

The State Flexibility to Stabilize the Market Grant Program  
Final Report Template

OMB control number: 0938-1366

Expiration date: 07/31/2022

<b>Report Date</b>	September 24, 2021
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<b>Organization Information</b>	
<b>State</b>	Washington
<b>Project Title</b>	Access to Behavioral Health Services
<b>Grant Project Director (Name and Title)</b>	Jane Beyer, Senior Health Policy Advisor
<b>Phone/Email</b>	360-725-7043/ JaneB@oic.wa.gov
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<b>Grant Information</b>	
<b>Date Grant Awarded</b>	August 20, 2018
<b>Amount Granted</b>	\$284,135
<b>Project Reporting Period (Example: Final Report 8/20/2018-8/19/2020)</b>	8/20/18 – 6/30/21

**The purpose of the Final Grant Reports is to:**

- Summarize the initiatives of the Patient Protection Affordable Care Act (PPACA) market reform provisions funded through the grant program.
- Provide grantees participating in the State Flexibility to Stabilize the Market Grant Program with the opportunity to share information, highlight successes, and reflect upon the progress of their programs.

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**Grant Performance Period:** Date of award through August 20, 2018 - August 19, 2020 (no cost extension approved to June 30, 2021)

The provisions in Part A of Title XXVII of the Public Health Service (PHS) Act include market-wide reforms in the group and individual private health insurance markets intended to protect consumers, increase transparency, and regulate health insurance industry practices.

One of the goals of the State Flexibility to Stabilize the Market Grant is to provide States with the opportunity to ensure their laws, regulations, and procedures are in line with Federal law, and enhance the States' ability to effectively regulate their respective health insurance markets through innovative measures that support the pre-selected market reforms and consumer protections under Part A of Title XXVII of the PHS Act.

States are required to submit a final progress report to CMS. The final progress report summarizes the significant advancements made towards the State's goal of planning and/or implementing the pre-selected market reforms provisions under Part A of Title XXVII of the PHS Act over the course of the Grant Program.

Funding under the State Flexibility to Stabilize the Market Grant Program is available to States for activities related to planning and implementing the following provisions of Part A of title XXVII of the PHS Act:

Section 2702 – Guaranteed Availability of Coverage

Section 2703 – Guaranteed Renewability of Coverage

Section 2707 – Non-discrimination under Comprehensive Health Insurance Coverage (Essential Health Benefits Package)

The final report is due ninety days following the end of the State Flexibility to Stabilize the Market Grant. For example, for awardees completing grant activity by August 19, 2020, the final report is due by November 19, 2020. All final reports must be submitted electronically through the Health Insurance Oversight System (HIOS).

The following reporting guidelines are intended as a framework and can be modified when agreed upon by CMS and the State. A complete final progress report must detail how grant funds are being utilized, describe program progress, barriers, and provide an update on the measurable objectives of the grant program.

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## **PART I: FINAL NARRATIVE REPORT FORMAT**

### **Introduction:**

The Final Narrative Report represents the culmination of activities and accomplishments throughout the Grant Program. In the Final Narrative Report, please support your explanation of grant progress with quantitative data when available and other evidence to illustrate the success of your State Flexibility to Stabilize the Market Grant Program.

In order to provide metrics for CMS to monitor the progress of each activity, grantees are required to report quantitative measurements using the following **Progress Metrics Guide:**

<b><u>Level of Stages</u></b>	<b><u>Description of Stages</u></b>
<b>Stage 0</b>	No work has begun on stated goal.
<b>Stage 1</b>	Project Plan has been created and staff has been assigned to task. The work on achieving the goal has initially begun.
<b>Stage 2</b>	Goal of the Project Plan is underway, and any refinements or adjustments to original Project Plan were made.
<b>Stage 3</b>	Goal of the Project Plan is half way complete and continuously being worked on.
<b>Stage 4</b>	Deliverables are beginning to finalize and proposed goals are nearly completed.
<b>Stage 5</b>	100% of stated goal has been completely achieved.

**EXAMPLE:** Objective 1 was to hire additional staff to conduct formulary reviews: “We worked throughout the past 24 months to hire two clinicians to conduct formulary review. We achieved this objective when we were able to successfully hire two clinicians. Objective 1: Stage 5”.

**Please use this guide when answering the following questions. In addition, please use charts and graphs to highlight progress when appropriate.**

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**Final Program Implementation Status:** Include a thorough discussion and update on progress towards the following:

1. *Final Accomplishments:* Describe achieved implementation milestones and outcomes, include Progress Metrics towards each stated goal, objective and milestone outlined in the State Flexibility to Stabilize the Market Grant Work Plan.

