Department of Health and Human Services
Office of Inspector General
Office of Audit Services

August 2026 | A-07-24-02842

Kansas Did Not Ensure That Its Medicaid Managed Care Organizations Complied With Mental Health and Substance Use Disorder Parity Requirements Related to Prior Authorization

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Why OIG Did This Audit

- Individuals seeking care for mental health and substance use disorder (MH/SUD) conditions often find that treatment operates in a separate, and often very disparate, system than treatment for medical and surgical (M/S) care, even under the same health insurance coverage.
- Federal statute and regulations prohibit coverage limitations that apply more restrictively to MH/SUD benefits than to M/S benefits; these are called parity requirements. A prior OIG audit found that CMS did not ensure that eight States complied with Medicaid managed care MH/SUD parity requirements.
- This audit determined whether Kansas ensured that its Medicaid managed care organizations (MCOs) complied with parity requirements related to prior authorization for MH/SUD services provided to their Medicaid enrollees during calendar year 2023 (audit period).

What OIG Found

Kansas did not ensure that the three MCOs in the State complied with parity requirements related to prior authorization for MH/SUD services provided to their Medicaid enrollees.

- None of the three MCOs performed, or provided Kansas with, a complete parity analysis (which assesses whether MH/SUD benefits are covered in a way that is no more restrictive than M/S benefits) for our audit period, and Kansas did not request a complete parity analysis from any of the MCOs.
- For outpatient out-of-network services, one MCO denied prior authorization requests for MH/SUD services at a higher rate than it denied prior authorization requests for M/S services for the same type of services. We also identified potential data reliability issues at another MCO.
- Kansas did not provide clear guidance regarding parity analyses to the MCOs and did not have policies and procedures in place to provide adequate monitoring of the MCOs. Access to MH/SUD services may therefore have been limited compared to access for M/S services—a disparity that may have impacted enrollees' health and wellness by delaying lifesaving or life-enhancing MH/SUD treatments.

What OIG Recommends

We made three recommendations to Kansas, including that it enhance its oversight of the MCOs with respect to parity analyses, accuracy of supporting data, and corrective actions; that it develop and disseminate detailed instructions to the MCOs explaining how to conduct the parity analyses; and that it develop and implement policies and procedures to improve its oversight of the MCOs. The full recommendations are in the report.

Kansas agreed with all of our recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

In 2024, 61.5 million adults in the United States experienced some form of mental illness and an estimated 48.4 million people aged 12 or older had a substance use disorder. Individuals seeking care for mental health and substance use disorder (MH/SUD) conditions often find that treatment operates in a separate, and often very disparate, system than treatment for medical and surgical (M/S) care, even under the same health insurance coverage. Federal regulations implementing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) were put in place to make it easier for people with MH/SUD conditions to access treatment and services by prohibiting coverage limitations that apply more restrictively to MH/SUD benefits than to M/S benefits (i.e., parity in how the two types of benefits are covered by health insurers, including Medicaid managed care).

A prior Office of Inspector General (OIG) audit found that the Centers for Medicare & Medicaid Services (CMS) did not ensure that eight selected States complied with Medicaid managed care MH/SUD parity requirements.[1] OIG is conducting a series of audits to determine whether some of the States covered in our prior report and their Medicaid managed care organizations (MCOs) complied with parity requirements for MH/SUD benefits related to prior authorization.[2] Our prior audit identified that prior authorization was the most frequent nonquantitative treatment limitation (NQTL) area of noncompliance.[3] We are conducting this series of audits as part of Congressionally requested OIG work that addresses enrollees' access to MH/SUD services. We selected Kansas for audit based on findings related to NQTLs from our prior audit.

OBJECTIVE

Our objective was to determine whether the Kansas Department of Health and Environment (State agency) ensured that its MCOs complied with parity requirements related to prior authorization for MH/SUD services provided to their Medicaid enrollees.

[1] OIG, *CMS Did Not Ensure That Selected States Complied With Medicaid Managed Care Mental Health and Substance Use Disorder Parity Requirements* (A-02-22-01016), issued Mar. 25, 2024.

[2] Prior authorization is a cost-control process in which advance approval from a health plan is required before a service is performed and subsequently paid.

[3] NQTLs are restrictions on services that are not expressed numerically but that otherwise limit the scope and duration of benefits, including limiting benefits based on medical necessity, medical management policies (e.g., prior authorization), and standards for provider participation in a network.

BACKGROUND

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

The MHPAEA was intended to promote equal access to treatment for people with MH/SUD conditions by prohibiting coverage limitations that apply more restrictively to MH/SUD benefits than they do to M/S benefits. Such limitations may include higher copayments, separate deductibles, and stricter preauthorization or medical necessity reviews, as compared to other covered medical treatments.

