



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

### Testimony Insurance and Real Estate Committee March 6, 2018

#### **Senate Bill No. 384 An Act Concerning Mental Health Parity, Data Reported by Managed Care Organizations and the All-Payer Claims Database.**

Committee Chairs, Vice Chairs, Ranking Member, and Members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to submit testimony on **Senate Bill No. 384 An Act Concerning Mental Health Parity, Data Reported by Managed Care Organizations and the All-Payer Claims Database.**

The Connecticut Insurance Department is committed to ensuring that consumers have the proper access to behavioral and mental health services. The Department respectfully opposes this bill given the great amount that has been achieved in recent years to address compliance with federal and state laws.

#### **Recent Legislation and Department Implementation**

Connecticut is widely considered to be a leader in parity. P.A. 13-3, P.A. 15-5, and P.A. 16-158 are laws that have helped Connecticut continue to promote mental health parity and ensure that Connecticut residents have access to these important services. P.A. 13-3 requires implementation of the following concerning the handling of grievances and appeals:

- Requirements for insurers to use clinical reviewers with certification and background in a similar field as the services being requested,
- New medical criteria standards for insurers to use when evaluating request for behavioral health services,
- 24-hour turnaround times for carrier reviews of urgent requests for certain behavioral health services,
- 24-hour expedited determinations for appeals of insurance company denials of certain behavioral health services through the Insurance Department's External Review Program, and
- Department outreach to insurance carriers and the external independent review organizations to ensure a smooth transition and compliance with all aspects of the Public Act.

P.A. 13-3 also requires the use of standardized criteria from the four nationally recognized behavioral health professional associations. Additionally, in implementing P.A. 15-5, the Department:

- Ensures that certain individual and group health insurance policies have expanded coverage to include coverage of autism spectrum disorder (ASD) services and treatment, and
- Eliminates the maximum coverage limits on the Birth-to-Three program.

P.A. 16-158 requires the Department to request more information from carriers, such as: the number of prior authorization requests and denials for behavioral health services and the same for other health care services, and

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the percentage of paid claims for out-of-network behavioral health services compared to the percentage of paid claims for other types of out-of-network health care and surgical services.

### **2015 & 2016 Behavioral Health Working Group**

The Department also convened a Behavioral Health Working Group in 2015<sup>1</sup> and in 2016<sup>2</sup> and submitted these working groups' reports to the General Assembly. The groups' memberships included consumer representatives, behavioral health providers, representatives from the Comptroller's Office, the Office of the Healthcare Advocate, and the Departments of Social Services, Public Health, Mental Health and Addiction Services, Children and Families, and Developmental Services, and the health carriers. The Department successfully achieved passage of P.A. 16-175 on the group's behalf. This Public Act clarified the intent of the adverse determination statute to provide a link to the clinical criteria used on all adverse determinations and also implemented enhanced transparency of clinical guidelines.

The group convened again in 2016 but no participants came forward with any additional data or legislative recommendations. As a result of the 2016 working group, the Department worked with the Department of Public Health to survey Connecticut behavioral health providers licensed as Licensed Clinical Social Workers, Social Workers (MSW), Psychiatrists, and Psychologist to obtain information from the provider community to identify any issues that they and their patients may be experiencing related to insurance coverage. The Department recently closed the survey and is currently in the process of analyzing the results.

### **Department Regulatory Review, Enforcement, and Reporting**

The Department uses various tools to monitor and enforce carrier compliance in the area of mental health parity. All policies sold in Connecticut are filed with the Department for prior approval where the Department's Life and Health Division ensures that there are no provisions in violation of any mental health parity for either quantitative or non-quantitative measures. All contracts must provide specific language for the above-mentioned grievances and external appeal rights. The Department's Consumer Affairs Unit fields inquiries and complaints from all consumers and intervenes on their behalf with insurance carriers. The Consumer Affairs Unit records all complaints<sup>3</sup> and expediently escalates any issues to the Department's Market Conduct Division who will thoroughly investigate any issues and take proper regulatory action.

The Market Conduct Division investigates all complaints and quickly escalate issues that have been identified as trends or other areas of concern. The Division works closely with the Department's Consumer Affairs Unit to spot trends in consumer complaints and investigates possible violations. The Market Conduct Division also uses the Consumer Report Card on Health Insurance Carriers as one of the tools to identify trends. In addition to reviewing mental health parity during Market Conduct Examinations, Market Conduct issued bulletin MC-20<sup>4</sup>

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<sup>1</sup> <http://www.ct.gov/cid/lib/cid/2016-Behavioral-Health-Working-Group-Report.pdf>

<sup>2</sup> <http://www.ct.gov/cid/lib/cid/2016-Dec-Behavioral-Health-Working-Group-Report.pdf>

<sup>3</sup> <https://data.ct.gov/Business/Insurance-Company-Complaints-Resolutions-Status-an/t64r-mt64>

<sup>4</sup> [http://www.ct.gov/cid/lib/cid/Bulletin\\_MC-20\\_MHP\\_Annual\\_Compliance\\_Survey.pdf](http://www.ct.gov/cid/lib/cid/Bulletin_MC-20_MHP_Annual_Compliance_Survey.pdf)

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which required all health carriers to provide specific data to certify and demonstrate compliance with mental health parity requirements annually – this is also known as the “Mental Health Parity Compliance Survey.” Non Quantitative Treatment Limitations (NQTLs) are thoroughly reviewed here. If issues are identified, CID takes regulatory action against the company. All Market Conduct Examination Reports are publicly available on the Department’s website<sup>5</sup>.

