

STATE OF NEW YORK

3694

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to establishing the mental health and substance abuse parity report act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "mental health and substance abuse parity report act".

3 § 2. Subsection (a) of section 210 of the insurance law, as amended by
4 chapter 579 of the laws of 1998, is amended to read as follows:

5 (a) The superintendent shall annually publish on or before September
6 first, nineteen hundred ninety-nine, and annually thereafter, a consumer
7 guide to insurers providing managed care products, individual accident
8 and health insurance or group or blanket accident and health insurance
9 and entities licensed pursuant to article forty-four of the public
10 health law providing comprehensive health service plans which includes,
11 in detail, a ranking from best to worst based upon each company's claim
12 processing or medical payments record during the preceding calendar year
13 using criteria available to the department, adjusted for volume of
14 coverage provided. Such ranking shall also take into consideration the
15 corresponding total number or percentage of claims denied which were
16 reversed or compromised after intervention by the department and the
17 department of health, consumer complaints to the department and the
18 department of health, violations of section three thousand two hundred
19 twenty-four-a of this chapter and other pertinent data which would
20 permit the department to objectively determine a company's performance.
21 The department in publishing such consumer guide shall publish one
22 state-wide guide or no more than five regional guides so as to facilitate
23 comparisons among individual insurers and entities within a service
24 market area. Such rankings shall be printed in a format which ranks all
25 health insurers and all entities certified pursuant to article forty-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 four of the public health law in one combined list. The consumer guide
2 on or before September first, two thousand eighteen and annually there-
3 after, shall include a mental health parity report that includes a rank-
4 ing from best to worst based upon each company's compliance with mental
5 health and substance abuse parity laws based on each company's record
6 during the preceding calendar year using criteria available to the
7 department, including, but not limited to, information required by this
8 subsection and subsections (b), (c) and (d) of this section. In addi-
9 tion, notwithstanding such requirements and any law to the contrary, the
10 data to be included in the mental health parity report and collected by
11 the superintendent and the commissioner of health, for such purposes
12 shall include:

13 (1) Annual mental health and substance abuse parity compliance report
14 from each insurer outlining how it complies with Timothy's law, the
15 insurance law provisions regarding substance abuse and eating disorders
16 and the Paul Wellstone and Pete Domenici mental health parity and
17 addiction equity act of two thousand eight;

18 (2) Rates of utilization review for mental health and substance abuse
19 claims versus physical health, including rate of denial;

20 (3) The number of prior authorization requests for mental health and
21 substance abuse services and the number of denials for such requests,
22 compared with the number of prior authorization requests for other
23 health care services and the number of denials for such requests, which
24 shall also include the rates of internal and external appeals, including
25 rates of appeals upheld and overturned, specifically for mental health
26 and substance abuse;

27 (4) The percentage of claims paid for out-of-network mental health and
28 substance abuse services compared with the percentage of claims paid for
29 other types of out-of-network health care and surgical services;

30 (5) The medical necessity criteria it uses to make prior authorization
31 or adverse determinations, which in conjunction must be conspicuously
32 posted for policyholders and providers to be able to review without
33 making a request;

34 (6) The number of complaints received from policy holders with respect
35 to coverage for mental illness and substance abuse, without patient-i-
36 dentifying information. Upon request from a department, the insurer
37 will provide a copy of the individual complaint to such department;

38 (7) The number of behavioral health advocates, pursuant to an agree-
39 ment with the office of attorney general if applicable, or staff on hand
40 to assist policyholders with benefits for mental health or substance
41 abuse;

42 (8) The network adequacy of insurers and health plans, which in addi-
43 tion to the requirements of subsection (a) of section three thousand two
44 hundred forty-one of this chapter and subsection (c) of this section,
45 shall consist of verifying the mental health and substance abuse provid-
46 ers listed in an insurers or health plans provider directory as in
47 network. Such verification shall be provided by the insurer or health
48 plan, on an annual basis, by providing its list of in-network mental
49 health and substance abuse providers and the number of claims each
50 provider has submitted within the past twelve months. For providers that
51 have had no claims in the past twelve months, the insurer or health plan
52 must provide an attestation that such provider is still part of the
53 network. For qualified health plans offered on New York state of health,
54 the department of health shall review the network adequacy to ensure it
55 is consistent with 45 CFR § 156.230 and the department of health's
56 managed care network adequacy standard and, in addition, shall consist

1 of verifying the mental health and substance abuse providers listed in a
2 qualified health plans provider directory as in network. Such verifica-
3 tion shall be provided by a qualified health plan, on an annual basis,
4 by providing its list of in-network mental health and substance abuse
5 providers and the number of claims each provider has submitted within
6 the past twelve months. For providers that have no claims in the past
7 twelve months, the qualified health plan must provide an attestation
8 that such provider is still part of the network; and

9 (9) Any other data or metric the superintendent or the commissioner of
10 health deems is necessary to measure compliance with mental health and
11 substance abuse parity.

12 § 3. Paragraph 2 of subsection (c) of section 210 of the insurance
13 law, as added by chapter 579 of the laws of 1998, is amended to read as
14 follows:

15 (2) the percentage of primary care physicians who remained participat-
16 ing providers, provided however, that such percentage shall exclude
17 voluntary terminations due to physician retirement, relocation or other
18 similar reasons, and the percentage of mental health professionals,
19 defined as physicians who are licensed pursuant to article one hundred
20 thirty-one of the education law who are diplomats of the American board
21 of psychiatry and neurology or are eligible to be certified by that
22 board, or are certified by the American osteopathic board of neurology
23 and psychiatry or are eligible to be certified by that board, a social
24 worker licensed pursuant to article one hundred fifty-four of the educa-
25 tion law or a psychologist licensed pursuant to article one hundred
26 fifty-three of the education law, who remained as participating provid-
27 ers and the number of claims each type of mental health professional has
28 submitted in the last twelve months and the number of mental health
29 professionals, if any, who have not had any claims in the last twelve
30 months;

31 § 4. Subsection (d) of section 210 of the insurance law, as added by
32 chapter 579 of the laws of 1998, is amended to read as follows:

33 (d) Health insurers and entities certified pursuant to article forty-
34 four of the public health law shall provide annually to the superinten-
35 dent and the commissioner of health, and the commissioner of health
36 shall provide to the superintendent, all of the information necessary
37 for the superintendent to produce the annual consumer guide, including
38 the mental health parity report. In compiling the guide, the super-
39 intendent shall make every effort to ensure that the information is
40 presented in a clear, understandable fashion which facilitates compar-
41 isons among individual insurers and entities, and in a format which
42 lends itself to the widest possible distribution to consumers. The
43 superintendent shall either include the information from the annual
44 consumer guide in the consumer shopping guide required by subsection (a)
45 of section four thousand three hundred twenty-three of this chapter or
46 combine the two guides as long as consumers in the individual market are
47 provided with the information required by subsection (a) of section four
48 thousand three hundred twenty-three of this chapter.

49 § 5. This act shall take effect on the sixtieth day after it shall
50 have become a law, provided, however, effective immediately, the amend-
51 ment and/or repeal of any rule or regulation necessary for the implemen-
52 tation of this act on its effective date are authorized and directed to
53 be made and completed on or before such effective date.