Mental Health and Substance Use Disorder Parity Requirements

CMS issued a final rule in March 2016 that addressed how the MH/SUD parity requirements of the MHPAEA apply to coverage offered by MCOs to Medicaid enrollees.[4] The regulations require States to ensure that all services delivered to MCO enrollees comply with parity requirements. States and their MCOs were required to comply with the requirements by October 2, 2017 (the compliance date).[5] Specifically, States or their MCOs are required to conduct ongoing parity analyses to assess whether MH/SUD benefits are covered in a way that is no more restrictive than M/S benefits.[6] The parity analyses compare limitations on benefits for MH/SUD services with those for M/S services in four benefit classifications: inpatient, outpatient, prescription drugs, and emergency care.[7]

NQTLs are restrictions on services that are not expressed numerically but that otherwise limit the scope or duration of benefits. NQTLs include, but are not limited to, medical necessity criteria, medical management protocols (e.g., prior authorization and concurrent review), and reimbursement rates. The regulations require that an MCO not impose limitations, including prior authorization for MH/SUD benefits, unless the limitations applied to MH/SUD benefits in any classification—under the policies and procedures of the MCO "as written" or "in operation"—are comparable to, and applied no more stringently than, the limitations applied to M/S benefits in the same benefit classification. For this report, we define "as written" to refer to an MCO's policies and procedures. We also define "in operation" to refer to the processes through which an MCO applies those policies and procedures in practice.

[4] 81 Fed. Reg. 18390 (Mar. 30, 2016).

[5] Section 1932(b)(8) of the Social Security Act and implementing regulations at 42 CFR § 438.930.

[6] 42 CFR § 438.920.

[7] 42 CFR §§ 438.905, 438.910, and 438.915. Parity does not mandate coverage of MH/SUD services. However, when coverage for MH/SUD services is provided, coverage must be provided in every benefit classification in which M/S services are provided.

States must make documentation of compliance with the MH/SUD parity requirements of the MHPAEA available to the public and are required to post this information on their State Medicaid websites by the compliance date.[8]

States must also ensure that services delivered to MCO enrollees comply with parity requirements and must update and resubmit a parity analysis to CMS prior to any change in MCO or State plan benefits. CMS is required to review and approve all MCO contracts.[9] States must provide documentation to CMS to demonstrate how parity requirements are met.[10]

Kansas Mental Health and Substance Use Disorder Parity Compliance Program

The State agency and the Kansas Department for Aging and Disability Services (KDADS), a co-equal department of the Kansas State government, jointly administer the State's Medicaid managed care program. However, the State agency maintains financial management and contract oversight of the program, and for that reason we are addressing this report and its recommendations solely to the State agency.[11]

For calendar year (CY) 2023, the State agency contracted with three MCOs to coordinate health care (both MH/SUD and M/S services) for all individuals in Kansas who were enrolled in Medicaid.

The State agency required its three MCOs to comply with Federal parity requirements as promulgated in the MHPAEA. Accordingly, the State agency held each MCO responsible for completing a parity analysis because the full scope of MH/SUD and M/S benefits is offered through the MCOs. Furthermore, under the provisions of the MHPAEA, the State agency required that the MCOs provide documentation and reporting to establish and demonstrate parity compliance in a format and frequency specified by the State agency.

In addition, the State agency's contracts with the MCOs require each MCO to complete a Utilization Management (UM) Program evaluation at least annually, which includes an analysis validating compliance with the MHPAEA. In practice, all three MCOs told us that their UM evaluations include analyses of their prior authorization denials.

[8] 42 CFR § 438.920.

[9] 42 CFR § 438.3(a).

[10] 42 CFR § 438.3(n)(2).

[11] Under this structure, KDADS administers the State of Kansas's Medicaid waiver programs for disability services, mental health, and substance abuse. KDADS also operates the State hospitals and institutions for individuals who have mental illness and for individuals with intellectual and developmental disabilities.

HOW WE CONDUCTED THIS AUDIT

We selected for audit all three MCOs with which the State agency contracted for CY 2023 (audit period), which was within the most recent 5-year MCO contract period in effect at the beginning of our audit.[12] The State agency contractually required the MCOs to be in compliance with MHPAEA parity requirements, and accordingly we reviewed the State agency's processes for overseeing and monitoring the MCOs' compliance with those requirements. In addition, we attempted to obtain and review parity analyses for CY 2023 from all three MCOs. We also asked the three MCOs to provide all prior authorizations from our audit period for MH/SUD services and M/S services for the four benefit classifications.

We then reviewed the parity analyses and prior authorizations from our audit period to assess the MCOs' compliance with prior authorization parity requirements for MH/SUD services related to the MCOs' compliance with the same requirements for M/S services in the same four benefit classifications.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency did not ensure that the three MCOs in the State complied with parity requirements related to prior authorization for MH/SUD services provided to their Medicaid enrollees, even though all three MCOs' practices "as written" for the rendering of MH/SUD services complied with parity requirements related to prior authorization. The State agency had some contractual provisions in place during our audit period that were focused on MCOs' compliance with these requirements; however, none of the three MCOs performed, or provided the State agency with, a parity analysis for our audit period. Moreover, the State agency did not request a parity analysis from any of the three MCOs for our audit period.

