

June 14, 2019

The Honorable Robert Muriel
Director
Illinois Department of Insurance
320 W. Washington St.
Springfield, IL 62701

The Honorable Theresa Eagleson
Director
Illinois Department of Healthcare and Family Services
201 South Grand Avenue, East
Springfield, IL 62763

Dear Director Muriel and Director Eagleson,

We are reaching out as members of the Illinois Mental Health and Substance Use Disorder (MHSUD) Parity Implementation Workgroup, a coalition with more than 20 member organizations, to inquire about what actions the departments are taking to inform relevant stakeholders, most importantly health plans, about their obligations under Public Act 100-1024 (enclosed), which became effective on January 1, 2019.

We urge the Department of Insurance and Department of Healthcare and Family Services to inform and provide any necessary guidance to commercial insurance plans and Medicaid managed care organizations (MCOs), respectively, on their obligations under this new law. We believe communications with plans should cover, at minimum, the following:

- **Expansion of conditions covered by law.** Insurers and Medicaid MCOs are now required to provide coverage for reasonable and necessary treatment and services for mental, emotional, nervous, or substance use disorders or conditions, consistent with the parity requirements of Section 370c.1 [215 ILCS 5/370c(a)(1)]. “Mental, emotional, nervous, or substance use disorder or condition” is now defined as a condition or disorder that falls under any of the diagnostic categories listed in the current edition of the mental and behavioral disorders chapter of the International Classifications of Diseases or that is listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders [215 ILCS 5/370c(a)(4)]. Although Section 370c is located in the Illinois Insurance Code, it applies to all Illinois Medicaid plans [305 ILCS 5/5-16.8; 215 ILCS 5/352(e)].
- **Reporting on Treatment Limitations and Parity Compliance.** Beginning by July 1, 2020, insurers and Medicaid MCOs are required to submit to Department of Insurance and Department of Healthcare and Family Services, respectively, annual detailed parity compliance analysis [215 ILCS 5/370c.1(k)].

- **Medication-Assisted Treatment (MAT) medical necessity determinations.** All medical necessity determinations for MAT must be made in accordance with American Society of Addiction Medicine (ASAM) Treatment Criteria [215 ILCS 5/370c(a)(4)]. This is a clarification of existing law that already required that only criteria published by ASAM may be used for all medical necessity determinations for substance use disorder treatment [215 ILCS 5/370c(b)(3)].
- **Requirements for FDA-approved medications for SUD.** Insurers and MCOs cannot place prior authorization requirements, other than allowed by ASAM criteria, on FDA-approved SUD medications. Insurers and MCOs cannot place step-therapy requirements, other than allowed by ASAM criteria, on FDA-approved SUD medications. All SUD brand medications must be placed on the lowest tier of the drug formulary developed by the plan that covers other brand medications. All SUD generic medications must be placed on the lowest tier of the drug formulary developed by the plan that covers other generic medications. [215 ILCS 5/370c(b)(6.5)]
- **No denials based on MAT court-ordered treatment conditions.** Insurers and MCOs cannot deny coverage for SUD treatment (including counseling, medication, case management, and wraparound services because participation is required as part of a court-based program.

Wherever possible, we urge the departments to work closely together to harmonize their respective implementations of PA 100-1024 and implementation of state and federal parity laws more generally. Additionally, we believe that the Department of Insurance should also inform municipal, county, and state employee plans of these changes since the Department of Insurance has, as of January 1, 2019, unambiguous jurisdiction over these plans. We also believe the Department of Insurance should issue thorough guidance on all aspects of 215 ILCS 5/370c and 370c.1 for school district plans, since these plans must comply with these sections for plans that have a plan year beginning on or after January 1, 2019. Particular attention should be paid to Illinois school districts that have previously opted out of the Federal Parity Act that will now need to be in compliance with Illinois parity law.¹

As you are also likely aware, both the Department of Insurance and the Department of Healthcare and Family Services have several obligations under Public Act 100-1024 including responsibility for enforcement of parity requirements, performing and reporting the results of market conduct examinations and parity compliance audits, and convening a parity workgroup. We have enclosed a summary of the deliverables required by Public Act 100-1024 for your information. We stand ready to assist both departments as an educational resource and for assistance with Parity enforcement, which is necessary to ensure Illinois consumers get the crucial behavioral treatment they need. We also request that the departments issue guidance to all impacted payers (both commercial payers and Medicaid MCOs) regarding their new legal

¹ "HIPAA Opt-Out Elections for Self-Funded, Non-Federal Governmental Plans," *The Center for Consumer Information & Insurance Oversight, Centers for Medicare & Medicaid Services*, July 1, 2017, <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/HIPAAOptOuts06022017.pdf>.

obligations under the Acts. We would be happy to assist the departments with drafting those legal bulletins.

Finally, we respectfully request that the implementation of PA 100-1024 be an agenda item at the July 30, 2019 meeting of the Working Group Regarding Treatment and Coverage of Mental Health and Substance Use Disorders and that the departments provide a full update on implementation status. We look forward to working with the Departments to make mental health and substance use parity a reality in Illinois.

Sincerely,

The Kennedy forum Illinois
Illinois Association for Behavioral Health
Advocate Aurora Health
The Chicago Urban League
Community Behavioral Healthcare Association of Illinois
Depression and Bipolar Support Alliance
Gateway Foundation
IARF
Illinois Chapter of the American Foundation for Suicide Prevention
Illinois Collaboration on Youth
Illinois Health and Hospital Association
Illinois Psychiatric Society
Illinois Psychological Association
NAMI Chicago
Popovits Law Group, P.C.
Rosecrance
Safer Foundation
Sargent Shriver National Center on Poverty Law
Smart Policy Works
TASC (Treatment Alternative for Safe Communities)
Thresholds

Enclosures:

Public Act 100-1024
Analysis of Public Act 100-1024, including action needed