

Patient co-pays are more expensive for some psychiatric medications than other prescription medications. For example, one NAMI Mass employee notes that the co-pay for Effexor (an antidepressant, also prescribed for generalized anxiety disorder) is \$50, more than other prescription medications.

Some medications prescribed for mental health patients need to be followed with routine blood work. One patient we know of was on such a medication, which was covered by the health insurance plan, but the necessary blood work had to be paid out of pocket by the patient. We have never heard of blood work for medical care that was not covered. This is another example of the disparity between financial coverage for behavioral health and medical health.

Another issue of concern is the recent closing of adult psychiatric hospital beds and the closing of substance abuse beds at Cambridge Health Alliance here in Cambridge, Massachusetts. The reason for closing the psychiatric beds and the substance abuse beds is because the reimbursement rate for those beds is much lower than the reimbursement for other hospital beds. Many mental health patients are on public assistance. State agencies have confirmed that 61% of the hospital's payer mix for psychiatric and substance abuse hospital days was from MassHealth (Massachusetts' version of Medicaid), Managed Care Organizations within MassHealth and uninsured patients. Many private facilities do not accept uninsured patients or patients covered by these health plans. With the beds closed, NAMI Mass is concerned that patients living in the hospital's network area will have nowhere to go.

What terms or provisions require additional clarification to facilitate compliance?
What specific clarifications would be helpful?

A2. We urge the federal government to issue an explanatory bulletin "enforcement." Our experience with HIPAA (Health Insurance Portability and Accountability Act of 1996) tells us the enforcement will be a huge issue; referring people to the Office for Civil Rights web site for "enforcement" is very insufficient and people are very frustrated about where to go when they feel a violation of HIPAA exists.

The language in the federal parity law says that the U.S. Department of Labor, Health and Human Services and Treasury will continue to coordinate enforcement of the federal mental health parity requirements. We understand that regulations will be promulgated but we strongly suggest that "enforcement" of this new parity law be very specific. This law will cover millions of people and thousands of employers. Knowing with specificity where to go with a complaint and how to get the complaint filed so someone will actually look into the issue will be critically important.

5. Is the out-of-network coverage for mental health and substance use disorder benefits different than out-of-network coverage provided for medical and surgical benefits?

A5. Often mental health patients are assigned to an out-of-network plan or an entity contracting with the health plan. In Massachusetts, under these conditions, many behavioral health services were not being provided adequately. For example, patients were assigned to mental health providers who were a great distance from their homes, essentially depriving them of needed health care. Massachusetts passed a Mental Health Parity Law which corrects this injustice. Massachusetts agencies periodically publish bulletins which provide clarification of state statutes.

Consequently, in 2002, the Massachusetts Division of Insurance issued a bulletin explaining the Massachusetts Mental Health Parity Law. The bulletin explained that “[c]arriers contracting with another entity ... for the administration or provision of behavioral health services remain responsible for: (1) ensuring that services provided or coordinated by such entity comply with the provisions of all relevant statutes; and (2) taking steps to coordinate care.”¹

Additionally, the Massachusetts bulletin provides that:

“For carriers that provide benefits through a network or through participating providers, adequate access means at a minimum that:

- the network contains all mandated provider types.
- the network providers offer the full range of mandated services, including specific treatment modalities appropriate for all ages of patients and all types of covered mental conditions. (The mental health parity law specifically states that there must be available a range of outpatient, intermediate and inpatient mental health treatment.)
- there are sufficient numbers of providers available in the network so that no patient must wait a medically inappropriate amount of time to receive care for acute conditions.
- care is being delivered promptly and appropriately and that insureds are being provided adequate access as required by law.
- provider directories containing the names of all behavioral health providers in the carriers’ network.”²

A copy of the Massachusetts Division of Insurance-2002-07 Mental Health Benefits dated February 15, 2002 is attached. We urge that the federal government use this bulletin as a model to issue clarification that any behavioral health networks must comply with the new law, and among other things, guarantee a robust network that includes all provider types.