Although all three MCOs told us during our audit that they were in compliance with parity requirements related to prior authorizations, only one MCO: (1) was able to reaffirm its stated compliance with the MHPAEA and (2) provided supporting data that were sufficiently complete and reconcilable for our audit purposes. We determined that the State agency's monitoring activities did not identify instances in which the other two MCOs may have been out of

[12] The 5-year contract period for all three MCOs ran from Jan. 1, 2019, through Dec. 31, 2023. After the start of our audit, the State agency extended the MCOs' contracts for an additional year so that the contract periods would end on December 31, 2024.

compliance with parity requirements related to prior authorizations. Specifically, the second MCO denied prior authorization requests for MH/SUD services at a higher rate than it denied prior authorization requests for M/S services in the same benefit classification (outpatient out-of-network services). The difference in these rates of prior authorization denials points to a possible area of noncompliance with parity requirements under the MHPAEA. We also identified potential data reliability issues at the third MCO. The State agency required the MCOs to ensure that the data they submitted were accurate, timely, and complete, but this MCO was initially unable to support its parity analysis with accurate and complete data. Only after several requests and repeated data submissions to us was this MCO able to provide adequate data that supported its parity analysis.

The State agency did not ensure that the MCOs complied with parity requirements related to prior authorizations for MH/SUD services provided to Medicaid enrollees because it did not provide clear guidance to the MCOs regarding how to complete and support a parity analysis. In addition, the State agency did not have policies and procedures in place to provide adequate monitoring of the MCOs, such as policies and procedures to help ensure that the MCOs submitted parity analyses and that the State agency reviewed those analyses and provided feedback on them to the MCOs.

Additionally, because certain MCOs did not demonstrate compliance with parity requirements, access to MH/SUD services for their enrollees may have been limited compared to access for M/S services. Accordingly, this may have increased the risk that Medicaid enrollees would encounter delays or barriers to needed MH/SUD treatment.

During our audit, the State agency told us that it believed that the language in the MCO contracts that went into effect in January 2025 (after our audit period) would strengthen the State agency's oversight of the MCOs with respect to compliance with the MHPAEA.

THE STATE AGENCY DID NOT ENSURE THAT ITS MEDICAID MANAGED CARE ORGANIZATIONS COMPLIED WITH PARITY REQUIREMENTS RELATED TO PRIOR AUTHORIZATIONS IN ACCORDANCE WITH THE MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT

Federal Requirements and Guidance

Federal regulations require States agencies to monitor all managed care programs (42 CFR § 438.66), covering every aspect of MCO performance under contract. Additional regulations (42 CFR §§ 438.900 through 438.930) ensure MH/SUD parity applies to each MCO offering services, no matter the delivery system, and states agencies must verify compliance. Further, according to CMS's October 11, 2017 frequency asked questions (FAQ), all M/S and MH/SUD benefits provided to MCO enrollees—including those through a prepaid inpatient health plan (PIHP), a prepaid ambulatory health plan (PAHP), or through a fee-for-service (FFS) delivery mechanism — are subject to parity requirements, regardless of statutory authority. States agencies must analyze prior authorization standards for these benefits, not just note their existence. State agencies

are encouraged to include provisions in MCO contracts for proper oversight of parity-related monitoring and compliance, ensuring adequate documentation and transparency. This allows state agencies to access MCO analysis results and make necessary contract adjustments for parity compliance.

Medicaid Managed Care Organizations' Contractual Requirements[13]

The State agency's contracts with the MCOs: (1) direct the MCOs to "demonstrate experience and expertise" in their submissions of data to the State agency and (2) specify the criteria according to which the State agency evaluates those data. The contracts also direct the MCOs to "monitor and evaluate on an ongoing basis the appropriateness of care and services" and to submit the evaluation results to the State agency at least annually for the State agency to review. According to the contracts, "The [MCOs'] program evaluation shall . . . . Include analysis validating compliance with the MHPAEA."

Furthermore, the contracts cite to Federal regulations at 42 CFR § 438.905(a) to state (in section 6., "RFP Purpose, Contractor(s)' Duties, Implementation and General Administrative Information," paragraph 6.2.E.7) that the MCOs must comply with all Federal regulations and guidance pertaining to parity in MH/SUD benefits, including:

> [MCOs] may not impose non-quantitative treatment limits (NQTLs) for [MH/SUD] benefits in any classification unless, under the policies and procedures of the [managed care programs] as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to [MH/SUD] benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for [M/S] benefits in the classification.

This section of the contracts also directs the MCOs to provide documentation and reporting to the State agency that demonstrates compliance with Federal regulations regarding parity in MH/SUD benefits.

For details on these Federal requirements, guidance and contractual requirements, see Appendix B.

The State Agency Did Not Ensure That the Medicaid Managed Care Organizations Performed and Provided Parity Analyses for Our Audit Period

The State agency's contracts with the three MCOs included provisions requiring them to provide documentation and reporting to establish and demonstrate compliance with the Federal regulations cited above. Furthermore, the contractual provisions state that the MCOs

[13] The contractual language we cite in this section is identical in the State agency's contracts during our audit period with all three MCOs.

shall: (1) comply with all Federal regulations and guidance pertaining to parity in MH/SUD services and (2) annually submit a UM plan and evaluation to the State agency for review. The UM plan and evaluation shall include analysis that validates compliance with the MHPAEA. Because the State agency offered all MH/SUD and M/S services through MCOs, each MCO was responsible for completing a parity analysis.

