



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Market Conduct Report

of

**Harvard Pilgrim Health Care, Inc.
HPHC Insurance Company, Inc.**

November 23, 2021

On August 7, 2019, through February 5, 2021, The Market Conduct Division of the Connecticut Insurance Department examined by targeted review the Mental Health Parity practices of Harvard Pilgrim Health Care, Inc. and HPHC Insurance Company, Inc. (hereinafter referred to as the “Companies”), for the sample period of January 1, 2017 through December 31, 2017.

The evaluation was based on a series of questions, in which the companies provided responses related to nonquantitative treatment limitations (NQTLs) under The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), including the “in-operation” and “in-practice” standards applied between three healthcare plan benefits: (1) Medical/Surgical (Med/Surg) Benefits, (2) Substance Use Disorder (SUD) Benefits and (3) Mental Health (MH) Benefits. Under MHPAEA, insurers must apply NQTLs both “as-written” and “in-operation” in a manner that is comparable and not more stringent for MH/SUD benefits than for Med/Surg benefits in the same benefit classification. The targeted review was limited to Connecticut Health Insurance business.

Harvard Pilgrim Health Care, Inc. and HPHC Insurance Company, Inc. have their home offices in the Commonwealth of Massachusetts. By authority granted under §38a-15 of the Connecticut General Statutes, this targeted review was conducted by Market Conduct examiners of the State of Connecticut Insurance Department (the Department) at the Department offices in Hartford, Connecticut.

The purpose of the examination survey was to evaluate the Company’s Mental Health Parity NQTL practices and activity in the State of Connecticut. The examiners reviewed the Company’s response, which included information requested for the examination period.

The Insurance Commissioner alleges the Respondent provided MH/SUD and Med/Surg benefits under its health plans which were subject to NQTLs and was, therefore, under MHPAEA, required to provide detailed explanations of how its analysis of its underlying processes, strategies, evidentiary standards and other factors used to apply NQTLs to MH/SUD and to Med/Surg benefits have led the Respondent to conclude that the NQTLs were applied, as written and in operation, in a manner that was comparable and not more stringent for MH/SUD than for Med/Surg benefits and was, consequently, in conformance with applicable legal requirements.

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The Department's findings are as follows:

The Insurance Commissioner does not find that Respondent violated MHPAEA. However, with respect to the in operation comparability analysis, the Insurance Commissioner alleges that the Respondent was unable to provide to the Department's satisfaction, sufficient documentation demonstrating that Respondent performed a robust parity analyses of NQTLs, notwithstanding that it was noted that during the period under examination, in some instances, the Respondent's application of certain NQTLs appeared to be contributing to operational results that produced differing outcomes as follows:

- a) in the overall pre-authorization and concurrent claims denial rate between SUD, MH and Med/Surg benefits
- b) in the rate of concurrent benefit claims between SUD benefits, MH benefits and Med/Surg benefits
- c) in the out-of-network and in-network claims rate between MH, SUD and Med/Surg benefits

It is required that the Companies review their NQTL standards and operational practices impacting and contributing to these differences between MH/SUD Benefits and Med/Surg benefits.



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

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IN THE MATTER OF:
HPHC INSURANCE COMPANY, INC:
-----X

DOCKET MC 21-51

STIPULATION AND CONSENT ORDER

It is hereby stipulated and agreed between HPHC Insurance Company, Inc. and the State of Connecticut Insurance Department by and through Andrew N. Mais, Insurance Commissioner, to wit:

I

WHEREAS, pursuant to a Market Conduct target review, the Insurance Commissioner alleges the following with respect to HPHC Insurance Company, Inc.

