



# **Protecting Behavioral Health For Consumers in Connecticut**

A Report of the Behavioral Health Working Group

To

Governor Dannel P. Malloy  
Insurance & Real Estate Committee  
Human Services Committee  
Public Health Committee  
Committee on Children

On Recommendations for Utilization and Quality Measures Data Collection

February 23, 2016

On behalf of the Behavioral Health Working Group, established by Public Act 15-5, I am pleased to present this report on the Working Group's recommendations for behavioral health utilization and data collection to help measure quality control and compliance.

Public Act 15-5 charged the Insurance Commissioner with convening a working group that includes the state Office of Healthcare Advocate (OHA), the Commissioners of Social Services, Public Health, Mental Health and Addiction Services, Children and Families and Developmental Services and the Comptroller, or their designees, and representatives from health insurance companies, behavioral health providers and the consumer community.

Before convening the Working Group, the Connecticut Insurance Department (CID) reviewed the significant body of work that has been done in Connecticut to remove barriers to behavioral health treatment, working with legislators, agencies, providers, carriers and consumers. Much of the work came out of two pieces of sweeping legislation over the last several years— Public Acts 13-3 and 15-5 JSS. A brief review of what has been accomplished to date includes:

- New requirements in handling grievances and appeals (PA 13-3)
  - ✓ Requirements for insurers to use clinical reviewers with certification and background in a similar field as the services being requested
  - ✓ New medical criteria standards for insurers to use when evaluating request for behavioral health services
  - ✓ 24-hour turnaround times for carrier reviews of urgent requests for certain behavioral health services
  - ✓ 24-hour expedited determinations for appeals of insurance company denials of certain behavioral health services through the Insurance Department's External Review Program
  - ✓ Department outreach to insurance carriers and the external independent review organizations to ensure a smooth transition and compliance with all aspects of PA 13-3

- Required use of standardized criteria from the four nationally recognized behavioral health professional associations (PA 13-3)
- Expansion of certain individual and group health insurance policies' required coverage of autism spectrum disorder (ASD) services and treatment (PA 15-5)
- Elimination of maximum coverage limits on the Birth-to-Three program (15-5)

The recommendations and this report are a continuation of the state's commitment to ensuring access to behavioral health treatment for our citizens. This report includes:

- Working Group membership
- Meeting dates and agenda
- Current data collected by the CID
- CID's compliance monitoring and enforcement methods
- Information-sharing and analysis of CID and OHA data
- Working Group's recommendations for new or clarifying legislation and enhanced data collection

We hope the Administration and the General Assembly find this report useful.

Respectfully submitted,



Katharine L. Wade  
Insurance Commissioner

## Establishment of the Working Group

Public Act 15-5 charged the Insurance Commissioner with convening a working group to develop recommendations for behavioral health utilization and quality measures data that should be collected uniformly from state agencies that pay health care claims, group hospitalization and medical and surgical insurance plans established pursuant to section 5-259 of the Connecticut General Statutes, the state medical assistance program and health insurance companies.

The purposes of such recommendations include, but are not limited to, protecting behavioral health parity for youths and other populations. The working group met four times at the Insurance Department from September 2015 through January 2016.

<b>Member</b>	<b>Organization</b>
Karen Anderson	Director, CT Behavioral Health Partnership
Mary Ellen Breault	Director, CT Insurance Department
Kristin Campanelli	Attorney, CT Insurance Department
Sandra Czunas	Office of the State Comptroller, Healthcare Analysis Unit
Kathy Flaherty	Executive Director, CT Legal Rights Project, Inc.
Diane Frost	Consumer
William Halsey	Director, CT Department of Social Services
Colleen Harrington	Director, CT Department of Mental Health and Addiction Services
Douglas Nemecek	Medical Director, Cigna-U.S. Commercial & Global Health Care Operations
Gerard O'Sullivan	Director, CT Insurance Department
Paul Pino	Commissioner, CT Department of Public Health
Kate Robinson	Gallo & Robinson, LLC
Harold L. Schwartz	Chief Psychiatrist, Institute of Living
Kelly Sinko	Office of Policy & Management
Kristina Stevens	Administrator, CT Department of Children & Families
Keith Stover	CT Association of Health Plans
Vicki Veltri	State Healthcare Advocate
Katharine Wade	Commissioner, CT Insurance Department
Susan Walkama	President, Wheeler Clinic
Kathy Walsh	Principal Examiner, CT Insurance Department

## **Meetings & Agendas**

Location: Insurance Department

### **September 30, 2015**

- Introductions
- Ground Rules
- Review of Public Act 15-5
- Discussion
- Next Steps

### **October 26, 2015**

- Wheeler Clinic Overview of Home-based Treatment
- Discussion of Additional Data Needs from Carriers
- American Society of Addiction Medicine's Patient Placement Criteria  
Discussion of Types of Data Needed from Mental Health Providers
- Next Steps