Contrary to regulatory and contractual requirements, the State agency did not ensure that the three MCOs complied with parity requirements related to prior authorizations for MH/SUD services provided to their Medicaid enrollees. Although the State agency had provisions in its contracts with the MCOs during our audit period that were focused on MCOs' compliance with the parity requirements, we found that none of the three MCOs performed, or provided the State agency with, a parity analysis for the entirety of our audit period. Specifically, during our audit period none of the three MCOs performed or provided the State agency with a complete parity analysis that included, as part of their UM plans and evaluations, both an "as written and in operation" analysis with supporting data documentation. We found that the parity analyses that the MCOs performed were incomplete because they either: (1) consisted of only an analysis of their policies and procedures regarding prior authorizations or (2) did not include supporting documentation.

Thus, the State agency did not ensure that each of the MCOs provided a parity analysis that included detailed data on prior authorizations, such as the types of prior authorizations and the results of prior authorization requests for services associated with the four required benefit classifications.

Through interviews with staff of the MCOs, we further determined that the State agency did not request a parity analysis from any of the three MCOs for our audit period, despite the contractual provisions that require annual submission of this analysis. For our audit period, and at our request, each of the three MCOs performed and provided us with a parity analysis and supporting documentation. However, as discussed in our next finding, one MCO struggled to provide us with the requested parity analysis because of inconsistencies and incompleteness in its data.

Moreover, only two of the three MCOs completed a parity analysis for prior authorizations of MH/SUD and M/S prescription drugs. The remaining MCO told us that it did not perform a parity analysis for prescription drugs because the State agency required the MCOs to use the State agency's formulary with no changes.[14]

Although the State agency did not ensure that the MCOs submitted a parity analysis for our audit period, it did give us a count, by MCO, of the total submissions of inpatient and outpatient prior authorization requests (MH/SUD and M/S data combined). The State agency could not identify which prior authorization requests were submitted for MH/SUD services and which

[14] Although only one MCO specifically stated that this requirement was the reason why it did not perform a parity analysis for prescription drugs, a second MCO confirmed that the State agency determined the formulary design.

were submitted for M/S services. As a result, we were unable to reconcile the State agency's data to the data in the parity analyses and supporting documentation for prior authorizations that the three MCOs provided to us during our audit.

The State Agency Did Not Adequately Monitor Its Medicaid Managed Care Organizations for Compliance With Parity Requirements Related to Prior Authorizations

Federal regulations at 42 CFR § 438.66(a) direct State Medicaid agencies to have in effect monitoring systems for all managed care programs. Furthermore, these systems must address all aspects of the managed care programs, including the performance of each MCO with respect to the provisions of their contracts (42 CFR § 438.66(b)). The State must ensure that all services delivered to the enrollees of the MCOs are in compliance with Federal parity requirements (42 CFR § 438.920(b)(2)).

Contrary to these regulations, the State agency's monitoring activities did not identify instances in which two of the three MCOs may have been out of compliance with parity requirements related to prior authorizations. When, at our request, the three MCOs performed and provided us with parity analyses for our audit period, each MCO stated that its parity analyses indicated compliance with the MHPAEA. In reviewing these parity analyses, we determined that all three MCOs' practices "as written" for the rendering of MH/SUD services complied with parity requirements related to prior authorization. For example, one MCO's practices as written described that restrictions or limits on MH/SUDs medications are not more restrictive than those applied on M/S medications. However, of the three MCOs, only one MCO (1) was able to give us a parity analysis that appeared to reaffirm its stated compliance with MHPAEA and (2) provided supporting data that were sufficiently complete and reconcilable for our audit purposes.

We determined that the second MCO denied prior authorization requests for MH/SUD services in one benefit classification (outpatient out-of-network services) at a higher rate than it denied prior authorization requests for M/S services in the same benefit classification. The difference in these rates of prior authorization denials points to a possible area of noncompliance with parity requirements related to prior authorizations under the MHPAEA. Specifically, we determined that with respect to outpatient out-of-network services during our audit period, this MCO denied 34 percent of prior authorization requests for MH/SUD services and 22 percent of prior authorization requests for M/S services.

We also identified potential data reliability issues at the third MCO. Although the State agency required the MCOs to ensure that the data they submitted were accurate, timely, and complete, the third MCO was initially unable to give us the parity analysis, supported with accurate and complete data, that we requested. Specifically, this MCO's initial parity analysis was incomplete and could not be reconciled to supporting data. Nor could several other parity analyses that this MCO subsequently gave us, each of which had inconsistencies within its data. Not until 18 months after our initial request was this MCO able to provide a parity analysis that was adequately supported with complete and reconcilable data—and even then, only three of

the four benefit classifications were adequately supported. For the fourth benefit classification, prescription drugs, this MCO told us that it did not perform a complete parity analysis because, as stated above (footnote 14), the State agency required the MCOs to use the State agency's formulary with no changes.

