

STATE OF NEW YORK

6186

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

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 requiring insurers to compile biannual reports on mental health and substance use disorder parity; and to repeal certain provisions of the insurance law relating thereto

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

1 Section 1. Subsection (c-1) of section 210 of the insurance law is
2 REPEALED.

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

5 § 343. Mental health and substance use disorder parity report. (a)
6 Beginning July first, two thousand nineteen and every two years there-
7 after, each insurer providing managed care products, individual compre-
8 hensive accident and health insurance or group or blanket comprehensive
9 accident and health insurance, each corporation organized pursuant to
10 article forty-three of this chapter providing comprehensive health
11 insurance and each entity licensed pursuant to article forty-four of the
12 public health law providing comprehensive health service plans shall
13 submit to the superintendent, in a form and manner prescribed by the
14 superintendent, a report detailing the entity's compliance with federal
15 and state health and substance use disorder parity laws based on the
16 entity's record during the preceding two calendar years. The superinten-
17 dent shall publish on the department's website on or before October
18 first, two thousand nineteen, and every year thereafter, the report
19 submitted pursuant to this section.

20 (b) Each person required to submit a report under this section shall
21 include in the report the following information:

22 (1) Rates of utilization review for mental health and substance use
23 disorder claims as compared to medical and surgical claims, including

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

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1 rates of approval and denial, categorized by benefits provided under the
2 following classifications: inpatient in-network, inpatient out-of-net-
3 work, outpatient in-network, outpatient out-of-network, emergency care,
4 and prescription drugs;

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

11 (3) The rates of appeals of adverse determinations, including the
12 rates of adverse determinations upheld and overturned, for mental health
13 claims and substance use disorder claims compared with the rates of
14 appeals of adverse determinations, including the rates of adverse deter-
15 minations upheld and overturned, for medical and surgical claims;

16 (4) The percentage of claims paid for in-network mental health
17 services and for substance use disorder services compared with the
18 percentage of claims paid for in-network medical and surgical services
19 and the percentage of claims paid for out-of-network mental health
20 services and substance use disorder services compared with the percent-
21 age of claims paid for out-of-network medical and surgical services;

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

26 (6) A comparison of the cost sharing requirements including but not
27 limited to co-pays and coinsurance, and the benefit limitations includ-
28 ing limitations on the scope and duration of coverage, for medical and
29 surgical services, and mental health services and substance use disorder
30 services for coverage in the individual, small group and large group
31 markets, provided that the comparison captures at least seventy-five
32 percent of a company's enrollees in each market;

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

39 (8) The percentage of providers of services for the treatment and
40 diagnosis of substance use disorder who remained participating provid-
41 ers, and the percentage of providers of services for the diagnosis and
42 treatment of mental, nervous or emotional disorders and ailments, howev-
43 er defined in a company's policy, who remained participating providers;
44 and

45 (9) Any other information, data or metric the superintendent deems
46 necessary or useful to measure compliance with mental health and
47 substance use disorder parity including, but not limited to an evalu-
48 ation and assessment of: (i) the adequacy of the company's in-network
49 mental health services and substance use disorder provider panels pursu-
50 ant to provisions of the insurance law and public health law; and (ii)
51 the company's reimbursement for in-network and out-of-network mental
52 health services and substance use disorder services as compared to the
53 reimbursement for in-network and out-of-network medical and surgical
54 services.

55 § 3. Subsection (d) of section 210 of the insurance law, as amended by
56 chapter 455 of the laws of 2018, is amended to read as follows:

1 (d) Health insurers and entities certified pursuant to article forty-
2 four of the public health law shall provide annually to the superinten-
3 dent and the commissioner of health, and the commissioner of health
4 shall provide to the superintendent, all of the information necessary
5 for the superintendent to produce the annual consumer guide[, ~~including~~
6 ~~the mental health and substance use disorder parity report~~]. In compil-
7 ing the guide, the superintendent shall make every effort to ensure that
8 the information is presented in a clear, understandable fashion which
9 facilitates comparisons among individual insurers and entities, and in a
10 format which lends itself to the widest possible distribution to consum-
11 ers. The superintendent shall either include the information from the
12 annual consumer guide in the consumer shopping guide required by
13 subsection (a) of section four thousand three hundred twenty-three of
14 this chapter or combine the two guides as long as consumers in the indi-
15 vidual market are provided with the information required by subsection
16 (a) of section four thousand three hundred twenty-three of this chapter.
17 § 4. This act shall take effect immediately.