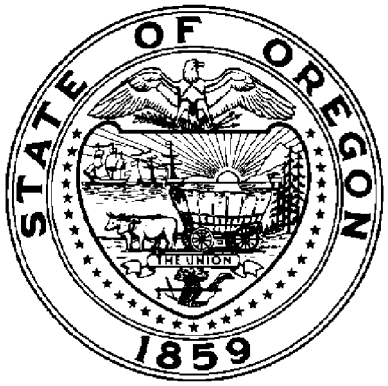

2009 Review of Coverage of Mental or Nervous Conditions and Chemical Dependency in Accordance with OAR 836-053-1405 (8)

Department of Consumer and Business Services

Insurance Division

Senate Bill 1 enacted during the 2005 legislative session requires that health insurance coverage for the treatment of mental health or nervous conditions and chemical dependency be in parity with other medical coverage. The bill was enacted in part to end the disparity in insurance coverage for psychiatry and medicine and to unify treatment of the whole person - mind and body.

The legislation requires that group health insurance policies provide treatment benefits for chemical dependency and for mental or nervous conditions at the same level and subject to limitations no more restrictive than those imposed for treatment of other medical conditions. The legislation prohibits specific visit limits for mental health treatment not required for other medical conditions and eliminates differences in co-payments, coinsurance, deductibles, maximum out of pocket expenses and lifetime maximum benefits for chemical dependency and mental health or nervous condition treatments that were previously permitted.

Background

Oregon has required mental health benefits for group insurance plans since 1975. In 1987 Oregon combined mental health and chemical dependency coverage laws and established separate dollar limits for adults and children. By 1998, all insurers offering group health benefit plans used durational limits that limited the number of mental health visits they covered. In 1999, Oregon increased the minimum dollar coverage requirements by 25%. After this increase, chemical dependency treatment and mental health care were required for a number of visits that equaled $13,125 for adults and $15,625 for children under 18 years old. Until passage of SB 1, insurers were permitted to carve out and not cover mental health prescription medications even when prescriptions were covered for other medical conditions.

Senate Bill 1, codified at ORS 743A.168, was passed by the 2005 Oregon Legislature and became effective January 1, 2007 or the first policy renewal date thereafter. In passing Senate Bill 1, Oregon joined 32 other states that enacted mental health parity laws and 14 additional states that expanded mental health coverage.

Exclusions

ORS 743A.168 does not apply to all types of health insurance. Individual health plans, self-insured employer group health plans, disease specific insurance plans, long term care plans, disability plans, Medicare, and Medicaid are not required to comply.

ORS 743A.168 (4) (a) does not apply to all services. Educational and correctional services, long term residential mental health treatment lasting longer than 45 days, psychoanalysis or psychotherapy received as part of an educational or training program, court ordered sex offender, and court-ordered DUII screening and treatment are excluded. ORS 743A.168 (6) excludes reimbursement for support groups and ORS 743A.168 (7) permits insurers to limit coverage for in-home services.

Application of the Law

Reimbursement. Senate Bill 1 specifies that a provider is eligible for reimbursement for the treatment of mental health, nervous conditions and chemical dependency if the provider is approved by the Department of Human Services, is accredited, and provides a covered benefit under the health insurance policy. Eligible providers include health care facilities, residential programs or facilities, day or partial hospitalization programs, outpatient services, inpatient services, and licensed providers practicing within the scope of their licenses.

Policy Provisions. The law does not specify the amount of reimbursement for treatment. Rather, coverage for chemical dependency and mental or nervous conditions is subject to the provisions of the policy that apply to other benefits including medical necessity, deductibles, copayment, coinsurance, reimbursement, and treatment limitations.

Management tools. Senate Bill 1 does not prohibit insurers from managing benefits for mental health, nervous conditions and chemical dependency through common methods such as prior authorization, which requires that the insurer authorize treatment before it is provided, and utilization review, which allows the insurer to review the medical necessity, use, and efficacy of the treatment as long as those requirements are imposed on the coverage for other medical conditions.

Implementation

After passage of the new law, the Insurance Division worked with consumer groups and stakeholders and held several trainings and discussion groups to work on transition and implementation. In addition to the trainings and discussion groups, the Insurance Division hosted multi-stakeholder advisory meetings to seek input on the development of Oregon Administrative Rules to help implement the law. Insurers, providers, consumers, the Department of Human Services, and the National Alliance on Mental Illness (NAMI) representatives among others, participated in discussions used to draft and shape the Division's rules.

Assessment of Implementation

Since implementation of the law on January 1, 2007, the Insurance Division has monitored compliance and resolved complaints. The Division has not seen significant consumer complaint activity related to Senate Bill 1 and mental health parity. The Division completed investigations and closed 51 complaint files. 49 of these files did not involve violations of Senate Bill 1, because they were either (a) filed by consumers with individual or self-insured plans, which are not subject to the requirements of the law (11 complaints); (b) made for services received prior to the effective date of the law (8 complaints); (c) related to administrative issues, poor customer service, delays in payment, incorrect identification numbers, or claims misinformation (12 complaints); or (d) related to denials due to lack of medical necessity, lack of coverage under the plan,

or because services were obtained from out-of-network providers (18 complaints). Under SB 1, insurers may deny or limit coverage for these reasons.

In the two consumer complaints where violations of Senate Bill 1 were found, contractual language specifically limiting coverage for developmental disorders and mental health and chemical dependency treatment was identified. The Division required the companies to remove the offending language and to comply with the mandates of Senate Bill 1.

The Division looked into insurers' uses of utilization review, treatment plan requirements, and contract language. We also reviewed the mental health, nervous conditions, and chemical dependency treatment policies and procedures of 14 insurers. The Division found contract language in violation of Senate Bill 1, and worked with insurers to bring them into compliance.

Cost-Benefit Estimates: claims & cost

The Congressional Budget Office and private actuarial firms estimated the impact of parity on health insurance premiums and reported rate increases ranging from 3.2% to 11.4%. The expected average increase in Oregon health insurance premium rates was estimated at 1.5%. As of the third quarter of 2008, three carriers estimated the effects of the law on rates. According to the information filed by these carriers, Senate Bill 1 caused rate increases ranging from one-half of one percent to approximately two percent.

The Division will be conducting a data call of insurers during the first quarter of 2009 requesting claims and expenditure information about mental health, nervous conditions, and chemical dependency treatment. Once compiled and analyzed, the data should show how much mental health, nervous disorder, and/or chemical dependence claims and cost increased or decreased since the passage of Senate Bill 1 on a per member per month basis.