Although these findings did not result in noncompliance with parity requirements related to prior authorizations, they do suggest that State agency guidance to and monitoring of MCOs could be improved.[15]

THE STATE AGENCY DID NOT PROVIDE CLEAR GUIDANCE TO, OR ADEQUATE MONITORING OF, MEDICAID MANAGED CARE ORGANIZATIONS WITH RESPECT TO PARITY REQUIREMENTS RELATED TO PRIOR AUTHORIZATIONS

The State Agency Did Not Provide Instructions or Details on Supporting Documentation to the Medicaid Managed Care Organizations

The State agency did not ensure that the MCOs complied with parity requirements related to prior authorizations for MH/SUD services provided to Medicaid enrollees because it did not provide clear guidance to the MCOs regarding how to complete and support a parity analysis. In addition, the State agency did not have policies and procedures in place to provide adequate monitoring of the MCOs, such as policies and procedures to help ensure that the MCOs submitted parity analyses and that the State agency reviewed those analyses and provided feedback on them to the MCOs.

Although the State agency ensured that contractual provisions were in place for each MCO, it did not provide the MCOs with guidance on how to comply with the MHPAEA and Federal regulations and guidance pertaining to parity in MH/SUD services. During our audit, all three MCOs told us that the State agency had not provided any instructions to them on how to conduct a parity analysis and did not provide any details explaining what supporting documentation should be provided to the State agency. Further, the parity analyses that the MCOs provided to the State agency during our audit period were incomplete, and the State agency did not provide feedback on those submitted analyses. The State agency confirmed to us that aside from the generalized language in the contracts, it did not provide the MCOs with guidance regarding the parity requirements related to prior authorizations.

We also determined that the State agency did not enforce the contractual requirement that the MCOs conduct parity analyses annually. For this reason, the State agency was not aware—until we brought these issues to its attention—of the second MCO's different rates of prior authorization denials for MH/SUD outpatient out-of-network services as compared to prior authorization denials for M/S services in the same benefit classification and the third MCO's

[15] A higher rate of prior authorization denials for MH/SUD services as compared to the rate of denials for M/S services does not necessarily signify noncompliance with NQTL requirements. Rather, a higher rate could be an indicator of *potential* noncompliance with these requirements.

potential data reliability issues and lack of complete parity analysis for the prescription drug benefit classification.

During our audit period, the State agency and KDADS both provided limited monitoring of the MCOs; however, neither agency formally and directly addressed the need to ensure MCOs' compliance with parity requirements. Although the two agencies have held discussions on which should assume responsibility for oversight of these requirements, this question had remained unresolved, and the responsibility had remained unassigned as of the end of our field work, February 2026.

The State Agency Did Not Provide Adequate Monitoring of Its Medicaid Managed Care Organizations, Creating a Risk That Access to Mental Health and Substance Use Disorder Services May Have Been More Limited

During our audit period, the State agency did not: (1) ensure that the three MCOs performed and provided parity analyses, (2) monitor the MCOs for compliance with parity requirements for prior authorizations, or (3) provide clear instructions or supporting documentation to the MCOs. As a result, because certain MCOs did not demonstrate compliance with parity requirements, access to MH/SUD services for their enrollees may have been limited compared to access for M/S services. Accordingly, this may have increased the risk that Medicaid enrollees would encounter delays or barriers to needed MH/SUD treatment.

During our audit, the State agency told us that it believed that the language in the MCO contracts that went into effect in January 2025 (after our audit period) would strengthen the State agency's oversight of the MCOs with respect to compliance with the MHPAEA. According to the State agency, the new contracts continue to require that each MCO monitor compliance with the MHPAEA and perform a parity analysis to evaluate and validate its compliance.

These parity analyses are updated annually on the State agency's website. When we reviewed the State agency's MHPAEA website, we found parity analyses submitted by all three MCOs for CY 2024 (the year after our audit period) and observed that the State agency had published comments in response to the analyses. We did not review the CY 2024 parity analyses to determine whether they met MHPAEA or contractual requirements.

RECOMMENDATIONS

- We recommend that the State agency enhance its oversight of the MCOs by ensuring they: (1) complete and submit the parity analyses annually for each of the four benefit classifications—inpatient, outpatient, prescription drugs, and emergency care—as required in the MCO contracts, (2) maintain and submit complete and accurate data to support those analyses, and (3) correct issues of identified noncompliance with the MHPAEA.

- We recommend that the State agency develop and disseminate clear and detailed instructions to the MCOs explaining how to conduct the parity analyses.

- We recommend that the State agency improve its monitoring of the MCOs by developing and implementing policies and procedures that: (1) formally identify whether the State agency or KDADS is responsible for oversight of MCOs' compliance with parity requirements, and (2) formalize procedures for the collection and review of the MCOs' submitted supporting data for the parity analyses.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with all of our recommendations and described corrective actions that it had taken and planned to take to address them.

For our first recommendation, the State agency said that it had strengthened its oversight of MCOs' MH/SUD parity analyses by standardizing processes, improving data validation, and requiring corrected submissions based on CMS feedback. The State agency also stated that it had formed a cross-agency workgroup with KDADS to clearly define roles and responsibilities and improve coordination in monitoring compliance. The State agency acknowledged that it "retains primary responsibility" for ensuring MCOs' compliance with parity requirements, and added that its enhanced oversight, including regular check-ins, is expected to identify noncompliance sooner and support timely corrective actions. Furthermore, the State agency said that if corrective actions are not undertaken within requested timeframes, the State agency would apply contractual remedies.

