



Illinois Department of Insurance

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Governor

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Director

To: The Kennedy Forum

From: The Illinois Department of Insurance

Date: January 5th, 2018

Re: DOI Response to Kennedy Forum's Requested MH/SUD Parity Actions

Priority #1: Prior to plan certification, require insurers to submit the parity analyses they are already required to do under federal parity law and confirm that these analyses demonstrate compliance with state and federal parity laws, particularly with regard to non-quantitative treatment limitations (NQTLs). The Kennedy Forum, American Psychiatric Association, and the Parity Implementation Coalition recommends that NQTL analysis should follow a six-step approach to demonstrate that an NQTL is compliant.

Response: The Department does request these parity analyses from insurers in some circumstances, including during targeted mental health market conduct examinations. However, the Department agrees with the Kennedy Forum's suggestion that a more comprehensive collection of these analyses would benefit enforcement activities. Accordingly, the Department will begin asking for the Federally mandated parity analyses as part of our front-end compliance reviews. Additionally, we will be requiring an attestation from insurers that they have performed and documented the comparative analyses needed. This attestation was not a part of the "Five Priorities" document the Kennedy Forum sent the Department but was a useful suggestion contained in a different email sent December 7, 2017.

Priority #2: Using the six-step approach mentioned above, conduct market conduct examinations that look at selected NQTLs to ensure that an NQTL is comparable to and no more stringently applied, both as written and in operation. Suggested areas to focus on given the results of the recent provider survey are medical necessity criteria, step-therapy protocols, and barriers to joining insurers' networks.

Response: The Department reviews "in-operation" application of both quantitative and non-quantitative treatment limitations regularly and thoroughly during Market Conduct Examinations. Mental Health claims have always been included as potential points of review in these examinations and the Department has no intention of discontinuing this practice. Additionally, the Department has begun conducting targeted mental health market conduct exams, which will focus solely on mental health claims and provide the Department a more comprehensive review of insurer operations in this area. The Department has set a goal to complete 4-6 of these targeted examinations in 2018.

Priority #3: Issue guidance to insurers about what the Department expects to see in their NQTL analyses. This guidance should include all information needed to demonstrate compliance with the federal NQTL rule, such as is laid out in the six-step approach.

Response: Parity analyses are required by Federal law and their contents should be *primarily* driven by the requirements thereof. However, the Department did previously issue Company Bulletin 2014-06 on May 15th, 2014 ([found here](#)) which advised companies of mental health parity requirements and provided some guidance on reporting to the Department. If the Kennedy Forum believes there is some confusion or misunderstanding on the part of insurers that could be clarified by further Department communication, the Department welcomes specific suggestions.

Priority #4: Publicly release information on what questions the Department is asking and what information it is requesting relating to parity as part of its markets conduct examinations.

Response: Once a Market Conduct Examination is concluded, the Department issues a summary report (examples can be found [here](#)). The report indicates the areas of inquiry, how sampling of files was done, what samples were reviewed, and what violations of law or regulations were found (if any). If this does not satisfy the request made above, please let the Department know with more specificity the information you are asking us to release.

It should be noted that the specificity of information shared by the Department is limited by several factors, including (1) the Illinois Insurance Code (215 ILCS 5/132.5(f) as recently amended by PA 100-475, and 215 ILCS 5/404(1)(a)) and (2) the Department's desire to protect the integrity and effectiveness of future examinations by not informing other companies of specific areas of inquiry prior to commencing examinations.

Priority #5: Pursue parity implementation training for Department staff from leading parity experts, as identified by the U.S. Department of Labor, the U.S. Substance Abuse and Mental Health Services Administration, and U.S. Center for Consumer Information and Insurance Oversight.

Response: In 2018, the Department is working with the National Association of Insurance Commissioners (NAIC) to develop uniform, accepted examination standards among the states for mental health parity through its Market Conduct Examination Standards (D) Working Group. The Kennedy Forum as well as other interested parties are welcome to contact this working group directly and participate in the drafting process. Additionally, the Department has sent staff to several training opportunities including training provided by the Illinois Association for Behavioral Health on October 31st 2017 which was sponsored by the Kennedy Forum and the Parity Policy Academy organized by HHS' Substance Abuse and Mental Health Services Administration in April, 2017. If there are further opportunities the Kennedy Forum would suggest, the Department would be eager to accommodate.