## **Issuance and Analysis of First Market Scan**

### **• Stage 5 – OIC Issuance and Analysis of First Market Scan:**

- Stage 5 – Review of other states’ market scans and Independent Review Organization (IRO) data base: This review was completed in December 2018.
- Stage 5 – Establishment and Meetings of Advisory Committee: OIC established a 25-member advisory committee made up of consumer advocates, behavioral health and medical providers, and carrier representatives. The committee met four times over the course of the grant to provide input to OIC related to the scope of project activities, review initial findings, and make recommendations. Meetings were held on November 19, 2018, December 11, 2018, September 23, 2019, and October 15, 2020.
- Stage 5 – First Market Scan Issued: The first market scan (submitted as an attachment to OIC’s 2019 annual report), was sent to Washington state carriers on March 1, 2019, consistent with our grant timeline. We spent many hours prior to March 1 developing the market scan. The activities associated with development of the market scan included:
  - Extensive review and consideration of similar market scan and survey documents used by other states, including Maryland, New Hampshire and Pennsylvania.
  - Review of draft first market scan by OIC internal subject matter experts.
  - A draft of the First Market Scan was sent to our advisory committee for review and comment, with responses due February 12, 2019.
  - OIC had discussions with and received input on the draft from carriers.
  - Input from our advisory committee and carriers was integrated into the final market scan issued on March 1, 2019. These comments significantly improved the clarity of the questions included in the scan. The first market scan divided the due date for responses into two parts – with the first due March 31, 2019 and the second due April 30, 2019. After extensive input from carriers and a request for an extension of time to submit responses, on March 26, 2019, OIC notified the carriers that we had granted a 30-day extension for each set of responses. The revised due dates were April 30, 2019 for the first part responses and May 31, 2019 for the second part responses.
- Stage 5 – First Market Scan Responses Received: The first set of responses were submitted by all carriers by April 30, 2019. The second set of responses were submitted by all carriers as of June 7, 2019. The grant team’s economic and data analysts developed a mechanism for carriers to upload their responses to OIC. Analysis of the data set continued during the duration of the grant. The carrier responses informed the issues of focus for our

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second market scan and are available for use in the market conduct activities that we will be continuing during our Cycle II grant work.

- **Stage 5 – University of Washington Clinical Consultants Analysis of First Market Scan:**

- Stage 5 – Interagency Agreement for Clinical Review: On June 3, 2019, OIC executed an interagency agreement with the University of Washington, School of Medicine, Department of Psychiatry and Behavioral Health (UW). Under the interagency agreement, UW undertook review of carrier health services management policies, including medical necessity criteria, criteria for prior authorization and concurrent and retrospective review related to an agreed upon set of clinical services. They assessed Mental Health Parity and Addiction Equity Act (MHPAEA) compliance in the development and operation of these policies and processes, as well as the clinical policies’ consistency with generally accepted standards of care.
- Stage 5 – Receipt of Preliminary Report from Clinical Consultants: On August 27, 2019, OIC received the preliminary findings from UW. The initial preliminary findings included carrier-specific information, which is confidential under RCW 48.37.080. OIC asked UW to provide a revised version of the report with preliminary findings reported in the aggregate. The revised preliminary findings were submitted to OIC on September 10, 2019. UW’s findings were included in public presentations regarding grant activities to date.
- Stage 5 – Receipt of Final Report: On December 30, 2019, OIC received the final report from the UW clinical consultants. The information in the report is aggregated and does not identify individual carriers, given that the information that UW reviewed was obtained under our market conduct authority. Both the preliminary report and the final report were extremely helpful in planning the second market scan and the claims data analysis. The findings also have been used in public presentations regarding the grant.
  - The final UW report is posted on our grant website (<https://www.insurance.wa.gov/sites/default/files/documents/university-of-washington-behavioral-health-services-report.pdf>), and was distributed to our grant advisory committee.

## Issuance and Analysis of Second Market Scan

- **Stage 5 – Issuance of Second Market Scan:**

- Development of the Second Market Scan began in the second year of the grant. The key goals in development of the Second Market Scan were to:
  - Target the most prominent issues that were identified in the First Market Scan responses, our UW consultant’s report and by our grant advisory committee;
  - To the extent possible, use behavioral health parity/MHPAEA compliance tools that were already in use in the private health insurance/group health plan sectors; and
  - Imbed excel spreadsheets and directions in the Second Market Scan to increase the likelihood of receiving more consistent responses from carriers and to

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facilitate analysis of responses across carriers.

