



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 12, 2013

House Bill (Raised) No.6612 - AN ACT CONCERNING THE HEALTH INSURANCE GRIEVANCE PROCESS FOR ADVERSE DETERMINATIONS, THE OFFICE OF HEALTHCARE ADVOCATE AND MENTAL HEALTH PARITY COMPLIANCE CHECKS

The Insurance Department appreciates the opportunity to provide written testimony on Raised Bill No.6612.

The Department urges the Committee to reconsider the need for Section 16, if the bill proceeds.

The impetus for section 16 appears to be based upon an underlying perception that the Insurance Department may not be fully meeting its regulatory oversight of mental health parity and has not established a proper oversight methodology. The Department welcomes the opportunity to educate the public on how it currently meets its regulatory challenges and the methodologies it utilizes.

Sec. 16 directs the Department to select a compliance methodology for assuring insurer and other entity compliance with state and federal mental health parity laws by requiring us to assess for fitness the methods set forth by the US Department of Labor and URAC in addition to other methods brought to the attention of the Department through at least one public meeting at which stakeholders, including but not limited to relevant state agency personnel, health insurance companies and the general public would be invited to provide input and propose compliance check methodology.

The bill calls for the Department to submit a report to the Insurance and Real Estate and Public Health committees detailing our methodology, including an assessment of the public comments received, with written comments and suggestions of the Healthcare Advocate appended to the report. The Department is then compelled to use the compliance check method selected from this process. As we indicated in our response to the Program Review and Investigations Committee Report, lack of specificity in several areas of the federal mental health parity laws creates regulatory challenges and it would be appropriate for the Legislature to set clear, specific rules in statute for carriers to meet and for Department to enforce against carriers on Connecticut insured business. The Department recommends these rules be developed from hearings by the Public Health Committee and Insurance and Real

Estate Committee, with input from all stakeholders. Some examples of federal regulations that could be better defined:

- The federal law requires in broad terms that limitations to mental health or substance use disorder benefits services must be comparable to, and applied no more stringently than for medical/surgical services “except to the extent that recognized clinically appropriate standards of care may permit a difference.” The Department does not have psychiatrists or other physicians on staff to help evaluate such differences and the clinical rationales. The Department can and does utilize University of Connecticut Health Center for its medical expertise.
- There is a lack of clarity in the federal interim final rules of February 2, 2010 for non-quantitative requirements. These are rules relating to medical management and medical necessity under federal law which are difficult to administer as opposed to prohibitions on quantitative limits (such as dollar or visit limits) which are easy to administer. The three federal agencies responsible for federal mental health laws (U. S. Department of Labor, Health and Human Services, and Treasury) in their February 2010 rules gave examples reflecting simple situations, rather than “reflecting the realistic, complex facts that would typically be found in a plan.” The agencies also solicited comments on additional examples to illustrate the application of the non-quantitative treatment limitation rule. To date, the federal agencies have not provided additional examples or any further guidance. Connecticut may want to consider its own specific requirements for insured plans. (There is also the possibility that federal regulators will provide more and better guidance on federal mental health parity law, but we don’t know when and if this may occur).

In addition to the Department’s comments regarding section 16, the Department also has some technical comments and suggestions, including:

- (1) Sections 1, 3, 4, and 6 make reference to federal laws and regulations. We are not clear on the background for this and suggest considering instead, references to Connecticut laws such as sections through 38a- 38a-591a through 38a-591n of the Connecticut General Statutes which statutes have been approved by the Department of Health and Human Services as meeting the requirements of the Affordable Care Act.
- (2) Section 14 provides a new definition of “Managed care plan” to include all categories of health insurance under section 38-469. We believe this is overly broad and may be an inadvertent error. Section 38a-469 includes as “health insurance” many coverages, such as hospital indemnity, accident only, long and short term disability, long term care coverage, and Medicare supplement coverage which do not meet any common definition or understanding of “managed care plan”. Moreover, and importantly, this creates conflict and confusion with the definition of “Managed care plan” currently existing in section 38a-478.
- (3) In view of the Department’s comments above on section 16, we also suggest the Committee reconsider the need for the proposed change found in section 17 of the bill as well.

The Department again thanks the Committee for an opportunity to provide our comments on RB 6612 and welcomes the opportunity to work with the Chairs and members of the Insurance and Real Estate Committee to make this a better bill.

