

**Working Group Regarding
Treatment and Coverage of Substance Abuse
Disorders and Mental Illness**



Annual Report

**Produced by:
State of Illinois
Department of Insurance**



Illinois Department of Insurance

JB Pritzker
Governor

Dana Popish Severinghaus
Director

January 9, 2023

To the Honorable Members of the General Assembly:

The Department of Insurance (DOI) is pleased to submit its Annual Report of the Working Group Regarding Treatment and Coverage of Substance Abuse Disorders and Mental Illness as required by The Heroin Crisis Act (Public Act 99-0480) and specifically pursuant to 215 ILCS 5/370c.1(h)(2).

215 ILCS 5/370c.1(h)(2) requires the DOI, in coordination with the Department of Human Services and the Department of Healthcare and Family Services, to convene a working group of health care insurance carriers, mental health advocacy groups, substance abuse patient advocacy groups, and mental health physician groups for the purpose of discussing issues related to the treatment and coverage of substance abuse disorders and mental illness. 215 ILCS 5/370c.1(h)(2) required the Working Group to meet once before January 1, 2016, and semiannually thereafter.

The attached Annual Report to the General Assembly includes a list of the health care insurance carriers, mental health advocacy groups, substance abuse patient advocacy groups, and mental health physician groups that participated in the Working Group meetings, details on the issues and topics covered, and legislative recommendations as required by statute.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Dana Popish Severinghaus".

Dana Popish Severinghaus
Director of Insurance

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Working Group Regarding Treatment and Coverage of Substance Abuse Disorders and Mental Illness Annual Report

In 2015, Public Act 99-0480 (The Heroin Crisis Act) created a Working Group with the stated purpose of discussing issues related to the treatment and coverage of substance abuse disorders and mental illness. The specific statutory language that established the Working Group can be found in Appendix A.

The Illinois Department of Insurance (DOI) manages the oversight of and provides staff support for the Working Group in coordination with the Department of Human Services (DHS), the Department of Healthcare and Family Services (HFS) and the Department of Public Health (DPH). The Working Group meets in accordance with the Illinois Open Meetings Act. Meeting Agendas and Approved Minutes are available on the DOI website.

DOI's ultimate goal for the Working Group is to learn what type of education is still needed and to accurately determine where to devote resources. Working Group meeting participants are encouraged to use the DOI for assistance, to convene meetings and have conversations.

Working Group Participants

- Health care insurance carriers
- Mental health advocacy groups
- Substance abuse patient advocacy groups
- Mental health and substance use disorder treatment providers
- Representatives from relevant state regulatory and human service agencies

Working Group meetings covered in this 2022 Annual Report

- July 1, 2022 from 1:00 p.m. to 3:00 p.m. CT
- November 4, 2022 from 1:00 p.m. to 3:00 p.m. CT

Meeting Locations

Both the July 1, 2022 meeting and the November 4, 2022 meetings were held via WebEx conference call due to the COVID-19 Pandemic.

July 1, 2022 Meeting

On behalf of DOI, Brian Gorman of Get Covered Illinois shared an update that DOI is actively pursuing a procurement for a campaign for mental health parity education. It will be a statewide effort with three goals to raise awareness for mental health parity rights. The campaign will explain how consumers can seek relief if their rights are violated and to reinforce the importance of maintaining health coverage and guaranteeing that support under Illinois and federal law. So that procurement right now has already been posted and Brian hopes to have more updates in November on the status of the campaign. DOI hopes to commence the start of this campaign in early 2023 for a term of three years.

Also on behalf of DOI, Erica Weyhenmeyer shared that as Chief Market Conduct Examiner, DOI is conducting ongoing mental health parity exams as required by statute. Additionally, Weyhenmeyer is now the Chair of the Mental Health Parity Working Group at the NAIC which allows DOI to discuss these issues at a national level and learn from other states how they are dealing with the issue.

On behalf of HFS, Eric Foster shared that HFS has been working with their health services administrative group regarding their mental health parity reporting and analysis. That group does a lot of the quality management for the Medicaid managed care plans and has completed their report on the parity for phase one parity analysis. It was reviewed by HFS and they are now awaiting the final report. HFS has also issued additional information regarding phase two requests for information, and they were awaiting the final response from those questions.