- Dr. Henry Harbin was a member of the UW clinical consulting team. Dr. Harbin has years of experience working the U.S. Department of Labor and many stakeholder groups on MHPAEA implementation. With support from the Bowman Family Foundation (<https://thebowmanfamilyfoundation.org/>), through establishment of the Mental Health Treatment and Research Institute LLC (MHTARI), Dr. Harbin has been working with private purchasers to assess MHPAEA compliance in their group health plans. As part of that work, MHTARI developed a Model Data Request Form (MDRF) ([http://www.mhtari.org/Model\\_Data\\_Request\\_Form.pdf](http://www.mhtari.org/Model_Data_Request_Form.pdf)) for use by private health care purchasers.
- The Bowman Family Foundation, through Dr. Harbin and Beth Ann Middlebrook, JD, reached out to our team at OIC to assess our interest in collaborating to modify the MDRF for use by OIC in its Second Market Scan. OIC accepted that invitation, as Dr. Harbin and other experts at MHTARI have invaluable expertise. As a result of that collaboration, OIC imbedded a modified version of the MDRF, called the “Model Data Definitions and Methodology” in our Second Market Scan for carriers to report responses to several quantitative questions. In addition, we directed carriers to use the Six-Step NQTL analysis tool, which was developed by expert organizations and is posted on the U.S. Department of Labor website, to prepare their responses to the remaining questions in the market scan (<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/faq-38/00018.pdf>). Given the work required to fully conduct the analyses, we initially gave carriers 90 days to complete the work.
- The extensive work with the Bowman Family Foundation and MHTARI required extra time to develop the Second Market Scan. We also wanted to provide an opportunity for the carriers and our grant advisory committee to review and comment on a draft of the scan. Thus, per OIC quarterly reporting, we revised the date for issuance of the Second Market Scan to January 2020.
- The Second Market Scan was issued to carriers on January 13, 2020. On January 22, 2020, OIC held a conference call to give carriers an opportunity to ask questions regarding the market scan. We also fielded questions from carriers via e-mail submission. On February 20, 2020, OIC issued a set of FAQs responding to questions received from carriers regarding the market scan.
- When originally issued, the responses to the second data scan were due on April 11, 2020. Due to the demands placed on carriers associated with the COVID-19 pandemic, on March 12, 2020 OIC notified the carriers that we were extending the due date for responses to May 11, 2020.
- May 11, 2020, OIC received carrier responses to the Second Market Scan.

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- **Stage 5 -- Analysis of Second Market Scan Responses:**

- Our economic and data analysts compiled the market scan responses so that the team could begin their analysis. The more structured Second Market Scan did yield more usable and consistent responses across carriers.
- On September 28, 2020, OIC and URAC, Inc executed a contract under which Dr. Henry Harbin, Beth Ann Middlebrook and URAC staff reviewed a subset of carrier responses to the Second Market Scan, with support from the Bowman Family Foundation. The responses from six carriers were shared with the reviewers through secure file transfer during the first quarter of FFY 2021. Reviews for the first three carriers were submitted to OIC by the contractors during the first quarter of FFY 2021. Reviews for the remaining three carriers were submitted to OIC during the 2<sup>nd</sup> quarter of FFY 2021.
- Analysis of the Second Market Scan responses has been ongoing through the life of the project and will form the basis of future market conduct activities during our Cycle II project.

### **Claims Data Analysis:**

- **Stage 5 – Claims Data Call:**

- On July 26, 2019, OIC issued a claims data call (submitted with this report and with our 2019 annual report) to supplement data from Washington State’s All Payer Claims Database (APCD). As described in a June 21, 2019 e-mail to our CMS/CCIIO project officer, we planned to use data already in the APCD, as well as additional data obtained via the claims data call, to conduct claims data analysis related to access to behavioral health services. Throughout the period of July to September 2019, OIC worked with the Washington State Office of Financial Management (OFM), the Oregon Health Sciences University, the Washington State Health Care Authority (HCA) and OnPoint, the APCD data vendor. These are the entities collectively responsible for administration and operation of Washington State’s All Payer Claims Database. Under legislation enacted by the 2019 legislature, the state Health Care Authority assumed responsibility for oversight of the Washington APCD as of January 1, 2020. We determined that the most expeditious approach to implementing this work would be an OIC/OFM/HCA interagency agreement. That agreement was executed on October 10, 2019. A copy of that agreement was submitted to CMS with a previous quarterly report.
- OIC issued a data call to carriers to obtain denied claims and substance use disorder (SUD) claims data, information not included in the Washington APCD, that was needed to develop a complete data set for analysis. The claims data call had an October 11, 2019 submission date for carriers. OnPoint had received almost all of the data due from the carriers by that date. This was a one-month departure from the original grant timeline, which had data analysis beginning in February 2020.

