STATE OF NEW YORK

3694--C

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. GUNTHER, LIFTON, SKOUFIS, BUCHWALD, GALEF, ABINANTI, STECK -- Multi-Sponsored by -- M. of A. THIELE -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

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

§ 2. Section 210 of the insurance law is amended by adding a new subsection (c-1) to read as follows:

(c-1) Beginning September first, two thousand nineteen and annually thereafter, the superintendent shall include in such guide a mental health and substance use disorder parity report detailing each company's compliance with federal and state mental health and substance use disorder parity laws based on each company's record during the preceding calendar year. The superintendent shall include in such report, and each company shall provide to the superintendent the information required for such guide in a timely fashion, the following information:

(1) Rates of utilization review for mental health and substance use disorder claims as compared to medical and surgical claims, including rates of approval and denial, categorized by benefits provided under the following classifications: inpatient in-network, inpatient out-of-network, outpatient in-network, outpatient out-of-network, emergency care, and prescription drugs;

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

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(2) The number of prior or concurrent authorization requests for mental health services and for substance use disorder services and the number of denials for such requests, compared with the number of prior or concurrent authorization requests for medical and surgical services and the number of denials for such requests, categorized by the same classifications identified in paragraph one of this subsection;

(3) The rates of appeals of adverse determinations, including the rates of adverse determinations upheld and overturned, for mental health claims and substance use disorder claims compared with the rates of appeals of adverse determinations, including the rates of adverse determinations upheld and overturned, for medical and surgical claims;

(4) The percentage of claims paid for in-network mental health services and for substance use disorder services compared with the percentage of claims paid for in-network medical and surgical services and the percentage of claims paid for out-of-network mental health services and substance use disorder services compared with the percentage of claims paid for out-of-network medical and surgical services;

(5) The number of behavioral health advocates, pursuant to an agreement with the office of the attorney general if applicable, or staff available to assist policyholders with mental health benefits and substance use disorder benefits;

(6) A comparison of the cost sharing requirements including but not limited to co-pays and coinsurance, and the benefit limitations including limitations on the scope and duration of coverage, for medical and surgical services, and mental health services and substance use disorder services;

(7) The number by type of providers licensed to practice in this state that provide services for the treatment and diagnosis of substance use disorder who are in-network, and the number by type of providers licensed to practice in this state that provide services for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in a company's policy, who are in-network;

(8) The percentage of providers of services for the treatment and diagnosis of substance use disorder who remained participating providers, and the percentage of providers of services for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in a company's policy, who remained participating providers; and

(9) Any other data or metric the superintendent deems necessary to measure compliance with mental health and substance use disorder parity including, but not limited to an evaluation and assessment of: (i) the adequacy of the company's in-network mental health services and substance use disorder provider panels pursuant to provisions of the insurance law and public health law; and (ii) the company's reimbursement for in-network and out-of-network mental health services and substance use disorder services as compared to the reimbursement for in-network and out-of-network medical and surgical services.

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

(d) Health insurers and entities certified pursuant to article forty-four of the public health law shall provide annually to the superintendent and the commissioner of health, and the commissioner of health shall provide to the superintendent, all of the information necessary for the superintendent to produce the annual consumer guide, including the mental health and substance use disorder parity report. In compiling the guide, the superintendent shall make every effort to ensure that

the information is presented in a clear, understandable fashion which facilitates comparisons among individual insurers and entities, and in a format which lends itself to the widest possible distribution to consumers. The superintendent shall either include the information from the annual consumer guide in the consumer shopping guide required by subsection (a) of section four thousand three hundred twenty-three of this chapter or combine the two guides as long as consumers in the individual market are provided with the information required by subsection (a) of section four thousand three hundred twenty-three of this chapter.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law, provided, however, effective immediately, the amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.