For our second recommendation, the State agency explained that it is partnering with KDADS to "disseminate the State's revised instructions on how to conduct a parity analysis . . . ." The State agency also said that it would outline expectations for ongoing quarterly and biannual evaluations as well as the annual UM evaluation that MCOs must submit to the State agency at the end of the first quarter of the following calendar year.

For our third recommendation, the State agency reiterated that it is the "primary State agency responsible for oversight of MCO compliance with MHPAEA parity requirements" and acknowledged KDADS's "important role . . . in supporting implementation and ongoing monitoring activities" related to parity requirements. The State agency said that the two agencies are, through the cross-agency workgroup, collaboratively developing formal documentation, policies, and procedures that define their respective roles and responsibilities and that standardize data collection, review, and validation processes. The State agency added that the workgroup had been using the CMS toolkit as guidance for creating consistent processes for addressing discrepancies, managing corrections, and handling resubmissions. The State agency also stated that the State's coordination with the MCOs would include implementation of a standardized CMS template that the MCOs would be required to use for the collection, documentation, and submission of MHPAEA-related data to the State for review.

The State agency's comments appear in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit focused on the prior authorization NQTL (footnote 3) and on whether MCOs in Kansas imposed limits on MH/SUD services that were not comparable to, or were more restrictive than, those applied to M/S services in the same benefit classifications. We selected for audit all three MCOs with which the State agency contracted for CY 2023 (audit period), which was within the most recent 5-year MCO contract period in effect at the beginning of our audit (footnote 12). The State agency contractually required the MCOs to be in compliance with MHPAEA parity requirements, and accordingly we reviewed the State agency's processes for overseeing and monitoring the MCOs' compliance with those requirements.

As part of our audit work, we interviewed State agency officials to obtain information about the delivery of MH/SUD services, obtained the most current MCO contract(s), and determined whether the MCOs' parity analyses identified prior authorization deficiencies, which included obtaining up-to-date information regarding parity compliance.

We selected for audit all three MCOs with which the State agency contracted for our audit period.

We did not review the overall internal control structures of the State agency or the MCOs. Rather, we limited our review of internal controls to those applicable to our objective. Specifically, we queried the State agency about its policies and procedures for overseeing and monitoring the MCOs' compliance with parity requirements related to prior authorization, including the State agency's procedures for reviewing MCOs' submissions related to parity compliance; the State agency's followup with MCOs and the corrective actions taken for any identified noncompliance; and the guidance that the State agency has provided to MCOs related to compliance with parity requirements.

We conducted our audit work from March 2024 to May 2026.

METHODOLOGY

We took the following steps to accomplish our objective:

- Reviewed applicable Federal and State laws and regulations and the State agency's contracts with and guidance to MCOs regarding compliance with parity requirements

- Met with State agency officials to gain an understanding of the State agency's monitoring policies and procedures that are oriented to ensure MCOs compliance with parity requirements

- Identified responsibilities of the State agency, KDADS, and the MCOs insofar as parity requirements were concerned

- Met with officials from each of the three MCOs to discuss their understanding of the State agency's policies and procedures regarding compliance with parity requirements and to obtain and review documentation of the State agency's communications with each MCO regarding parity and actions taken on any identified noncompliance

- Asked the three MCOs to perform a parity analysis for CY 2023 (our audit period) and obtained and reviewed the results of those analyses

- Obtained and reviewed data on all prior authorizations (including supporting documentation) from the State agency for all three MCOs

- Met with the three MCOs in Kansas to:

    - gain an understanding of the MCOs' policies for providing MH/SUD services to enrollees;

    - obtain and review policies, procedures, benefit booklets, and plan records to understand the MCOs' practices for provision of MH/SUD services; and

    - obtain data on all prior authorizations for all four benefit classifications and review the prior authorization denial rates for MH/SUD services compared to prior authorization denial rates for M/S services

- Discussed the results of our audit with State agency officials

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS AND GUIDANCE

Federal regulations state: "[t]he State agency must have in effect a monitoring system for all managed care programs" (42 CFR § 438.66(a)). Federal regulations add that the State's system must address all aspects of the managed care program, including the performance of each MCO with respect to the provisions of the MCO contract, as appropriate (42 CFR § 438.66(b)).

Furthermore, Federal regulations state that in each State that covers M/S and MH/SUD services under a State plan, the requirements of 42 CFR §§ 438.900 through 438.930 apply to each MCO in that State that offers services to its enrollees.[16] These regulations add that parity requirements in MH/SUD services apply regardless of the delivery system of the M/S or MH/SUD services under the State plan. Moreover, the State must ensure that all services delivered to the enrollees of the MCO are in compliance with these regulations.