In addition, the Department requires carriers to provide annually an initial demonstration of compliance with mental health parity for each plan that utilizes varying copays within a service category. The Final Rules under the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (45 CFR Part 146 and 147) provide tests for determining "substantially all" and "predominant" medical/surgical benefits for reviewing the financial requirements and quantitative treatment limitations. The Department requires carriers to include demonstrations that each plan utilizing varying copays meets the substantially all and predominant tests. Such demonstration must also include a certification of compliance with mental health parity signed by a member of the American Academy of Actuaries. After these items are initially approved, such demonstration and certification must be made annually. Department Bulletin HC-81-18<sup>6</sup> concerning rate filings is effective for the 2019 plan year.

In 2016, the Department obtained additional oversight of network adequacy and health plan directories. Specifically, the Department reviews carriers’ policies and procedures to ensure that all directories are accurate and that insureds have proper access to providers.

Finally, the Department’s annual Consumer Report on Health Insurance Carriers in Connecticut<sup>7</sup>, is a comprehensive tool that consumers and public policymakers can use to meaningfully compare health insurers against a number of factors including quality measures. The Department has been publishing the report since 1998 and has greatly enhanced it over the last two years to include quality measures for behavioral health and substance abuse coverage. The 2017 edition was expanded to include data on how insurance companies are doing in providing follow-up treatment for mental health and substance abuse care. The Report Card is distributed each October to the Insurance and Real Estate Committee.

### **Current Data Collected & Published in the Annual Report Card**

#### **Utilization Review (UR) statistics for Behavioral Health Services broken down by inpatient admissions, outpatient services, procedures and extensions of stay:**

- Number of UR request received
- Number of denials (excluding partial denials)
- Number of partial denials
- Percentage of UR request that were denied (including partials)
- Number of appeals of denials
- Percentage of denials that were appealed

<sup>5</sup> <http://www.catalog.state.ct.us/cid/portalApps/examinations.aspx>

<sup>6</sup> <http://www.ct.gov/cid/lib/cid/BulletinHC-81-18.pdf>

<sup>7</sup> <http://www.ct.gov/cid/lib/cid/2017ConsumerReportCard.pdf>

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- Number of denials reversed on appeal
- Percentage of appealed denials that were reversed
- Number of upheld appeals that went to external appeal
- Percentage of all appeals that went to external appeal
- Percentage of external appeals that were reversed

### **Inpatient Discharges & Average Length of Stays:**

- Total number of inpatient discharges with mental health as the principal diagnosis at either a hospital or treatment facility
- Total discharges/1,000 member months
- Average length of stay

### **Totals and percentage of members who received:**

- Any mental health service
- Inpatient mental health service
- Intensive outpatient or partial hospitalization health services
- Outpatient or emergency department health services

### **Chemical dependency utilization:**

- Total number of inpatient discharge at either hospital or treatment facility
- Average length of stay

### **Totals and percentage of members who received:**

- Any chemical dependency service
- Inpatient chemical dependency services
- Intensive outpatient or partial hospitalization health services
- Outpatient or emergency department health services

### **Follow-up after hospitalization for mental illness for members 6 years and older:**

- Percentage of members who had an outpatient visit, intensive outpatient visit or partial hospitalization with a mental health practitioner on the date of discharge up to 30 days after the hospital discharge
- Percentage who had an outpatient visit, intensive outpatient visit or partial hospitalizations with a mental health practitioner on the date of discharge up to seven days after the hospital discharge

### **Percentage of members 18 years and older treated with antidepressant medication who met at least one of the following criteria during intake period:**

- An outpatient, intensive outpatient or partial hospitalization setting with a diagnosis of major depression
- An emergency department visit with any diagnosis of major depression
- At least one inpatient claim/encounter with any diagnosis of major depression
- Those who remained on antidepressant medication for at least an 84-day period (12 weeks)
- Those who remained on antidepressant medication for at least 180 days (six months)

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*The Department added the following two categories in 2016 as a result of the recommendations of the 2015 Behavioral Health Working Group*

**Data reflecting denial and appeal rates for children and adults:**

- Authorization of Medical Necessity Coverage by Type and Level of Treatment
- Denial of Medical Necessity Coverage by Type and Level of Treatment
- Denials of Medical Necessity Upheld or Overturned by Type and Level of Treatment

**Levels and Types of Treatment include the following:**

- Acute Inpatient
- Residential
- Partial hospitalization
- Intensive Outpatient
- Routine Outpatient
- Substance Abuse Detox

The Department looks forward to working with all stakeholders on this important topic and thanks the Chairs and members of the Insurance and Real Estate Committee for the opportunity to submit testimony on Senate Bill No. 384.

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