Also on behalf of HFS, Kristine Herman gave an update on HFS' psychiatric collaborative care model. There was a provider notice that was posted on June 21st indicating that HFS will be covering the psychiatric collaborative care model. It's an evidence-based model that integrates behavioral health into primary care settings and uses a team-based approach. HFS has issued guidance on how providers can enroll, and providers can include physicians, advanced practice nurses, federally qualified health centers, rural health clinics, local health departments and school-based health clinics.

November 4, 2022 Meeting

On behalf of DOI, Brian Gorman, Get Covered Illinois, gave a brief update on behalf of DOI. DOI issued a procurement for a vendor to help assist the department and its mental health parity education efforts. DOI awarded a contract to Flowers Communications group over the course of the summer. The goal of the education campaign was to ensure that Illinois consumers statewide are informed and educated about their consumer rights under mental health laws. The initiative has three goals. 1) to increase awareness with mental health parity rights 2) to explain to consumers how to seek relief if their rights are violated, and 3) to reinforce the importance of maintaining health coverage and guaranteeing support under the law. DOI is in the initial phases of mapping out what the campaign will look like, but DOI is hoping to start this process in early 2023. There is some latitude on what the Department can choose to educate on and one of those topics will be the inclusion of naloxone education as well.

Also on behalf of DOI, Erica Weyhenmeyer, DOI's Chief Market Conduct Examiner gave an update on behalf of compliance with mental health and substance use disorder statutory requirements. On October 15th, 2022 DOI announced the completion of a comprehensive market conduct exam on Celtic Insurance. There was a press release given the size of the ultimate fine and it outlines several the findings that DOI had, which included several parity violations specifically with pharmaceutical uses and the application of those, along with a couple of items related to network adequacy. The market conduct report and the order can be found on the DOI website.

On behalf of HFS, Eric Foster presented an update on the parity audits that HFS has been doing, including finalizing the report for July 1, 2022 and that report has been posted to the HFS website. In general, the plans and the review of plans were all in compliance. One plan had a denial rate that was higher than the others, but in their response to that issue, HFS determined that their plan of corrective action was in process and appropriate. That plan is posted to the website. HFS is continuing with their established plan for reviewing the next phase in parity, and that is going to be completed sometime in the beginning of 2023.

Eric also provided an update on a new initiative that HFS is working to implement regarding an expansion of access to care for mental health and substance use disorder primary populations and that is the development of certified community behavioral health centers or health clinics. In collaboration with DHS, HFS is in the process of developing a proposal for a planning grant which would then have an opportunity for a demonstration in Illinois. The core piece is an intensive focus on a coordination of care for mental health and substance use disorder issues and comprehensively addressing the whole person and whatever needs they may have, whether that's substance use disorder medication assisted treatment, mental health, coordination of care, or primary health screenings. The grant deadline is scheduled to be due in December, with the announcements of the award in March, and then by July of 2024, there would be the opportunity for a demonstration.

Legislative Recommendations and Considerations

The working group did not finalize any specific legislative recommendations during the 2022 meetings.

2022 Behavioral Health Accomplishments

Methodology to Ensure Compliance: Illinois Department of Health and Family Services

The Illinois Medicaid Managed Care Program (HealthChoice Illinois) delivers fully integrated healthcare, inclusive of behavioral health services, to Illinois Medical Assistance Program customers. To provide a base for ensuring compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA), HFS includes specific language regarding MHPAEA compliance in all HealthChoice Illinois contracts. HFS utilizes two primary mechanisms to monitor each health plan's compliance with its contract: 1) internal quality and contract management activities and 2) compliance reviews conducted by HFS' external quality review organization (EQRO), Health Services Advisory Group, Inc. (HSAG).

Mental Health Parity Workgroup

The Mental Health Parity Workgroup (Workgroup), established pursuant to 215 ILCS 5/370c.1(j), is comprised of eleven (11) members representing behavioral health parity experts, advocates, insurers, and providers. The Workgroup receives technical support from the

Departments of Insurance (DOI) and Healthcare and Family Services (HFS) and meets minimally on a semi-annual basis, with supplemental meetings scheduled as determined necessary by the members.