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- The interagency agreement allowed OnPoint to prepare and deliver to OIC a fully merged data set of medical/surgical, mental health and substance use disorder paid and denied claims for the period of July 1, 2017 through December 31, 2018.
- **Stage 5 – Claims Data Analysis**
  - On November 19, 2019, a no-cost amendment to the interagency agreement with the University of Washington was executed. The amendment related to analysis of the merged data set referenced above. UW’s consulting team included experts from Milliman who have engaged in extensive behavioral health parity work with private purchasers, including claims data analysis. Given their expertise, we amended the interagency agreement so that these experts could provide technical assistance to OIC’s data analysts in the design and execution of analysis of the merged claims data set. The amendment extended the period of performance under the agreement to June 2020.
  - During the 3<sup>rd</sup> quarter 2020, our economic and data analysts continued to design the process and queries for our data analysis, which also began during that quarter. We defined the first set of queries for the claims data base, which included out of network utilization for inpatient and outpatient med/surg and behavioral health services.
  - We had initially assumed that we would undertake the claims data analysis internally. Upon receipt of the claims data, we devoted a considerable amount of staff time working with the Milliman experts to run our initial queries on the data. We learned that medical and behavioral health claims data analysis requires specialized expertise. Given the time constraints of the grant, we determined that we did not have the internal staffing capacity to develop that expertise. We learned, from our experience with OnPoint in developing the merged claims data set, that they had the unique and specialized skills to undertake high quality claims data analysis. This necessitated modifying the dates for the claims data analysis to align with analysis related to finalization of the project.
  - In June 2021, OIC executed a contract under which OnPoint, Washington state’s APCD data vendor, conducted claims data analysis. OnPoint utilized the merged claims dataset developed using grant funding.
  - The OnPoint APCD claims data analysis provides baseline data for behavioral health crisis and non-crisis behavioral health service utilization commercial health plan enrollees in the State of Washington and offers data insights into potential gaps in care that may be addressed by new 988 crisis phone line that will be implemented in Washington state in 2022 or other policy changes. OnPoint analyzed claims submitted by providers to carriers that were either approved or denied, and also reported on in-network and out-of-network utilization. The analysis compares data for medical/surgical and behavioral health services. A copy of the analysis summary is submitted with this final report.



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- **Stage 4 – Final report:**

- The OIC final report deliverable is intended to detail the issues detected in our work over the course of the grant and provide recommendations for solutions. This requirement of the grant is satisfied through a combination of this final grant report submission, OnPoint’s behavioral health claims data analysis report and identification of the areas of focus identified for our Cycle 2 grant.
  - In combination, these products of our grant serve several purposes. They highlight some of the issues detected with respect to behavioral health parity compliance and access to care that were the focus of our Second Market Scan, e.g. carrier prior authorization and concurrent review standards and processes, and access to behavioral health providers, which includes provider reimbursement rates, provider network adequacy and directories and provider credentialing. Our recommendations are reflected in the activities that OIC will be undertaking with our Cycle II funding, which include:
    - Continued market conduct activities related to the carriers’ market scan responses received during Cycle 1.
    - Refinement of the market scan documents and other materials utilized by the OIC to gather information and review parity compliance.
    - Improved consumer support by providing OIC’s consumer protection staff training specific to behavioral health parity, enhancing OIC’s behavioral health parity web pages, and identifying and creating additional consumer and provider education materials.
    - Developing policy proposals, both legislative and rulemaking, to resolve issues identified during Cycle I.
    - Purchasing access to and analysis of Washington APCD data to allow analysis of more current claims data compared to prior years to determine if there has been a change in service utilization based on OIC’s efforts to improve parity compliance or other factors.
  - OIC is reporting this as at “Stage 4” because we did not produce a single final document that incorporates these three elements. We will be posting each of these elements on our grant website shortly after submission of this final grant report.
2. *Challenges:* Provide a detailed description of any encountered challenges in implementing your program, the response and the outcome. Please include a list of any proposed grant activities that were not completed during the grant period. Please include Progress Metrics for each activity not completed.
- **Clinical Consultant Contract:** OIC issued an RFP for clinical analysis in February 2019. No bids were submitted in response to the RFP. As an alternative, OIC reached out to the University of Washington, School of Medicine, Department of Psychiatry and Behavioral Sciences to determine whether they could assemble a team to review the market scan responses.

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They did have that capability and an interagency agreement, as described above, was executed on June 3, 2019 several months later than originally assumed.

- **First Market Scan Analysis:** Our revised grant timeline provided that OIC would complete its analysis of the First Market Scan responses in September 2019. However, due to the vast amount of data received and ongoing questions that resulted from the data, the analysis could not be completed as originally proposed. The data provided is a source of important information that we've drawn on during the life of the project. To that end, we revised the grant timeline to indicate that this analysis would be ongoing through the life of the project.
- **Issuance of Second Market Scan:** Design and development of the Second Market Scan required more time than we had anticipated in order to take the opportunity to collaborate with MHTARI, Dr. Harbin and Ms. Middlebrook. The second market scan was issued per the revised timeline.
- **Claims Data Call:** During the FFY 2019 4<sup>th</sup> quarter, under the revised timeline approved by CMS/CCIIO, we encountered one challenge and one "discovery" that would result in a modification to the grant timeline. OIC was challenged to develop a contracting strategy for the claims data set work to be completed by OnPoint, the WA APCD data vendor. Because the management of the APCD program shifted from one state agency to another in January 2020, it was necessary to develop a tri-agency strategy and agreement. This was complicated by the fact that several carriers stated that they would not submit their substance use disorder claims (SUD) data until they were assured that OnPoint and the state agencies involved would comply with the SUD data protections in 42 CFR 2.53 and 2.16. Those obligations were imbedded in the data confidentiality provisions of the interagency agreement. However, execution of the agreement was delayed by the complexities described above. To that end, it was necessary to extend the due date for submission of claims data from September 27, 2019 to October 11, 2019.
- **Claims Data Analysis:** We had initially assumed that we would undertake the claims data analysis internally. Upon receipt of the claims data, we devoted a considerable amount of staff time working with the Milliman experts to run our initial queries on the data. We learned that medical and behavioral health claims data analysis requires specialized expertise. Given the time constraints of the grant, we determined that we did not have the internal staffing capacity to develop that expertise. We learned, from our experience with OnPoint in developing the merged claims data set, that they had the unique and specialized skills to undertake high quality claims data analysis. This necessitated modifying the dates for the claims data analysis to align with analysis related to finalization of the project.
- **Impact of COVID-19 Pandemic on OIC and This Project:** Beginning in the 3<sup>rd</sup> quarter FFY 2020, our major challenge was the demands of our agency's response to the COVID-19 pandemic. As our request for a No Cost Extension explained, we had extensive and unique demands upon our agency. With respect to health insurance coverage during the COVID-19 public health emergency, the Office of the Insurance Commissioner issued three emergency orders (and associated extensions of those orders) as well as three sets of "Frequently Asked

