



# Which laws apply to my plan?

The type of plan you have will determine which laws apply to your coverage, and the process for appealing a denial. There are three basic types of plans:

1. Individual: You or a family member buy the policy directly from an insurance company or agent
2. Group: You or your family member signed up for a plan offered by an employer to employees
3. Government sponsored: You or a family member signed up for a plan through a public program

## Individual Plans

If you have an individual plan issued and delivered in Washington State, then your plan is regulated by Washington State laws. An important Washington State law that applies to these plans is the Mental Health Parity Act.

Appeals of denial will be regulated by the Washington Patient Bill of Rights.

## Group Plans

If you have a group plan, offered by an employer, you will need to determine how it is funded. You should contact your employer's Human Resources Department to find out if the plan is self-funded or fully-funded.

**Self-funded/ERISA** A plan is considered to be self-funded if the employer, Plan Sponsor, or a trust is responsible for paying the benefits.

If your plan is self-funded and through a private employer, your plan is regulated by federal law. If your plan covers 51 persons or more, the federal Mental Health Parity and Addiction Equity Act of 2008 applies.

Appeals of denials will be regulated by the Employment Retirement Income Security Act of 1974 or ERISA.

**Exempt Self-funded/Non-ERISA** If your plan is self-funded and through a church or public employer in the State of Washington, it is regulated by Washington State laws. An important Washington State law that applies to these plans is the Mental Health Parity Act.

Appeals of denials will be regulated by the Washington State Patient Bill of Rights.

Please note: Washington state public employees and their dependents participate in the Uniform Medical Plan (UMP), which is under the jurisdiction of the Health Care Authority, which has a plan-specific appeal process, but is also subject to the Washington State Patient Bill of Rights.

Note: Military personnel with TRICARE should follow the appeal procedure provided by TRICARE.

**Fully-funded/ERISA** If your plan is fully-funded, or fully insured, and issued and delivered in Washington State, then your plan is regulated by Washington State laws and is subject to the Affordable Care Act. An important Washington State law that applies to these plans is the Mental Health Parity Act. Appeals of denials will be regulated by the Employment Retirement Income Security Act of 1974 or ERISA.

## Government Sponsored

Plans offered through government programs, such as Medicare, WSHIP, PCIP, and Apple Health, have plan specific appeals processes. Please refer to the agency providing the plan for more information.



# Mental Health Parity Acts

Two important laws to know about are the Washington State Mental Health Parity Act and the Federal Mental Health Parity and Addiction Equity Act. Both laws state that mental health services are a necessary part of healthcare and should be covered and delivered under the same terms and conditions as medical and surgical services when medically necessary.

## Washington State Mental Health Parity Act of 2005

1. Treatment of mental health conditions (as identified in the DSM-V), including financial requirements, must be covered and delivered under the same terms as medical and surgical treatments.
2. Washington courts have determined that speech therapy, occupational therapy, and physical therapy, also referred to as neurodevelopmental therapies (NDT), and applied behavior analysis (ABA), when ordered to treat a person with ASD, are treatments of mental health conditions.
3. Under the mental health parity laws, the limits placed on these treatments cannot be more restrictive than the limits placed on medical and surgical benefits. Yet many insurance companies continue to limit and/or exclude coverage of NDT and/or ABA when ordered to treat ASD.
4. Insurance navigators help members assert their legal rights under this law by appealing unlawful exclusions and limits through the insurance carrier's internal appeals process.
5. Typically, the Washington State Mental Health Parity Act applies to individual plans issued and delivered in Washington State, exempt self-funded plans funded through a church or public employer in Washington State, and fully-funded plans issued and delivered in Washington State.
6. See "[Accessing Behavioral and Neurodevelopmental Therapies through Private Insurance](#)."
7. See [Washington State Office of the Insurance Commissioner 'Mental Health Parity'](#).

## Federal Mental Health Parity and Addiction Equity Act of 2008

1. The Federal Mental Health Parity Act also states that treatment of mental health conditions must be covered and delivered under the same terms as medical and surgical treatments. See #1-4 above.
2. Typically, the Federal Mental Health Parity Act applies to self-funded plans that cover 51 persons or more.
3. For more information on the federal law, see DOL Mental Health Parity and Addiction Equity Act Fact Sheet <http://www.dol.gov/ebsa/newsroom/fsmhpaea.html>.