STATE OF NEW YORK

6186--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to mental health and substance use disorder parity reporting; and to repeal certain provisions of such law relating thereto

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

Section 1. Subsection (c-1) of section 210 of the insurance law, as amended by a chapter of the laws of 2018 amending the insurance law relating to establishing the mental health and substance use disorder parity report act, as proposed in legislative bills numbers S. 1156-C and A. 3694-C, is REPEALED.

§ 2. The insurance law is amended by adding a new section 343 to read as follows:

§ 343. Mental health and substance use disorder parity report. (a) Beginning July first, two thousand nineteen and every two years thereafter, each insurer providing managed care products, individual comprehensive accident and health insurance or group or blanket comprehensive accident and health insurance, each corporation organized pursuant to article forty-three of this chapter providing comprehensive health insurance and each entity licensed pursuant to article forty-four of the public health law providing comprehensive health service plans shall submit to the superintendent, in a form and manner prescribed by the superintendent, a report detailing the entity's compliance with federal and state mental health and substance use disorder parity laws based on the entity's record during the preceding two calendar years. The superintendent shall publish on the department's website on or before October first, two thousand nineteen, and every two years thereafter, the reports submitted pursuant to this section.

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

LBD10356-02-9

(b) Each person required to submit a report under this section shall include in the report 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;

(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 for coverage in the individual, small group, and large group markets, provided that the comparison captures at least seventy-five percent of a company's enrollees in each market;

(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, information, or metric the superintendent deems necessary or useful 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 amended by a chapter of the laws of 2018 amending the insurance law relating to establishing the mental health and substance use disorder parity report act, as proposed in legislative bills numbers S. 1156-C and A. 3694-C, 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 same date and in the same manner as a chapter of the laws of 2018 amending the insurance law relating to establishing the mental health and substance use disorder parity report act, as proposed in legislative bills numbers S. 1156-C and A. 3694-C, takes effect. 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.