On October 11, 2017, CMS issued a frequently asked questions document concerning the MH/SUD parity final rule for Medicaid and the Children's Health Insurance Program (CHIP), which states in part:[17]

> All [M/S and MH/SUD benefits] that are provided . . . to enrollees of [an MCO] (regardless whether the services are furnished by that MCO, a prepaid inpatient health plan (PIHP), a prepaid ambulatory health plan (PAHP), or through a fee-for-service (FFS) delivery mechanism) are subject to parity requirements, regardless of the statutory authority under which they are provided. . . .
>
> It is not sufficient to note that prior authorization applies to both M/S and MH/SUD benefits. Instead, it is necessary to analyze the processes, strategies and evidentiary standards as written and in operation associated with prior authorization for M/S and MH/SUD benefits within the same classification. . . .
>
> [S]tates may also wish to consider including provisions in their contracts with MCOs to ensure adequate oversight of the MCO's parity-related monitoring and compliance activities. The state's oversight process and documentation requirements should be sufficient to ensure that enrollees are receiving services in compliance with the federal Medicaid and CHIP parity rules. For example, in situations where the MCO has responsibility for offering all [M/S] and MH/SUD benefits and is responsible for undertaking the parity analysis, the state may wish to include language in their contracts with MCOs to ensure the state can

[16] 42 CFR § 438.920.

[17] CMS issued FAQs: Mental Health and Substance Use Disorder Parity Final Rule for Medicaid and CHIP dated Oct. 11, 2017, at https://www.medicaid.gov/federal-policy-guidance/downloads/faq101117.pdf (accessed on Feb. 18, 2026).

see the results of the MCO's analysis. This may help the state to work with the MCO to implement any changes to the MCO contract that are necessary for compliance with parity requirements.

MEDICAID MANAGED CARE ORGANIZATIONS' CONTRACTUAL REQUIREMENTS

The State agency's contracts with the MCOs (footnote 13) state (in subsection 5.16.J., "Reporting and Data Collection"):

> [MCOs] . . . shall demonstrate experience and expertise with all data submissions in scope of this [Request for Proposal (RFP)]. Evaluation will be conducted on the following criteria:
>
> 1. The adequacy of the respondent's process to ensure accurate, timely, and complete data and reporting submissions.
>
> 2. Demonstrated knowledge of the combination of key fields needed to identify services.

The State agency's contracts with the MCOs also state (in subsection 5.8.2.A., "Utilization Management Program Evaluation"):

> The [MCOs] shall monitor and evaluate on an ongoing basis the appropriateness of care and services. The evaluation shall be a fluid document that is updated as UM [Utilization Management] services are evaluated on a monthly, quarterly, semi-annually [*sic*] and annual basis. The UM Plan and evaluation results must be submitted at least annually to the State for review. The program evaluation shall . . . . 3. Include analysis validating compliance with the MHPAEA.

In addition, the State agency's contracts with the MCOs state (in section 6., "RFP Purpose, Contractor(s)' Duties, Implementation and General Administrative Information"), subsection 6.2.E., "Contractor(s) Responsibilities"):

> In accordance with 42 CFR § 438.905(a), [MCOs] must comply with all Federal regulations and guidance pertaining to parity in [MH/SUD] benefits, including:
>
> 7. [MCOs] may not impose non-quantitative treatment limits (NQTLs) for [MH/SUD] benefits in any classification unless, under the policies and procedures of the [managed care programs] as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to [MH/SUD] benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for [M/S] benefits in the classification.

8. [MCOs] must provide documentation and reporting to establish and demonstrate compliance with 42 CFR part 438, subpart K regarding parity in [MH/SUD] benefits in a format and frequency as specified by the [State agency].

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June 26, 2026

Mr. James I. Korn
Regional Inspector General for Audit Services
Region VII
601 East 12th St., Room 0429
Kansas City, MO 64106

Report Number: A-07-24-02842

RE: Responses to HHS OIG KS MH/SUD Parity Audit

Dear Mr. Korn,

By email, you requested Kansas Department of Health and Environment (KDHE) to provide written comments within 30 days to the Office of Inspector General (OIG), draft report titled "Kansas Did Not Ensure That Its Medicaid Managed Care Organizations Complied With Mental Health and Substance Use Disorder Parity Requirements Related to Prior Authorization".

Below are the KDHE responses to each of your recommendations, including statements of concurrence or nonconcurrence and descriptions of the actions taken or planned to bring the state into compliance with Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requirements.

Recommendations

- **We recommend that the State agency enhance its oversight of the MCOs by ensuring they:**
  1. **complete and submit the parity analyses annually for each of the four benefit classifications inpatient, outpatient, prescription drugs, and emergency care as required in the MCO contracts**
  2. **maintain and submit complete and accurate data to support those analyses**
  3. **correct issues of identified noncompliance with the MHPAEA**

KDHE Response:

KDHE agrees with the recommendation to enhance oversight of the MCO contracts which necessitate the MCOs to comply with the MHPAEA parity requirements through the three points indicated above. Below are the KDHE statements that provide progress on how KDHE has begun to come into compliance with MHPAEA requirements.

(1) KDHE recognized the importance of establishing a more consistent process for working with MCOs to address identified deficiencies or corrections needed within the analyses. In early 2024, KDHE conducted an assessment of existing oversight processes and identified opportunities to strengthen monitoring of MCO compliance with MHPAEA parity requirements and contractual deliverables. This assessment resulted in KDHE determining that additional structure and accountability measures were needed to ensure MCOs completed and submitted the annual MH parity analyses within the standardized timeframes. In addition, KDHE identified a need for improved oversight regarding the supporting data used in the analyses, including ensuring data submissions were complete, accurate, and adequately supporting the parity analysis results.