1. HPHC Insurance Company, Inc., hereinafter referred to as Respondent, is domiciled in the Commonwealth of Massachusetts and is licensed to transact the business of an insurance company in the State of Connecticut under license number 79413 and is authorized to write accident and health insurance.
2. From August 7, 2019 through February 5, 2021, the Department conducted an examination of Respondent's market conduct practices in the State of Connecticut covering the period from January 1, 2017 through December 31, 2017.
3. The Insurance Commissioner alleges the Respondent provided mental health/substance use disorder (MH/SUD) and medical/surgical (Med/Surg) benefits under its health plans which were subject to nonquantitative treatment limitations (NQTLs), and was, therefore, under The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), required to provide detailed explanations of how its analysis of its underlying processes, strategies, evidentiary standards and other factors used to apply NQTLs to MH/SUD and to medical/surgical benefits have led the Respondent to conclude that the NQTLs were applied, as written and in operation, in a manner that was comparable and not more stringent for MH/SUD than for medical/surgical services and was, consequently, in conformance with applicable legal requirements.
4. The Insurance Commissioner does not allege that Respondent violated MHPAEA. With respect to the in operation comparability analysis, the Insurance Commissioner alleges that the Respondent was unable to provide to the Department's satisfaction, sufficient documentation demonstrating that Respondent performed a robust parity analyses of NQTLs, notwithstanding that it

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was noted that during the period under examination, in some instances, the Respondent's application of certain NQTLs appeared to be contributing to operational results that produced differing outcomes as follows:

- a) in the overall pre-authorization and concurrent claims denial rate between SUD, MH and Med/Surg benefits
 - b) in the rate of concurrent benefit claims between SUD benefits, MH benefits and Med/Surg benefits
 - c) in the out-of-network and in-network claims rate between MH, SUD and Med/Surg benefits
5. The Insurance Commissioner does not find that Respondent violated MHPAEA. The Insurance Commissioner finds that the conduct as described above is inconsistent with the NQTL parity analysis required to be performed under MHPAEA and constitutes cause for the imposition of a fine or other administrative action under §§38a-2 and 38a-41 of the Connecticut General Statutes.

II

1. WHEREAS, Respondent denies any wrongdoing with respect to the subject matter of this examination and expressly denies the allegations and disputes the findings contained in paragraphs three, four and five of Article I of this Stipulation; and
2. WHEREAS, Respondent agrees to undertake a review of its practices and procedures identified as concerns during the examination to enhance compliance with Connecticut statutes in the areas of concern, as described in the Market Conduct Report and this Stipulation; and
3. WHEREAS, Respondent agrees to provide the Insurance Commissioner with a summary of actions taken to comply with the recommendations in the Market Conduct Report within ninety (90) days of the date of this document; and
4. WHEREAS, Respondent agrees to pay a fine in the amount of \$25,000 for the violations described herein; and
5. WHEREAS, Respondent has agreed to enter into this Consent Order to avoid the delay, uncertainty, inconvenience and expense of formal proceedings or litigation, and being desirous of terminating this proceeding without the necessity of a formal proceeding or litigation, does consent to the making of this Consent Order and voluntarily waives:
 - a. any right to a hearing; and
 - b. any requirement that the Insurance Commissioner's decision contain a statement of findings of fact and conclusions of law; and

- c. any and all rights to object to or challenge before the Insurance Commissioner or in any judicial proceeding any aspect, provision or requirement of this Stipulation.

NOW THEREFORE, upon the consent of the parties, it is hereby ordered and adjudged:

1. That the Insurance Commissioner has jurisdiction of the subject matter of this administrative proceeding.
2. That Respondent is fined the sum of Twenty-Five Thousand Dollars (\$25,000) for the violations herein above described.

HPHC Insurance Company, Inc.

DocuSigned by:
By: Michael Sherman
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Michael Sherman, M.D.
Chief Medical Officer

CERTIFICATION

The undersigned deposes and says that he/she has duly executed this Stipulation and Consent Order on this 7th day of December, 2021 for and on behalf of HPHC Insurance Company, Inc, that he/she is the Chief Medical Officer of such company, and he/she has authority to execute and file such instrument.

DocuSigned by:
By: Michael Sherman
3E2B042EF7F247C
Michael Sherman, M.D.

State of Massachusetts

County of Norfolk

Personally appeared on this 7th day of December 2021
Michael Sherman signer and sealer of the foregoing
Stipulation and Consent Order, acknowledged same to be his/her free act and deed before
me.

Susan P. Greaney
Notary Public/Commissioner of the Superior Court



Section Below To Be Completed by State of Connecticut Insurance Department

Dated at Hartford, Connecticut this 21 day of December 2021.

Andrew N. Mais
Andrew N. Mais
Insurance Commissioner