The purpose of the Working Group is to provide recommendations to the General Assembly on health plan data reporting requirements that separately break out data on mental, emotional, nervous, or substance use disorder or condition benefits and data on other medical benefits, including physical health and related health services. The working group also is tasked to create reporting instructions and formatting for insurance issuers to report detailed information on their claims practices as it relates to non-quantitative treatment limitations when comparing medical/surgical vs. MH/SUD benefits. The working group broke down the complex information into three phases for data collection:

Phase	NQTLs Analyzed	Submission Date
Phase I	<ul style="list-style-type: none"> • Medical necessity • Prior authorization 	July 1, 2021
Phase II	<ul style="list-style-type: none"> • Coverage limits • Utilization management 	July 1, 2022
Phase III	<ul style="list-style-type: none"> • Provider network reimbursement 	July 1, 2023 (tentative)

Quarterly Business Reviews

HFS staff meet with the health plans independently for monthly operations meetings and quarterly business reviews (QBRs) focused on monitoring health plan performance. QBRs include monitoring of areas related to Mental Health Parity and Addiction Equity Act (MHPAEA) compliance, including: the percent of prior authorization requests denied and top denial reasons, broken down by behavioral health and non-behavioral health benefits.

Managed Care Provider Resolution Portal and Parity Tracking

Per Illinois statute (215 ILCS 5/370c(d)(2)), HFS is required to evaluate all consumer or provider complaints related to mental health (MH) or substance use disorder (SUD) coverage for possible parity violations. Effective January 1, 2022, HFS Bureau of Managed Care (BMC) updated its Managed Care Provider Resolution Portal to include the ability to identify complaints that include an indication of potential parity violations and to track the outcome of those complaints.

When a provider submits a complaint through the portal, there is an option for indicating if the complaint is related to MH/SUD Parity. Complaints flagged as a potential parity violation are routed to staff within the HFS Bureau of Behavioral Health (BBH), for additional review and scrutiny to determine if the complaint is related to MH Parity and if there is evidence of a

possible parity violation. Once a Complaint has been received by BBH staff, they have 30 days to review and respond with a determination. Data regarding the number of complaints identified as possible parity issues and the outcomes of the determinations are tracked and reported monthly. Since the January 1, 2022, effective date, there have been only two complaints flagged potential parity violation. Upon further review, both were determined to not be parity issues.

Parity Audit: Phase I Mental Health Parity (MHP) Monitoring

HFS finalized a workplan with Health Services Advisory Group, Inc. (HSAG), in January 2022 to conduct an MHP analysis of all HealthChoice Illinois health plans (“health plans”). HSAG developed a protocol and tools in alignment with guidance outlined in the toolkit provided by the Centers for Medicare & Medicaid Services (CMS): Parity Compliance Toolkit Applying Mental Health and Substance Use Disorder Parity Requirements to Medicaid and Children’s Health Insurance Programs.

The MHP analysis consisted of the following:

- Review of the health plans’ Phase I MHP Parity Analysis Template and comparative analyses, which were submitted to HFS on July 1, 2021.
- An attestation of continued compliance with MHP requirements and documentation of any related policy or procedural changes since the July 1, 2021, submission.
- Review of the health plans’ utilization management (UM) documents and information.
- Review of the availability of prior authorization (PA) and clinical practice guideline (CPG) information on each health plan’s website.
- Analysis of medical and surgical (M/S) and mental, emotional, nervous, or substance use disorder or condition (MH/SUD) PA denial data, which are self-reported to HFS.
- File review of adverse benefit determination (ABD) records encompassing both M/S and MH/SUD denials.

For each health plan, HSAG made a determination as to whether the health plan demonstrated how it designs and applies NQTLs, both as written and in operation, for MH/SUD benefits as compared to how it designs and applies NQTLs, as written and in operation, for M/S benefits.

Overall, HSAG determined that the health plans demonstrated parity between M/S and MH/SUD services. Documentation and implementation of the health plans’ processes demonstrated compliance with State and federal MHP requirements and standards.

- Non-parity between M/S and MH/SUD denial rates: There was one health plan (County Care), that demonstrated non-parity when self-reported denial data were analyzed;

however, results are limited to data analysis and does not reflect a review of appropriateness of decisions.