KDHE staff identified that MCO MH parity "white papers" had been requested by KDHE-DHCF and submitted by the MCOs in April 2023. These submissions were subsequently posted on the KanCare website by KDHE. KDHE proceeded to work with the MCOs on the 2024 MH parity submission cycle. The MCOs completed and submitted the requested analyses, which were reviewed by KDHE and CMS. Utilizing the feedback provided during the CMS consultation, KDHE provided the identified findings and cited the corrections needed to the MCOs, which allowed the MCOs to submit revised parity analyses with the requested corrections incorporated. The final responses, along with the corrected and most current MCO MH parity analyses, were posted on the KanCare website in December 2024.

(2) KDHE's work to implement the OIG recommendation to enhance State oversight of the MCOs' annual MH parity analyses, will help to ensure the submission of accurate supporting data, and identify and correct instances of non-compliance with MHPAEA requirements has resulted in the creation of a cross-agency collaborative workgroup between KDHE and KDADS, led by KDHE. The purpose of the established workgroup is to develop and formalize policies, processes, and procedures that create clearly defined roles and responsibilities for each agency in the shared oversight of MCO MH parity compliance. As the single State Medicaid agency, KDHE retains primary responsibility for ensuring that MCO MH parity analyses are submitted timely, complete, and in accordance with applicable requirements. KDADS will provide operational support by working directly with the MCOs on MH parity-related contract deliverables and requirements, including assisting with expectations for maintaining, validating, and submitting accurate supporting data. In utilizing this collaborative approach, the overall goal is to strengthen coordination, oversight, and accountability across both agencies to support ongoing compliance with MHPAEA requirements.

(3) With the enhanced oversight, MHPAEA supporting data and ongoing quarterly and bi-annually "check-ins" being conducted by KDHE, it is anticipated that any non-compliance issues will be identified quicker and corrective action plans created. In working with our KDADS colleagues, processes will be established for the corrective actions to bring the MCO into compliance with MH parity. If corrective actions are not met within the requested timeframes, outcome leavers allowable by the KanCare 3.0 contract will be implemented.

- **We recommend that the State agency develop and disseminate clear and detailed instructions to the MCOs explaining how to conduct the parity analyses**.

KDHE Response:

KDHE agrees with the recommendation for the State agency to develop and disseminate clear and detailed instructions to the MCOs explaining how to conduct the parity analyses. KDHE is partnering with KDADS to prepare a meeting in August 2026 to disseminate the State's revised instructions on how to conduct a parity analysis and the expectations that ongoing evaluation of the MCO MH parity analysis will occur on a quarterly and bi-annual basis of ongoing evaluation of the MCO MH parity analysis on a quarterly and bi-annual basis. This meeting will also set expectations around the annual UM evaluation submission to KDHE at

the end of the first quarter of the following calendar year. KDHE will inform the MCOs of the changes and expectations at the KDHE-DHCF clinical meeting on July 1, 2026.

- **We recommend that the State agency improve its monitoring of the MCOs by developing and implementing policies and procedures that:**
    1. **formally identify whether the State agency or KDADS is responsible for oversight of *MCO's compliance* with parity requirements**
    2. **formalize procedures for the collection and review of the *MCOs' submitted* supporting data for the parity analysis**

KDHE Response:

KDHE agrees with the recommendation of formally identifying the party responsible for oversight of MCO compliance of the parity requirements and having formalized procedures in place. Several discussions with OIG at the conclusion of the audit KDHE staff clarified that KDHE serves as the primary State agency responsible for oversight of MCO compliance with MHPAEA parity requirements. KDHE acknowledged the important role of its sister agency, KDADS, in supporting implementation and ongoing monitoring activities related to MH parity requirements.

KDADS will work collaboratively with KDHE to support the implementation and continued oversight of MH parity requirements, which include but are not limited to activities such as data collection, validation, submission processes, and annual MH parity analysis activities. KDHE understands the importance of these roles and responsibilities being formally documented, which is why the cross-agency KDHE/KDADS workgroup is developing formal documentation outlining each agency's roles and responsibilities related to the State's MHPAEA program. In addition to the development of formal documentation, the workgroup is establishing formal policies, procedures, and processes for the collection, review, and validation of MCO-submitted supporting data used in MH parity analyses. The workgroup has been reviewing CMS MHPAEA toolkit resources and incorporating applicable guidance into the State's oversight processes to ensure compliance. The workgroup will also develop and implement a standardized process for reviewing submitted data, addressing identified discrepancies or corrections, and managing resubmissions when necessary.

In coordination with the MCOs, the State will communicate expectations related to MHPAEA deliverables, data requirements, and submission processes. This will include implementation of a standardized CMS data template that all three MCOs will be mandated to use when collecting, documenting, and submitting MHPAEA-related data to the State for review. KDHE recognizes that as the Single State Medicaid Agency, it is responsible for final oversight responsibility and approval authority for the supporting data used in the overall and annual MCO MH parity analyses.

KDHE wishes to express its sincere appreciation to the auditors for their time and thoughtful review. We value the opportunity to collaborate and strengthen efforts to ensure compliance with MHPAEA requirements.

Respectfully,

/s/ Christine Osterlund

Christine Osterlund
Deputy Secretary of Agency Integration and Medicaid
Kansas Department of Health and Environment
Division of Health Care Finance

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