



New Hampshire Insurance Department



Insurers' SUD Claims Handling Practices: Exam Findings



March 2, 2017

Outline of Presentation

- Market Conduct Exam: Scope and Goals
- Key Findings: NH carriers' 2015 practices
 - Areas of compliance
 - Areas with corrective action required
 - Areas with deficiencies/in need of follow-up
- What Did We Learn?
- Next Steps

What is a Market Conduct Exam?

- Insurance regulators use exams to look at a company's practices in the marketplace
- Exam process is set by statute: specific timeframes, opportunity for company to review and comment on findings

NHID's Targeted Exams on SUD

- **Goal:** Baseline of SUD claims handling practices for largest NH insurers
 - Anthem
 - Cigna
 - Harvard Pilgrim
- **Review Period:** Jan 1, 2015-Sept 30, 2015

Exam Timing

- **Timing:** Exams began Nov 2015
 - Verified reports – Oct 28, 2016
 - Adopted reports – Dec 27, 2016
 - Final reports – Feb 7, 2017
- **Carrier Input**
 - Opportunity to review/respond to verified report
 - Adopted report reflects their rebuttal
 - Opportunity to request “closed meeting” after issuance of adopted report

Exam Reports

- **What is a “finding”?**
 - Exam = factual investigation of carrier practices
 - Report is “verified” – chief examiner swears to accuracy of what was found – the “findings”
- **What does an “exception” mean?**
 - An “exception” is an area that the examiner felt was a problem or required further follow-up
- **“Executive Summary”** – examiners’ report to Commissioner, reflects “Verified” phase
 - Compliance is ongoing - some concerns mentioned in executive summaries have already been addressed

Areas of Review

- **Delegated Service Agreements**
- **Provider Networks**
- **Prior Authorization**
- **Grievances and Appeals**
- **Claims and Denial Volumes**
- **Medication-assisted Treatment**
- **Mental Health Parity**

Key Findings: In Compliance

- **Grievances and Appeals**
 - Procedures, letters, timeliness
- **Prior Authorization**
 - Policies and procedures medically reasonable
- **Medication-assisted Treatment**
 - Formularies, exception process, limits

Key Findings: Corrective Action

*Examiners required carriers to correct problems/
supply further information on:*

- **Provider Networks:** accessing services despite delivery system capacity issues
- **Provider Directory Accuracy/Ease of Use**
- **Consumer Access to Medical Management Policies on Website**

Key Findings: Deficiencies

Examiners identified deficiencies in the following areas that warrant follow-up action for Harvard Pilgrim:

- **Delegated Service Contracts**
 - Supervision of company managing all BH/SUD benefits
- **Data on Claim Denial Rates**
- **Mental Health Parity**
 - Prior authorization practices (uniform requirement for all BH services)

Delegated Service Contracts

Harvard Pilgrim:

- **Delegation agreement with United Behavioral Health (UBH/Optum)**
 - Manages all Behavioral Health and SUD benefits
- **Findings of concern (“exceptions”):**
 - Examiners **did not receive all requested information** regarding the delegated services during the course of the exam.
 - Examiners **recommend a follow-up examination** of delegated services and National Committee on Quality Assurance (NCQA) oversight.

SUD Provider Network Findings

For all carriers:

- Overall shortage in NH of SUD/behavioral health providers with which to contract during time period of examination (2015)
- Not a violation of network adequacy standards, but examiners asked carriers to explain what they do to ensure access when an in-network provider is not available

Consumer Ease of Access

For all carriers:

- Examiners had difficulty navigating carriers' websites to find behavioral health/SUD service providers.
- Corrective action required for two carriers, already underway.

Accuracy of Provider Directories

For two carriers:

- Examiners identified inaccuracies or concerns regarding electronic provider directories
- Corrective action required, already underway

Prior Authorization Protocols

For all carriers:

- NHID hired **independent medical reviewers** (IROs) with expertise in addiction/SUD treatment to review prior authorization protocols.
- IROs found all carriers' **protocols medically reasonable** and aligned with American Society of Addiction Medicine (ASAM) criteria.

Prior Authorization Denials

- The IROs also reviewed **all** of the prior authorization denials during the exam period and agreed that carriers' **medical necessity determination** was appropriate for more than 80%.
 - *62 denials reviewed*
 - *IROs disagreed in 9 cases*
 - *Insufficient information in 3 cases*

Prior Authorization Denial by Carrier

- *Anthem*: 34 denials; disagreed in 6 cases (18%)
- *Cigna*: 8 denials; agreed in all 8 cases
- *Harvard Pilgrim*: 22 denials; disagreed in 3 cases (14%); insufficient information to conduct a full review in 3 additional cases (27% total of concern)

Basis of Denial Concerns

- IROs' disagreement with denials mostly concerned **level of care** (inpatient v. intensive outpatient), not outright denial
 - Short-term withdrawal management vs. indefinite inpatient admission
 - Co-morbidity finding required for inpatient withdrawal management
 - IROs confirmed practice consistent with ASAM, but still concerns with some cases

Grievance and Appeal Law

- **Appeal process:**
 - Internal appeal (step 1) – review by different decision-maker within the insurance company
 - External review (step 2) – independent medical expert reviews insurance company's medical necessity determination
 - In an urgent situation, the 2 steps can be simultaneous with required review 72 hours or less

Grievance and Appeal Findings

For all carriers:

- All grievances and appeals reviewed complied with timeliness and language requirements.
- None went to the external appeal stage
 - IROs' look at denials for purposes of exam was not an external appeal.