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Questions”. Jane Beyer, director for this project, was lead for the Policy and Legislative Affairs Division on health care related COVID issues. More information about our work during the emergency can be found [here](#). During the public health emergency, COVID-19 response has been prioritized for our agency. We appreciate the opportunity that CMS provided for a no-cost extension due to COVID related demands on DOI’s around the nation.

- **Final Meeting of the Project Advisory Committee:** OIC’s project plan included a final meeting of the grant advisory committee in July 2020. Due to the delays associated with completion of our data analysis, the ongoing demands of the COVID pandemic and the unknown status of our February application for Cycle II grant funding to continue our behavioral health parity work, we were unable to hold that meeting. Given approval of our Cycle II funding, we have an opportunity to consider a future role for the advisory committee as we continue this important work.
3. *Variations of Work Plan and Timeline:* List any required variations from the original State Flexibility to Stabilize the Market Grant Work Plan and companion timeline. Provide explanation for variations and provide Progress Metrics measurements where necessary.

Please see the [Access to Behavioral Health Services Timeline](#) submitted with this report. It provides the original timeline date, as well as the completion date, along with explanations for the delays. All modifications to the original timeline were noted and submitted through quarterly or annual reporting during the project.

### **Significant Activities: Undertaken and Planned**

Highlight the most significant activities and major grant achievements accomplished. Please include Progress Metrics to illustrate progress. Please also describe activities that you plan to continue after the completion of the grant program, if any.

- Please see [Accomplishments to Date](#) identified above.

### **Public Access Activities**

Summarize activities and/or promising practices undertaken during the previous twenty-four months, working towards increased public access and awareness of the pre-selected PPACA market reforms activities for your State. To illustrate progress, please include Progress Metrics for each activity or practice.

Summarize activities and/or promising practices undertaken during the previous twelve months, working towards increased public access and awareness from the pre-selected PPACA market reforms activities for your State. To illustrate progress, please include Progress Metrics for each activity or practice.

- **Stage 5 -- Access to BH Services Advisory Committee:** We valued the extensive review and comment provided by our advisory committee members over the course of the project, such as responding to that input with revisions to the draft documents and data calls. For example, at the September 23, 2019 meeting, OIC and UW shared the preliminary findings from analysis of

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First Market Scan results to date and obtained input from the advisory committee regarding issues/areas that should be the focus of the Second Market Scan.

- **Stage 4 – Public Presentations:** Over the course of the project, OIC was asked to speak to a variety of consumer advocacy organizations, other DOI's, carriers and others regarding our behavioral health parity compliance work. We shared our second market scan template for potential use by other states as they engage in BH parity compliance work. We have indicated a stage 4 Progress Metric as OIC sees these types of presentations as ongoing. We want to take opportunities when offered to educate other DOI's, consumers, providers and others regarding the parity compliance tools that we have developed and the findings of our work to date.
  - **Presentation at Annual NAMI-WA Conference:** On October 5, 2019, Ned Gaines, Jane Beyer, Kim Tocco, and Dr. Jurgen Unutzer participated in a panel presentation on the Access to Behavioral Health Services grant at the NAMI-WA conference in Yakima. A copy of our PPT presentation was included in the submission of an earlier quarterly report.
  - **Northwest Health Law Advocates (NoHLA) Continuing Legal Education (CLE) Program:** On October 25, 2019, Jane Beyer included a presentation on our Access to Behavioral Health Services Grant at a NoHLA CLE in Seattle.
  - **Mathematica TEP for HHS/ASPE Behavioral Health Provider Network Adequacy Project:** Mathematica invited Washington State OIC to participate on a technical expert panel (TEP) for a project undertaken by Mathematica for HHS/ASPE related to behavioral health provider network adequacy standards. The first meeting of the TEP was held on June 16, 2020. As part of the discussion, we were able to share the work that we have been engaged in under the grant. A second TEP meeting was held on July 10, 2020.
  - **Presentation to the Association of Insurance Compliance Professionals:** On May 6, 2021, Jane Beyer and John Hayworth gave a presentation on OIC's behavioral health parity compliance work funded under this grant. A copy of the PPT presentation is included with this final report.
  - **Presentation to the Council of State Governments State Mental Health Policy Advisory Group: July 23, 2021:** Jane Beyer gave a presentation to a group of state legislators and state agency staff from several states regarding OIC's behavioral health parity compliance work funded under this grant. A copy of the PPT presentation is included with this final report.
- **University of Washington Consultants' Final Report:** In December 2019, the final report of the University of Washington consultants was posted on our grant website.
- **[NAIC MHPAEA Working Group](#):** Due to the BH parity compliance work that we have been able to accomplish with our grant funding, OIC was asked to co-chair the NAIC MHPAEA Working Group. In that role, we have had the opportunity to