### **December 8, 2015**

- Discussion of CID and OHA Data
- Clinical Criteria
- Mental Health Provider Data
- Health Plan Data
- Next Steps

### **January 13, 2016**

- Legislative Language
- Data from Carriers and Providers

# **Oversight & Enforcement of Behavioral Health Laws**

The Insurance Department uses a team-coordinated approach to oversee carrier behavior and ensure compliance. In the normal course of the regulatory process the CID will utilize the following tools:

## **Review of policy form filings**

All policies to be sold in Connecticut must be filed for prior approval. The Life and Health Division (L&H) reviews policies, certificates and schedules of benefits carefully to ensure there is no provision that violates mental health parity for either quantitative or non-quantitative measures. Specific language for grievance and external appeal rights is required in all contracts and reviewed for compliance.

## **Intervention on behalf of consumers**

Each year the Consumer Affairs Unit (CAU) helps recover more than \$4 million on behalf of consumers for all types of insurance. The CAU works to identify inappropriate behavior on the part of insurers and require them to make proper restitution for all consumers who may have been harmed, not just those who have proactively complained. The CAU's oversight efforts and consumer advocacy have a positive "sentinel effect" on industry behavior.

## **Early identification of troubling trends or concerns**

Consumer complaints to the CAU serve as an important first indicator of problems in the marketplace. Insurance examiners are trained in insurance statutes and regulations and are vigilant in ensuring that the insurance companies comply with these requirements when reviewing consumer complaints. In investigating complaints, the CAU can quickly spot any trends or areas of concern and escalate them rapidly to the Insurance Department's Market Conduct division. The Market Conduct division will work the issues through to a regulatory conclusion.

## **Market Conduct Division scrutiny of insurers**

The Market Conduct Division (MC) performs key functions for CID in monitoring compliance. The Division:

- ✓ Works closely with the Consumer Affairs Unit to spot trends in consumer complaints and investigates possible violators through examinations and or investigations
- ✓ Uses the annual [Consumer Report Card on Health Insurance Carriers in Connecticut](#) as one of many indicators to identify trends that serve as a basis for more comprehensive reviews
- ✓ [Bulletin MC-20](#) requires all health carriers to provide specific data to certify and demonstrate compliance with mental health parity requirements annually, also known as the CID's Mental Health Parity Compliance Survey. Several benefit classifications (inpatient in- and out-of-network, outpatient in- and out-of-network, emergency and prescription drugs) are reviewed to ensure that the "substantially all" test is met by the plans. Information specific to non-quantitative treatment limitations (medical management, prior authorization and step therapy) is thoroughly reviewed

## **Raising awareness & outreach**

In 2013, the Department collaborated with the industry and leveraged UConn Health Center psychiatry expertise to develop a [Behavioral Health Consumer Toolkit](#).

Because outreach and education are important prongs to the Department's mission of consumer protection, the Toolkit provides consumers with guidance on navigating behavioral health and substance abuse care through their insurance plans.

The Toolkit is featured prominently on the [CID Web site](#) and hard copies are distributed at consumer outreach events. The Department is preparing a statewide radio campaign using public service announcements to make consumers aware of the Department's assistance with all insurance matters.

# **Using Shared Data To Assist Consumers**

## **Insurance Department, Healthcare Advocate Collaboration**

Consumers with health insurance complaints in Connecticut can and do request assistance and advocacy from the CID and the OHA.

The CID shares its complaint data with the OHA and OHA shares its data with the CID to enhance the ability to recognize any troubling trends. This helps determine the need for more robust regulatory action, such as market conduct reviews, meetings with the carriers or possible new and/or clarifying legislation.

An analysis of the complaint data of both CID and OHA for 2015 was used to verify compliance with recent behavioral health Public Acts. Changes made by PA 13-3 to update medical criteria (protocol) have had the desired effect of consistent criteria used by carriers throughout the marketplace. Further, CID has ensured that carriers are meeting the new 24 hour timeframes for expedited behavioral health medical necessity reviews and appeals. In addition, CID maintains strict standards for the 24 hour expedited behavioral health reviews through the External Review Program.

Analysis of complaint data does support issues with accurate and timely claims processing of autism services but those issues have lessened as new statutory requirements were integrated into carrier's standard claim processes and autism providers were formally credentialed. Where claims were delayed, carriers were required to pay interest penalties as required under Connecticut statute.

Network availability for child behavioral health treatment continues to be a concern due to the shortage of health care providers in this field. Further, provider reluctance to become part of networks in Connecticut and throughout the country is well documented. CID will be looking further at this issue in its network adequacy review.

Many complaints received by CID and OHA were as a result of a lack of information needed to make a medical necessity determination, which were subsequently resolved when additional documentation was obtained. CID and OHA continue to share data on a regular basis to quickly recognize any trends and take appropriate action.



