regulations that apply federal parity rules to mental health and substance use disorder benefits included in Essential Health Benefits. As a result, Americans accessing coverage through non-grandfathered plans in the individual and small group markets will now be able to count on mental health and substance use disorder coverage that is comparable to their general medical and surgical coverage.

- Under this approach, 7.1 million Americans currently covered in the individual market who currently have some mental health and substance use disorder benefits will have access to coverage of Essential Health Benefits that conforms to federal parity protections as provided for under the Affordable Care Act and the Mental Health Parity and Addiction Equity Act.<sup>9</sup>
- In addition, because the application of parity to Essential Health Benefits will also apply to those currently enrolled in non-grandfathered plans in the small group market, 23.3 million current enrollees in small group plans will also receive the benefit of having mental health and substance use disorder benefits that are subject to the federal parity law.<sup>10,11</sup>

## 3. Increasing Access to Quality Health Care

Finally, the Affordable Care Act will expand insurance coverage to a projected 27 million previously uninsured Americans through access to private health insurance in the individual and small group markets, the Marketplaces, and Medicaid.<sup>12</sup> Essential Health Benefits, including mental health and substance use disorder services subject to parity requirements, will be available to this newly covered population.

In total, through the Affordable Care Act, 32.1 million Americans will gain access to coverage that includes mental health and/or substance use disorder benefits that comply with federal parity requirements and an additional 30.4 million Americans who currently have some mental health and substance abuse benefits will benefit from the federal parity protections. By building on the structure of the Mental Health Parity and Addiction Equity Act, the Affordable Care Act will extend federal parity protections to 62 million Americans.

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<sup>9</sup> Estimate based on 2011 Medical Loss Ratio filings indicating that 11 million people are covered in the individual market. This estimate includes some individuals currently enrolled in grandfathered coverage.

<sup>10</sup> State parity laws often already apply to these small group plans.

<sup>11</sup> Estimate based on ASPE internal analysis of the 2012 Current Population Survey indicating that 24.5 million people are enrolled in employer-sponsored insurance and work in a firm with fewer than 50 employees. This analysis excluded anyone who also reported Medicare, Medicaid, CHIP, or military coverage. This estimate includes some individuals currently enrolled in grandfathered coverage.

<sup>12</sup> Congressional Budget Office, "Effects of the Affordable Care Act on Health Insurance Coverage – February 2013 Baseline," (2013).

	Individuals who will gain mental health, substance use disorder, or both benefits under the Affordable Care Act, including federal parity protections	Individuals with existing mental health and substance use disorder benefits who will benefit from federal parity protections	Total individuals who <b>will</b> benefit from federal parity protections as a result of the Affordable Care Act
Individuals currently in individual plans	3.9 million	7.1 million	11 million
Individuals currently in small group plans	1.2 million	23.3 million	24.5 million
Individuals currently uninsured	27 million	n/a	27 million
<u>Total</u>	<b><u>32.1 million</u></b>	<b><u>30.4 million</u></b>	<b><u>62.5 million</u></b>

NOTE: These estimates include individuals and families who are currently enrolled in grandfathered coverage. Grandfathered plans are not required to comply with the Essential Health Benefits provisions of the Affordable Care Act. We note that, as the Affordable Care Act is implemented, we expect grandfathered coverage to diminish, particularly in the individual market.