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share our work and to facilitate bringing the expertise of Dr. Harbin and his colleagues to the states participating in the working group.

## **Materials Produced**

Discuss all materials produced and/or developed during the Grant Program, including website upgrades, consumer materials, reports/studies, and any other relevant documents. Please provide detail where available. For example, if a new website related to the pre-selected PPACA market reforms was developed, please provide the link, date the website went live, number of visitors to the website (total or monthly). Additionally, please include Progress Metrics for each material produced or developed.

- Project website: <https://www.insurance.wa.gov/behavioral-health-services-federal-grant>.
  - The website went live on November 21, 2018. It has had 1,809 visitors.
- First Market Scan (submitted with this report)
- Data call letter (submitted with this report)
- [University of Washington Clinical Consultants' Report](#)
- Second Market Scan (submitted with this report)
- Sample presentations:
  - ACIP (submitted with this report)
  - CSG (submitted with this report)
- OnPoint behavioral health claims data analysis report (submitted with this report)

## **Final Impact of the State Flexibility to Stabilize the Market Grant Program**

Summarize the overall impact that the State Flexibility to Stabilize the Market Grant Program had on planning and/or implementing the pre-selected PPACA market reforms in your State over the past twenty-four months. Include data on how the grant program enhanced the public's understanding of the pre-selected PPACA market reforms. Provide evidence when available. Examples may include dollar amounts, statistics, personal stories, anecdotal evidence, media articles/mentions, etc.

As described above, OIC has had numerous opportunities to engage with the public on MHPAEA and parity issues. Our work under the grant has been undertaken using our Market Conduct authority. Issuer specific information obtained through the market scans and data call is confidential under RCW 48.37.080. Thus, any impressions or data that we have shared with the public has been reported and/or discussed in the aggregate. Through these activities, including the presentations listed above, we are ensuring that the OIC is part of an ongoing dialog with carriers and consumers about the importance of MHPAEA and compliance. Carriers in Washington state are clearly aware of OIC's focus on access to behavioral health services and MHPAEA compliance.

Through the knowledge gained during the project, OIC has been able to contribute to legislative deliberations on behavioral health-related legislation: Several major bills were passed during the 2020 legislative session related to commercial health insurance coverage of behavioral health services. They include [SHB 2338](#), which updates and broadens our state's behavioral health parity statutes, and [ESHB 2642](#), which expands access to inpatient SUD treatment by limiting prior authorization restrictions. OIC is now engaged in rulemaking to implement these new laws.

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The Washington State Legislature began its 2021 session on January 11, 2021 and ended the session on April 25, 2021. A number of behavioral health legislative proposals were under consideration by the legislature, addressing issues ranging from access to opioid overdose reversal medication ([2SSB 5195](#)), to access to behavioral health crisis services ([E2SHB 1477](#)), to access to audio-only telemedicine services ([ESHB 1196](#)). All of these proposals will apply to private health plans regulated by OIC; all were enacted. OIC's experience and learnings from this project supported our assistance and input to the sponsors of this legislation.

The project team has learned that, given the complexity of MHPAEA, as well as our state behavioral health parity law, strong behavioral health parity oversight by DOI's involves understanding the right data to collect from issuers, developing templates to gather it, and learning to analyze responses effectively. Consumers enrolled in commercial health plans have substantial challenges accessing appropriate behavioral health services. The data that we've been able to gather confirms many of these concerns.