Appeals – By Carrier

- *Anthem*: 21 reviewed, 20% overturned (in part or fully)
- *Cigna*: 1 reviewed, not overturned.
- *Harvard Pilgrim*: 22 reviewed, 14.3% overturned (in part or fully); in all cases where the appeal was denied, a less intensive level of care was offered to the enrollee.

Claims Volume/Denial Rates

For all carriers:

- Claims volume and denial data were requested as part of the SUD exam
 - Goal: compare carriers' approval/denial rates
 - Information received during exam did not allow apples-to-apples comparison
- NHID plans to explore this area further in future, perhaps incorporating CHIS data

Medication Assisted Treatment

- Pharmacist hired to assist examiners in reviewing coverage for:
 - Methadone
 - Buprenorphine
 - Buprenorphine/Naloxone
 - Naloxone
 - Naltrexone

MAT Findings

- No concerns found for any carrier on:
 - Formulary design
 - Age limitations
 - Formulary exception process
 - Lifetime and annual limits
 - Prior authorization
 - Penalties/exclusions for failure to complete treatment
- Minor questions:
 - Dosage/refill limits
 - Medical necessity standards

Parity Laws and SUD Services

- Most insurance policies must cover SUD treatment under state and federal “mental health parity” laws
- Treatment must be covered “on par” with coverage for medical/surgical treatment
 - Quantitative treatment limits
 - Non-quantitative treatment limits (NQTL)

Mental Health Parity - Compliant

All carriers in compliance in these areas:

- **Markets**
- **Quantitative treatment limits**
 - Minor issues for one carrier
- **Consumer contract language**
- **“Usual and Customary” reimbursement** – out-of-network providers

Consumer Access to Policies

For all three carriers:

- Carriers' medical policies and clinical utilization management guidelines, as well as their precertification and prior authorization policies, were available online, but were not easily accessible to consumers.
- Examiners requested that the carriers take steps to make these policies easier to access.

Medical Management Policies

- Examiners reviewed carrier policies/utilization management guidelines for discrepancies between medical/surgical and behavioral health standards
 - *Anthem*: 27 policies reviewed; preventive Health Guidelines policy improperly excluded Depression Screening; examiners recommended updating policy.
 - *Cigna*: 22 policies reviewed; no discrepancies
 - *Harvard Pilgrim*: 20 policies reviewed; no discrepancies

Policy Development

- *Anthem and Cigna: No exceptions*. Examiners determined that each carrier has developed robust Medical Necessity criteria for both Mental Health and Medical/Surgical benefits.
- *Harvard Pilgrim: Examiners requested but did not receive certain documentation regarding process of developing policies and coordination/oversight of delegated service provider (UBH) with regard to policy development.*
 - This area will be addressed further in follow-up exam of delegated service contracting.

Precertification/Prior Auth

Harvard Pilgrim:

- Carrier outsources behavioral health prior authorization to UBH;
 - All mental health and drug and alcohol rehabilitation services must be prearranged through UBH and provided by contracted providers.
- Same requirement not imposed on medical/surgical benefits.

Examiners requested carrier provide evidence that these differential requirements do not violate parity laws.

Provider Reimbursement

For all carriers:

- Examiners reviewed provider reimbursement and fee schedules, as well as related policies and procedures.
 - Schedules varied reimbursement levels – e.g., based on the credentials of the provider (MD/ARNP/PhD/Masters).
- Examiners required the carriers to explain why the disparities are not a parity violation.
 - Area for further review in the future

What Did We Learn?

- All three carriers compliant in most areas, especially where legal standards are clear
- Carriers committed to making adjustments needed to ensure access to services, policies

Biggest Areas of Concern

- Biggest failure: Accurate Data Submission
 - Unable to compare approved/denied rates
 - Data are key to regulation: Empirical basis for understanding markets
- Biggest parity concern: Delegated Services
 - Oversight of BH entity
 - Requirement of prior approval for all services

Areas for Future Exams

- **Mental Health Parity**
 - Broader look at parity (not just SUD services)
 - Additional time periods (after 2015)
 - Additional carriers (e.g. QHP issuers)
 - Specific practices – NQTLs
 - Delegated services
 - Prior authorization practices
 - Provider reimbursement rates
 - Approved/denied ratios
- **Compliance with new laws/ASAM criteria**

Other Next Steps

- Commercial Parity Academy
 - Run by federal Substance Abuse and Mental Health Services Administration
- Outreach and education
 - NHID Outreach Coordinator, other staff
- Incorporation of [NH Comprehensive Health Care Information System](#) data
- [NHID Behavioral Health and Addiction Services Advisory Committee](#): discuss issues, stakeholders working together

Thank You



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