Each health plan achieved parity overall on the ABD record reviews. The overall average for health plan compliance with scored elements of M/S and MH/SUD ABD records was 85 percent. There were two findings consistent across all six health plans:

- **Readability:** All six health plans had an opportunity for improvement related to readability levels for denial letters. All health plans should review the systems and processes responsible for letter creation and ensure that all relevant information is written in easily understandable language.
- **Notice sent within required time frame:** All six health plans had an opportunity for improvement related to compliance with timely notifications of ABD. All health plans should ensure and demonstrate that decisions and communications are processed in a timely manner, including decisions made by delegates (as applicable).

Methodology to Ensure Compliance: Illinois Department of Insurance

DOI utilizes market conduct examinations to verify a health insurance issuer's compliance with mental health and substance use disorder (MH/SUD) coverage and parity laws contained in Sections 356z.14, 356z.23, 370c, and 370c.1 of the Illinois Insurance Code and DOI regulations, which are interpreted consistently with the Paul Wellstone and Pete Demenici Mental Health Parity and Addiction Equity Act of 2008. The scope of the examinations includes, but is not limited to, activities as they pertain to parity in MH/SUD benefits within the company's health insurance business.

The objective of the examinations is to evaluate if the company designed, implemented, and managed MH/SUD benefits no less favorably than medical/surgical benefits. The specific review processes for the examination include, but are not limited to, the following:

- Review the procedures and guidelines related to utilization review to ensure that such guidelines and utilization review processes on MH/SUD services are no more stringently applied than those applied to medical/surgical services.
- Evaluate a sample of MH/SUD claims during the examination to compare services to medical/surgical and to ensure denials were appropriate based on medical necessity criteria.
- Evaluate the universe of appeals during the examination to determine if the appeal decisions were based on appropriate clinical criteria and policies.

- Evaluate the medical necessity criteria, policies, and procedures to ensure the company was not imposing more restrictive requirements and determination for MH/SUD treatments and services than on medical/surgical treatment and services.
- Determine that the MH/SUD benefits provided in the classification identified by 45 CFR § 146.136(c)(2)(ii)(A) are paid in parity with benefits in the same medical/surgical classifications.
- Evaluate financial requirements and quantitative treatment limitations (QTL) to ensure that any such requirements and limitations were consistently applied through MH/SUD and medical/surgical benefits, and that any financial 4 requirements and QTLs imposed meet the two-thirds threshold of “substantially all” requirements outlined in 45 CFR § 146.136(c)(3)(i).
- Evaluate non-quantitative treatment limitations (NQTL) to ensure that such limitations were consistently applied through MH/SUD and medical/surgical benefits and that the company was not being more restrictive as outlined in 45 CFR § 146.136(c)(4)(i)-(ii).
- Evaluate pre-certification/prior-authorization, step therapy policies, and procedural requirements for MH/SUD treatments to ensure that any such requirements were no more restrictive than the comparable medical/surgical policies and procedural requirements.
- Determine that the policies and procedure for the selection, tier placement, and quantity limitations of MH/SUD treatment drugs on the formulary were no less favorable to the insured than policies and procedures used for the selection, placement, and limitations of medical/surgical drugs.

In 2022, DOI completed one market conduct examination evaluating compliance with MH/SUD coverage and parity laws for the following companies:

- Celtic Insurance Company

Each market conduct examination in which DOI has found violations of law has resulted in a stipulation and consent order requiring the company to correct all activities where violations were found, pay a civil forfeiture, and provide proof of compliance to the DOI. The orders and the final reports are posted publicly on the DOI website. The following is a summary of findings by company for the recent round of examinations:

- IDOI's comprehensive market conduct exam, performed from 2018-2020 and posted on October 18, 2022, revealed that Celtic had the following violations involving parity, which resulted in a \$1.25 million dollar fine.
 - Created a barrier to treatment by imposing prior authorization for all substance use disorder claims.