Our work under this project heavily informed where OIC will be focusing our future efforts and the activities that we will be undertaking under our Cycle II grant – market conduct, consumer advocacy and informing public policy. Cycle II projects include:

- **Project 1** will be to pursue market conduct activities related to the carrier's market scan responses received during Cycle 1. This project will enlist the assistance of a market conduct consultant/examiner and a contractor with expertise in behavioral health parity.
- **Project 2** will further refine the market scan documents and other materials utilized by the OIC to gather information and review parity compliance.
- **Project 3** will improve consumer support by providing OIC's consumer protection staff training specific to behavioral health parity and consumers' use of the DOL Consumer Parity Disclosure form, enhancing OIC's behavioral health parity web pages, and identifying and creating additional consumer and provider education materials.
- **Project 4** will be focused on developing policy proposals, both legislative and rulemaking, to resolve issues identified during Cycle I.
- **Project 5** will purchase access to the APCD data set and allow OIC to analyze more current claims data against prior years' to determine if there has been a change in service utilization based on OIC's efforts to improve parity compliance or other factors.

With enactment of Section 203 of the Consolidated Appropriations Act of 2021, the Strengthening Parity in Mental Health and Substance Use Disorder Benefits provision, Congress has defined the criteria for issuers' NQTL comparative analyses and enhanced potential NQTL compliance enforcement. The multi-step NQTL comparative analysis criteria in this new law are similar to the 6-step analysis that OIC required in our Second Market Scan. Our understanding and identification of the gaps in carrier responses to the market scan may enable carriers who operate in multiple states to be more prepared to respond to NQTL comparative analysis requests from DOL and other states' DOI.

# The State Flexibility to Stabilize the Market Grant Program

## Final Report Template

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### **Final Lessons Learned**

Provide additional information on lessons learned and any promising practices. For example, what approaches in your implementation strategy worked/are working and why? Which practices will you continue to employ after completion of the grant program?

1. **Complexity and Intensity of Effort:** The project team has learned that, given the complexity of MHPAEA, as well as our state behavioral health parity law, strong behavioral health parity oversight by DOI's involves understanding the right data to collect from issuers, developing templates to gather it and learning to analyze responses effectively. Dedicated resources are needed to do this work effectively.
2. **Lessons from the First Market Scan Applied to the Second Market Scan:** The First Market Scan was broad, with narrative responses requested. We learned much about how we framed questions in the market scan, and the methods used for collecting data requested in the scan. Given OIC's experience with the First Market Scan, input from our advisory committee and the UW consultant's recommendations, we took a significantly more targeted approach to the Second Market Scan. That approach included using established MHPAEA compliance tools and providing excel spreadsheets for carriers to prepare their responses. While this structure did provide more consistency in response across carriers and has improved the effectiveness of our review of responses, despite our best efforts, the responses from carriers included gaps in reporting and significant variability in the responses. We have learned that engaging in parity compliance work is like "peeling layers of an onion". We have needed to ask follow-up questions and engage in further investigation of some carriers to determine whether parity violations have occurred.

In analyzing carriers' responses to the Second Market Scan, our reviewers noted some common gaps:

- Plan responses frequently failed to define factors by evidentiary standards, especially the quantitative thresholds that are used to determine when to apply an NQTL.
- Plan responses frequently failed to disclose the specific analyses conducted for the comparability of the factors, evidentiary standards, process for applying the NQTL, etc., the results of those analyses, as well as documenting how such results demonstrate comparability and no more stringency, both in writing and in operation, for the NQTL at issue.
- OIC's Second Market Scan included requests for quantitative data related to in-network/OON utilization, prior authorization/concurrent review denial rates, provider reimbursement rates and provider network directory accuracy. Some carriers failed to address the disparate quantitative outcomes data revealed in their responses to the data questions, despite large disparities in some cases.

With enactment of Section 203 of the Consolidated Appropriations Act of 2021, the Strengthening Parity in Mental Health and Substance Use Disorder Benefits provision, Congress has defined the criteria for issuers' NQTL comparative analyses and enhanced potential NQTL compliance enforcement. The multi-step NQTL comparative analysis criteria in this new law are similar to the 6-step analysis that OIC required in our Second Market Scan. Our understanding and identification of the

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gaps in carrier responses to the market scan may enable carriers who operate in multiple states to be more prepared to respond to NQTL comparative analysis requests from DOL and other states' DOI.

- 3. Claims Data Analysis:** We had initially assumed that we would undertake the claims data analysis internally. Upon receipt of the claims data, we devoted a considerable amount of staff time working with the Milliman experts to run our initial queries on the data. We learned that medical and behavioral health claims data analysis requires specialized expertise. Given the time constraints of the grant, we determined that we did not have the internal staffing capacity to develop that expertise. We learned, from our experience with OnPoint in developing the merged claims data set, that they had the unique and specialized skills to undertake high quality claims data analysis. This necessitated modifying the dates for the claims data analysis to align with analysis related to finalization of the project.

## **Final Budget**

Provide a detailed account of expenditures to date and describe whether the current allocation of funds followed the progression of the detailed budget provided in your original application. Also, provide any unforeseen expense and a brief description of the event that led to its occurrence.

Attach an updated detailed budget, including an updated SF-424A as necessary, with the State's final report submission.