# Recommendations on Statute Changes

The group is recommending the following changes to Utilization Review statutes:

## **Adverse Determination Clarification**

- Current law requires paper criteria used for the adverse determination to be supplied **or** a notice that criteria were used, instructions on how to get it, and a link to the website
- The proposed language clarifies the intent of the statute to provide a link to the clinical criteria used on all adverse determinations whether or not the paper criteria is supplied

## **Enhanced Transparency of Clinical Guidelines**

- Require carriers to publish clinical guidelines on their Web sites.
- Current law requires carriers to produce a crosswalk that compares carrier mental health utilization review criteria to the American Society of Addiction Medicine (ASAM), Child and Adolescent Service Intensity Instrument (CASII), Association for Ambulatory Behavioral Healthcare (AABH), and the American Psychiatric Association (APA) standards, but that is currently not possible because of copyright issues with proprietary information contained in ASAM, etc. standards. The crosswalk must be placed on carriers' Web site and contain their utilization review standards
- This proposal removes the crosswalk requirement as it cannot be done because they contain copyright issues with proprietary information of the aforementioned organizations

# Recommendations on Data Collection

## **Current Data Collected by the Insurance Department**

The Department currently collects and publishes the following behavioral health data in its annual [Consumer Report Card on Health Insurance Carriers in Connecticut](#).

## **Utilization Review (UR) statistics for Behavioral Health Services broken down by inpatient admissions, outpatient services, procedures and extensions of stay:**

- Number of UR request received
- Number of denials (excluding partial denials)
- Number of partial denials
- Percentage of UR request that were denied (including partials)
- Number of appeals of denials
- Percentage of denials that were appealed
- Number of denials reversed on appeal
- Percentage of appealed denials that were reversed
- Number of upheld appeals that went to external appeal
- Percentage of all appeals that went to external appeal
- Percentage of external appeals that were reversed

## **Inpatient Discharges & Average Length of Stays:**

- Total number of inpatient discharges with mental health as the principal diagnosis at either a hospital or treatment facility
- Total discharges/1,000 member months
- Average length of stay

## **Totals and percentage of members who received:**

- Any mental health service
- Inpatient mental health service
- Intensive outpatient or partial hospitalization health services
- Outpatient or emergency department health services

**Chemical dependency utilization:**

- Total number of inpatient discharge at either hospital or treatment facility
- Average length of stay

**Totals and percentage of members who received:**

- Any chemical dependency service
- Inpatient chemical dependency services
- Intensive outpatient or partial hospitalization health services
- Outpatient or emergency department health services

**Follow-up after hospitalization for mental illness for members 6 years and older:**

- Percentage of members who had an outpatient visit, intensive outpatient visit or partial hospitalization with a mental health practitioner on the date of discharge up to 30 days after the hospital discharge
- Percentage who had an outpatient visit, intensive outpatient visit or partial hospitalizations with a mental health practitioner on the date of discharge up to seven days after the hospital discharge

**Percentage of members 18 years and older treated with antidepressant medication who met at least one of the following criteria during intake period:**

- An outpatient, intensive outpatient or partial hospitalization setting with a diagnosis of major depression
- An emergency department visit with any diagnosis of major depression
- At least one inpatient claim/encounter with any diagnosis of major depression
- Those who remained on antidepressant medication for at least an 84-day period (12 weeks)
- Those who remained on antidepressant medication for at least 180 days (six months)

## **Additional Data to be Collected by the Insurance Department**

The Institute of Living provided useful data for 2011 - 2015 regarding coverage for admissions and denial and appeal rates. As a result of the work of the Behavioral Health Working Group, the Insurance Department is collecting the following additional information which it has the authority under current statute to collect (all data sets will be collected for both children and adults):

- Authorization of Medical Necessity Coverage by Type and Level of Treatment
- Denial of Medical Necessity Coverage by Type and Level of Treatment
- Denials of Medical Necessity Upheld or Overturned by Type and Level of Treatment

Levels and Types of Treatment will include the following:

- Acute Inpatient
- Residential
- Partial hospitalization
- Intensive Outpatient
- Routine Outpatient
- Substance Abuse Detox

This data will be included in the 2016 Consumer Report Card on Health Insurance Carriers in Connecticut, which will be published and available online in October 2016.

The Department also will continue to work with the state Department of Public Health to gather similar data available from providers. CID believes that the information provided by the Institute of Living could serve as a model for the collection of information from facilities.

In an effort to better understand the issues that mental health providers face, the Department is also working with the following mental health provider groups to collect data from their membership:

- Connecticut Psychiatric Society
- Connecticut Council of Child & Adolescent Psychiatry
- Connecticut Psychological Association
- Mental Health Connecticut