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We anticipate problems with “out-of-network” coverage unless specific steps, such as we suggest, are followed.

6. Which aspects of the increased cost exemption, if any, require additional guidance?

A6. The provision which allows a plan an exemption for one year, if certain costs apply, needs additional clarification. This potentially is a major exemption from the law. The Department of Labor, Internal Revenue Service, and Centers for Medicare and Medicaid Services need to provide further explanation and set forth mechanisms to monitor such exemptions. How will these agencies be assured that the health insurance plan is in compliance? Reporting procedures must be detailed. A policy and rules need to be established through which individuals can request information.

Thank you for the opportunity to comment.

Sincerely,

Laurie Martinelli
Executive Director

Chris Previtera, JD
NAMI Volunteer

Cc: NAMI National office

Enclosure

¹ Massachusetts Division Of Insurance-2002-07 Mental Health Benefits dated February 15, 2002

² Massachusetts Division Of Insurance-2002-07 Mental Health Benefits dated February 15, 2002

2002-07 Massachusetts Mental Health Benefits

TO: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, and Health Maintenance Organizations accredited pursuant to M.G.L. c. 176O

FROM: Howard K. Koh, MD, MPH, Commissioner of Public Health
Marylou Sudders, Commissioner of Mental Health
Linda Ruthardt, Commissioner of Insurance

DATE: February 15, 2002

RE: Mental Health Benefits

This bulletin is being sent jointly by the Department of Public Health, Department of Mental Health and the Division of Insurance to remind carriers of their obligations to provide coverage for appropriate behavioral health services to all insureds consistent with the requirements set forth in Massachusetts law, including Chapter 80 of the Acts of 2000 ("mental health parity"). Carriers contracting with another entity (sometimes referred to as a "carve-out" or "rented network") for the administration or provision of behavioral health services remain responsible for: (1) ensuring that services provided or coordinated by such entity comply with the provisions of all relevant statutes; and (2) taking steps to coordinate care.

Division of Insurance Bulletin No. 2000-06 explained Mental Health Parity and mandated mental health services and providers. This serves as a further reminder that carriers must provide adequate access to behavioral health services as required by the Mental Health Parity and managed care laws.

For carriers that provide benefits through a network or through participating providers, adequate access means at a minimum that:

- the network contains all mandated provider types.
- the network providers offer the full range of mandated services, including specific treatment modalities appropriate for all ages of patients and all types of covered mental conditions. (The mental health parity law specifically states that there must be available a range of outpatient, intermediate and inpatient mental health treatment.)
- there are sufficient numbers of providers available in the network so that no patient must wait a medically inappropriate amount of time to receive care for acute conditions.
- care is being delivered promptly and appropriately and that insureds are being provided adequate access as required by law.
- provider directories contain the names of all behavioral health providers in the carrier's network.

Additionally, in order to demonstrate good faith compliance with the mental health parity and managed care laws, each carrier should have working procedures in place to:

- Provide assistance to insured patients, including families when a minor dependent is the patient, with timely scheduling of necessary behavioral health care upon notification to the plan (or primary care physician, "carve-out" mental health provider or network manager where appropriate under a carrier's managed care system) that an insured is having difficulty finding an appropriate behavioral

health provider.

- Monitor its network(s) - and any subcontractor's networks - regularly to ensure that sufficient behavioral health providers are continuing to accept new patients and that its utilization systems are authorizing the full range of services of behavioral health services.
- Ensure, in the event that no contracted provider reasonably accessible to the patient can render acute, medically necessary covered treatment, that there is out-of-network treatment provided for the affected member as if such care were delivered through the network.

Please note that all licensees will be tested for compliance under the accreditation standards of 211 CMR 52.00 et seq. and other relevant law, including but not limited to the Mental Health Parity law.

If you have any questions about this Bulletin, please call Kevin Beagan, Director of the Bureau of Managed Care, at (617) 521-7347.