- Failed to utilize American Society of Addiction Medicine (ASAM) medical necessity criteria for substance use disorder benefit determinations.
- Failed to sufficiently complete Non-Quantitative Treatment Limitation (NQTL) comparative analysis to prove adherence to Illinois and federal laws.
- Created consumer access barriers (prior authorization) to ADHD medications, anti-depressants, antipsychotics, flumazenil (treats drug overdose), Vivitrol (helps prevent relapse into drug or alcohol abuse), Lucemyra (alleviates opioid withdraw symptoms), buprenorphine/ naloxone tablets, buprenorphine tablets for pregnancy, and Fetzima/Trintellix/Viibryd (antidepressants).
- Created a quantity limitation barrier to Anti-Anxiety, Antipsychotic, Risperidone TBDP (schizophrenia treatment), Smoking Cessation Medications, Evzio (overdose treatment), Latuda (schizophrenia treatment), probuphine and sublocade (addiction treatment medications similar to buprenorphine), buprenorphine/naloxone/suboxone films, and HIV/AIDS medications.
- Placed certain commonly prescribed medications on non-preferred medication tiers or non-formulary, ADHD medication, antidepressant medications, and substance abuse medications-Antabuse, Zyban, and Suboxone films.
- Created a barrier to treatment for consumers by denying step therapy exception requests.

Educational Actions: Department of Health and Family Services

In February 2022, HFS provided all HealthChoice Illinois health plans with a readability protocol, which provided guidance to achieve compliance with sixth grade reading levels. Based on the timing of the MHP analysis and the issuance of the readability protocol, it was determined that the department would continue to monitor the level of compliance and HSAG will plan to perform follow-up reviews for readability during Phase II review activities. HFS provided health plans with the instructions and templates for submitting Phase II NQTL MHP documentation, which includes reporting of M/S and MH/SUD NQTL utilization management (i.e., concurrent, and retrospective reviews), exclusions criteria, out-of-network coverage standards, and geographic restrictions. All Health plans returned the required MHP documentation by July 1, 2022.

In September 2022, HFS issued an Ad Hoc report request, that health plans review the Phase I MHP analysis report and respond with any agreements, disputes, and corrective actions being taken to address an identified deficiency with response by September 23, 2022. All health plans submitted responses and corrective actions addressing identified deficiencies.

The [2021 Mental Health Parity Analysis Summary Report](#) is viewable on the HFS website.

Educational Actions: Department of Insurance

In 2022, with an eye towards an education campaign for 2023, Get Covered Illinois procured a vendor for an education campaign to ensure, that Illinois consumers statewide are informed and

educated about their consumer rights under mental health laws. The campaigns goals are to increase awareness with mental health parity rights, explain to consumers how to seek relief if their rights are violated and to reinforce the importance of maintaining health coverage and guaranteeing support under the law.

Appendix A

Statutory Language Creating the Working Group

215 ILCS 5/370c.1(h)(2)

The Department, in coordination with the Department of Human Services and the Department of Healthcare and Family Services, shall convene a working group of health care insurance carriers, mental health advocacy groups, substance abuse patient advocacy groups, and mental health physician groups for the purpose of discussing issues related to the treatment and coverage of substance abuse disorders and mental illness. The working group shall meet once before January 1, 2016 and shall meet semiannually thereafter. The Department shall issue an annual report to the General Assembly that includes a list of the health care insurance carriers, mental health advocacy groups, substance abuse patient advocacy groups, and mental health physician groups that participated in the working group meetings, details on the issues and topics covered, and any legislative recommendations.

Appendix B

Working Group Attendees

2022 Working Group Meeting Agency Staff Participants

Joanna Coll	DOI
Patrice Dziire	DOI
Adam Flores	DOI
Daniel Frey	DOI
Ryan Gillespie	DOI
Brian Gorman	DOI
Robert Planthold	DOI
KC Stralka	DOI
Andi VanderKolk	DOI
Erica Weyhenmeyer	DOI
Kassandra Silva	DHS
Eric Foster	HFS
Kristine Herman	HFS
Robert Mendonsa	HFS

2022 Working Group Meeting Participants July 1

Laura Minzer	Illinois Life and Health Insurance Council
Kate Morthland	Illinois Life and Health Insurance Council

2022 Working Group Meeting Participants November 4

Elizabeth Evans	Kennedy Forum Illinois
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