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COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

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Department of Financial Services

Press Release

October 01, 2020

GOVERNOR CUOMO ANNOUNCES FINAL REGULATIONS REQUIRING INSURERS TO PROVIDE FAIR COVERAGE FOR MENTAL HEALTH & SUBSTANCE USE DISORDERS

Parity Compliance Program Regulations Strengthen Insurers' Obligation Under State and Federal Law

Insurers Required to Establish Parity Compliance Programs that Meet Minimum

fy and Remediate Improper Practices

Governor Andrew M. Cuomo today announced final regulations requiring insurers to put into place policies and procedures that will ensure that they are providing comparable coverage for mental health and substance use disorders. The parity compliance program regulations were proposed by the New York State Department of Financial Services and Department of Health and were adopted following a 60-day period for public comments. The regulations will strengthen insurers' obligation under both state and federal law to provide comparable coverage for benefits to treat mental health and substance use disorders. The final regulations will go into effect on December 29, 2020.

"The trauma this pandemic has caused is incalculable and cannot be ignored, and it's especially critical that those who struggle with mental health and substance abuse have the support they need," **Governor Cuomo said.** "These regulations will help New Yorkers by requiring insurers to provide potentially life-saving services during this stressful time."

New York State Superintendent of Financial Services Linda A. Lacewell said, "This regulation provides important protections so that New Yorkers receive the coverage and benefits they need. It is particularly critical now as more people experience increased stress from the three simultaneous crises in public health, the economy, and civil rights. DFS is proud to stand with Governor Cuomo in supporting New Yorkers with a mental health condition or substance use disorder by requiring that insurers have robust programs in place to meet their statutory mental health and substance use disorder parity compliance obligations."

Commissioner of the New York State Department of Health Dr. Howard Zucker said, "Under Governor Cuomo's leadership, the regulations released ensure that health plans use the same processes and rules for covering behavioral health and substance use disorder services that they do for medical services. Ensuring that there are no barriers to accessing behavioral health services has never been more important than it is today as we face the unprecedented COVID pandemic."

New York State Office of Mental Health Commissioner Dr. Ann Sullivan said, "Lack of adequate health insurance coverage is one of the biggest obstacles preventing people from getting the mental health treatment and services they need. By requiring insurers to provide equivalent coverage for mental health and substance use disorders, Governor Cuomo is ensuring that more New Yorkers will get help when they need it. This in turn will lead to better health outcomes and less reliance on expensive emergency services."

Commissioner Arlene González-Sánchez

age will provide invaluable access to essential benefits for many vulnerable individuals across our State who would likely not be able to fully recover without it. By removing barriers that prevent access to comprehensive services and enforcing the accountability of insurers to patients, Governor Cuomo is ensuring that all New Yorkers have a fighting chance to overcome the challenges associated with living with substance use and mental health disorders."

Under the new regulations, parity compliance programs must establish corporate governance for parity compliance, identify discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder, and ensure appropriate identification and remediation of improper practices.

The regulations require insurers to designate an appropriately experienced individual who shall:

- Be responsible for assessing, monitoring, and managing parity compliance;
- Report directly to the insurer's chief executive officer or other senior manager; and
- Report no less than annually to the insurer's board of directors or other governing body, or the appropriate committee thereof, on the activities of the compliance program.

The compliance program must also include:

- Written policies and procedures that implement the compliance program, and describe how the insurer's parity compliance is assessed, monitored, and managed;
- Methodologies for the identification and remediation of improper practices;
- A process for the actuarial certification of the analyses of the financial requirements and quantitative treatment limitations;
- Training and education for employees and directors;
- The methods by which employees and directors may report parity compliance issues; and
- A policy of non-intimidation and non-retaliation for good faith participation in the compliance program.

Practices that are prohibited and must be remediated within 60 days of discovery include:

- A utilization review policy that uses standards to determine the level of documentation required for mental health or substance use disorder benefits that are not comparable to or are more stringently applied than the standards used for medical or surgical benefits;

or retrospective utilization review for a higher
ce use disorder benefits in the absence of defined
clinical or quality triggers;

- Implementing a methodology for developing and applying provider reimbursement rates for mental health or substance use disorder benefits that is not comparable to or is more stringently applied than the methodology for developing and applying provider reimbursement rates for medical or surgical benefits; and
- Implementing claim edits or system configurations that provide for higher rates of approval through auto-adjudication of claims for inpatient medical or surgical benefits than for inpatient mental health or substance use disorder benefits.

The final regulations will go into effect on December 29, 2020.

A full copy of the DFS regulations can be found on the DFS website.

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