



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Suite 1
Dover, Delaware 19901
302-739-3621

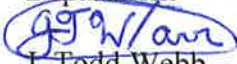
The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: April 30, 2019

TO: Ms. Leslie Ledogar, Regulatory Specialist
Department of Insurance

FROM:  J. Todd Webb – Chairperson
State Council for Persons with Disabilities

RE: 22 DE Reg. 843 [DOI Proposed Regulation Regarding Reporting Medical Management Protocols for Insurance Coverage for Serious Mental Illness and Drug and Alcohol Dependency (April 1, 2019)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Insurance's (DOIs) proposal to create a new regulation which addresses reporting medical management protocols for insurance coverage for serious mental illness and drug and alcohol dependency. This regulation was published as 22 DE Reg 843 in the April 1, 2019 issue of the Register of Regulations. SCPD endorses the proposed regulations as they adopt a model enforcement mechanism concerning mental health parity reporting developed by the National Association of Insurance Commissioners (NAIC). The regulation's model appears to provide insurers with adequate notice of the data that they are required to provide to demonstrate compliance with federal and state law regulating the administration of mental health and substance abuse coverage benefits. In supporting the new regulation, SCPD has the following observations.

In accordance with 18 Del.C. §§3343 and 3517U, this Department of Insurance proposed regulation sets forth the format and submission requirements for the mental health parity report that is required to be submitted to the Department of Insurance and the Delaware Health Information Network. Section 3343 and 3578 govern insurance coverage for serious mental illness, including drug and alcohol dependency disorders under individual, group, and blanket health insurance plans. These sections provide that all health benefit plans must include coverage for serious mental illnesses and drug and alcohol dependencies. Most relevant to the proposed

regulation, these sections prohibit a carrier from issuing any health benefit plan containing terms that “place a greater financial burden on an insured for covered services provided in the diagnosis and treatment of serious mental health illness and drug and alcohol dependency than for covered services provided in the diagnosis and treatment of any other illness or disease covered by the health benefit plan.” 18 Del.C. §§3343(b)(1)a and 3578(b)(1)(b).

On September 1, 2018, Senate Bill 230, as amended by Senate Amendment 1(SB 230/SA1), became effective. SB 230/SA1 requires carriers to submit a report to the Delaware Health Information Network and the Department of Insurance on or before July 1, 2019 and “every year thereafter in which the carrier makes significant changes to how it designs and applies its medical management protocols.” SB 230/SA1. The report must describe all non-quantitative treatment limitations (NQTLs) (such as preauthorization requirements) that are applied to mental health treatments and treatment for substance abuse disorders benefits and to all medical and surgical benefits. The report further requires a “Parity Analysis” that describes how the medical management protocols and the NQTLs that are applied to each mental health and substance use disorder benefit are applied on parity with the corresponding medical and surgical benefit within the corresponding classification of benefits.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed regulation.

cc: The Honorable Trinidad Navarro
Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council