

Opinion

The Mental Health Parity and Addiction Equity Act: What Parity Means For New Hampshire

By **Lucy C. Hodder**

New Hampshire lawyers can help clients and colleagues with mental health or substance use disorders by advising individuals how to overcome barriers to insurance coverage for treatment, and encouraging them to pursue state and federally mandated internal, external and expedited appeal opportunities when denied coverage.

To assist attorneys and others in seeking mental health parity in health insurance coverage, there is now a free resource guide, developed by the UNH Health Law and Policy Program at the University of New Hampshire School of Law, in collaboration with New Futures. The guide answers common questions and offers tips about identifying parity issues and navigating insurance coverage in New Hampshire. See <http://new-futures.org/NavigatingTreatmentGuide>.

Why is this important? Approximately one in four New Hampshire residents has a diagnosable mental health condition, one in six suffers from depression, and one in 14 is alcohol dependent, according to a December 2016 report by the NH Citizen's Health Initiative. However, despite the prevalence of these problems, people with mental illness often have trouble finding treatment and ways to pay for it. This is as true for clients as it is for lawyers themselves – recent studies have shown, and the independent NH Lawyers Assistance Program has long recognized, that lawyers suffer from problem drinking and depression at higher rates than other professionals.

Mental health parity laws have encouraged health insurance plans to treat individuals with mental health issues in the same way as they treat individuals with physical health issues. Since 2008, the federal Mental Health Parity and



Addiction Equity Act (“the parity law”) has required full parity across most private group, state and local government health plans. However, the parity laws have not actually required health insurance plans to include benefits for mental health or substance use disorders, so coverage “parity” has been out of reach for many.

The number of people with health insurance coverage has dramatically increased in New Hampshire in recent years, and most health insurance now includes mental health and substance use disorder (MH/SUD) benefits. MH/SUD coverage is part of the Essential Health Benefit (EHB) package required by the Affordable Care Act for small groups and individuals. Most health plans now recommend preventive screenings for depression and alcohol use. Medicaid expansion, available in 31 states including New Hampshire through the NH Health

Protection Program, includes coverage for mental health and substance use disorder services. Therefore, as of July 1, 2016, the parity law applies (with few exceptions) to all employer groups and individual insurance.

In general, parity means the financial requirements (such as co-pays) and treatment limitations (such as pre-authorizations) that apply to MH/SUD benefits cannot be more restrictive than the limitations that apply to “substantially all” of the corresponding medical/surgical benefits. The “substantially all” test must be applied separately to six classifications of benefits: inpatient in-network; inpatient out-of-network; outpatient in-network; outpatient out-of-network; emergency; and prescription drug.

Health plans are prohibited from imposing more restrictive quantitative treatment limitations on MH/

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SUD benefits (such as visit limits and day limits) and more restrictive non-quantitative treatment limitations (such as medical management, step therapy and pre-authorizations). For example, if a health insurance plan has pre-authorization requirements for many MH/SUD treatments, but for few medical treatments, the plan might have a parity violation. In addition, restrictions on benefits must be applied in a similar way, including any geographic limits, facility-type limits, and network adequacy.

The New Hampshire Department of Insurance has the authority to review fully insured health plans for parity compliance, initiate market conduct exams and respond to all consumer questions and complaints. The US Department of Labor enforces parity obligations on self-insured plans.

For more information on parity issues, New Hampshire lawyers and others should consult the “Resource guide for Addiction and Mental Health Consumers” on the New Futures website.

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