The SF-424A submitted with our most recent annual report is unchanged. An updated final budget narrative is submitted with this final report. The only departure from our originally submitted application was a request to CMS to transfer \$25,219 from personnel/fringe benefits costs largely in grant year 1 to contractor costs in grant year 2.

## **Final State Flexibility to Stabilize the Market Grant Program Work Plan and Timeline with Progress Metrics**

Provide a final Work Plan and Timeline with updated Progress Metrics to reflect the events and progress over the course of the grant. Please continue to use the Progress Metrics guide, and assign a measurement to each objective outlined in the work plan.

Please see the Access to Behavioral Health Services Timeline submitted with this report. It provides, for each element of the grant work, the progress metric, original timeline date, as well as the completion date, along with explanations for the delays. All modifications to the original timeline were noted and submitted through previous quarterly or annual reporting during the project.

## **Final Evaluation**

Please attach a copy of the final evaluation. If the State requires more time to complete the final evaluation of the grant program, please provide an update on the progress toward a final evaluation and timeline for submission.

The project narrative for this grant described the evaluation plan for the grant, which did not include contracting with an outside entity for a formal evaluation of grant activities. Instead, the evaluation plan addressed how success would be measured and how grant activities would be monitored.



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- How success will be measured: The grant application noted that successful implementation of each element of the project would be the measure of project success. These include the Final Accomplishments described above. An additional action that grew out of project work was [legislation](#) and [rulemaking](#) undertaken to update and strengthen our state’s mental health parity law, and to align it more closely with MHPAEA.
- Monitoring progress: The Project Director has monitored grant project progress and milestones throughout the project. OIC has adapted where necessary, e.g. pursuing an interagency agreement with the University of Washington when no responses to the clinical consulting RFP were submitted and contracting with OnPoint, the Washington APCD data vendor, when we experienced challenges related to internal data analytics capacity. The Project Director was responsible for submitting quarterly reports to CMS/CCIIO. Those reports have provided an opportunity to modify due dates for deliverables when necessary, often in consultation with our CMS/CCIIO project officer. We have greatly appreciated the advice and support of our project officer over the life of the project.

In addition, OIC has a “Dashboard” system, which provides senior managers an opportunity to review the status of significant agency projects on a monthly basis. This grant project consistently has been on OIC’s dashboard. The project Dashboard report includes: project status; activities in progress; schedule variance and impacts; major milestones and major risks/issues that have arisen during the reporting period.

## The State Flexibility to Stabilize the Market Grant Program Final Report Template

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**Final Report Summary Statistics:**

Please fill in the data below for all grant activity occurring during the State Flexibility to Stabilize the Market Grant Program.

<b>Final Statistics</b>	<b>FFY18 Quarter4</b>	<b>FFY19 Quarter1</b>	<b>FFY19 Quarter2</b>	<b>FFY19 Quarter3</b>	<b>FFY19 Quarter4</b>	<b>FFY20 Quarter1</b>
Funds Expended	\$5,754	\$1,410	\$10,356	\$17,522	\$53,088	\$48,087
Number of Staff Hired with Grant Funds	None	None	2 OIC economic and data analyst positions are funded partially through the grant. These positions were filled during the 2 <sup>nd</sup> qtr. 2019 reporting period.	No additional staff hired	No additional staff hired	No additional staff hired
Number of Contracts in place with Grant Funds	None	None	None	1: OIC/UW IAA	Same	2: see below
Number of PPACA Market Reforms Provision Funded by Grant List Provisions	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702

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<b>Final Statistics</b>	<b>FFY20 Quarter2</b>	<b>FFY20 Quarter3</b>	<b>FFY20 Quarter4</b>	<b>FFY21 Quarter1</b>	<b>FFY21 Quarter2</b>	<b>FFY21 Quarter3</b>	<b>Total</b>
Funds Expended	\$18,039	\$18,039	\$338	\$0	\$0	\$84,250	\$256,883
Number of Staff Hired with Grant Funds	No additional staff hired	No additional staff hired	No additional staff hired	No additional staff hired	No additional staff hired	No additional staff hired	<b>2 OIC economic and data analyst positions are funded partially through the grant.</b>
Number of Contracts in place with Grant Funds	2: see below	2: see below	1: see below	2: see below	1: OIC/URAC	1: OIC/URAC	<b>3: See below</b>
Number of PPACA Market Reforms Provisions Funded by Grant List Provisions	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702	Sec. 2702	<b>Sec. 2702</b>

### **Contracts in Place with Grant Funds:**

- University of Washington: Interagency agreement (IAA) for clinical consulting and Milliman as UW subcontractor to provide technical assistance on claims data analysis (Expired 6/30/2020; in process of renewal)
- OIC/Office of Financial Management/Health Care Authority IAA: for delivery of merged claims data set by OnPoint to OIC (Executed December 21, 2020)
- OIC/URAC contract: for review of carrier's second market scan responses (Executed September 28, 2020)

#### PRA Disclosure Statement:

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1366. The time required to complete this information collection is estimated to average 20 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer.