

New Hampshire Insurance Department

Advisory Committee on Behavioral Health and Addiction Services

June 7, 2017 meeting, 9:30-11:15 a.m.

Room 100, Walker Building, Concord, NH

Board Members in Attendance: Representative Ed Butler, Andrea Rancatore, Michele Merritt, Christopher Kozak, Dr. Richard LaFleur, Lucy Hodder, Dr. Robert Feder, Jamie Powers (sitting in for Abby Shockley), Ken Norton and Marty Boldin.

Board Members Not in Attendance: Senator Jeb Bradley, Representative John Hunt, Joseph Plaia, Dr. Paul Frehner, Stephanie Savard, Abby Shockley, Amelie Gooding, Stephen Kozak, Dr. Peter Mason, Dr. William Brewster, Courtney Gray, and Senator Dan Feltes.

Commissioner Roger Sevigny welcomed the group at 9:35 a.m. and asked if there were any questions or comments concerning the notes from the April meeting. A typo was caught for SAMHSA Parity Academy, which was corrected.

NHID Updates –

Commissioner Sevigny explained to everyone that the Department supported an amendment to HB 469 that authorizes the New Hampshire insurance commissioner, operating under legislative oversight and with the cooperation of Governor Chris Sununu, to seek a federal waiver that would support or help to fund the availability and price-stability of health insurance. The amendment authorizes the Insurance Department and the NH Health Plan to investigate options for assisting the individual market, such as a mechanism that would help insurers mitigate costs on high-cost individuals without affecting the person's coverage. The goal is to give the state as much flexibility as possible and take advantage of funds that may be available. There is uncertainty over whether the federal government will continue CSR payments (cost sharing reductions) to insurance companies.

Michele Merritt expressed concern that the proposed federal legislation (AHCA) in its current form would include provisions to waive Essential Health Benefits (EHB), including access to behavioral health and substance use disorder treatment services and asked how this would intersect with HB 469. The Commissioner indicated that there are a significant number of hoops for the bill to still jump through. Waiving EHBs is not the Governor's plan, and as far as the department is aware, the Legislature is not looking at this as a viable option either. Jennifer Patterson added that the AHCA may not pass in its current form. The intent of the bill and the waivers in it are related to market stabilization, and the department is looking to find ways to address that issue. Lucy Hodder asked about what the legislation authorizes the NHID to do and about the procedural hearings and opportunities for public input. Patterson indicated that the bill was intended to offer the NHID maximum flexibility for market stabilization. The process requires approval of Governor and Joint Healthcare Reform Oversight Committee, public notice, and public hearings before steps can be taken. As it was passed by the New Hampshire State Senate, there is a sunset in the provision. It would allow the NHID to act quickly to take

action to stabilize the market, even if the Legislature is not in session. It allows the state to apply for a 1332 waiver and that requires a public process.

Eireann Aspell, outreach coordinator for the NHID, provided a parity outreach update. The [slide deck](#) used for the parity presentation is posted on the NHID website. She reminded the committee to share suggestions and recommendations for outreach opportunities. Merritt asked how consumer and provider issues discussed at outreach events are handled. Aspell responded that all consumers and providers with issues are referred to the Consumer Services Division.

Patterson and Maureen Belanger updated the group on the NHID's participation with the SAMHSA Parity Academy.

The committee was reminded that all consumers may contact the department regarding issues and complaints with accessing behavioral health care services. The department's Consumer Services unit operates under a "No Wrong Door" policy and consumers will be connected to someone who can help them with their complaint regardless of their source of insurance.

Dr. Feder asked for clarification about grant funding sources. Patterson confirmed that there is no grant money from SAMHSA coming into the department. The NHID did receive a Consumer Protection and Enforcement Grant from CMS, and a large portion of this funding focuses on consumer protections related to behavioral health and substance use disorder services.

Legislative Update—

Representative Butler briefed the group on legislative updates.

HB 157 and HB 160, which are the medical marijuana bills, were condensed into HB 160, passed, and approved by both sides. They are inclusive of cancer, glaucoma, and PTSD and serve as an umbrella for other diagnoses. It adds certain conditions to the definition of "qualifying medical condition" for the purposes of the use of cannabis for therapeutic purposes law; deletes the requirement that a medical provider document how the injury affects activities of daily living; clarifies the statements signed by applicants for a registry identification card.

HB 202 passed, established a commission to study current mental health procedures for involuntary commitment.

SB 234, which is the needle exchange bill, passed with amendment. Syringe prescriptions have been tightened, exempts residual amounts of controlled substance in syringes and needles from the provisions of the controlled drug act. It authorizes persons other than pharmacists to dispense hypodermic syringes and needles and allows them to be sold in retail establishments other than pharmacies. It also adds certain penalties as well as authorizes the operation of syringe service programs in NH.

SB 238 is relative to the "usual and customary" price of filling a prescription as well as co-pay. Discussion on the bill was led by Heidi Kroll, who explained to the group that the bill had passed the Senate and was killed in the House. The bill was voted inexpedient to legislate but its language was

subsequently added to the Budget Bill (HB517 in Amendment #2023s). The NHID expressed concern in its testimony as the impact would have insureds paying more money out-of-pocket. Pharmacies and PBMs (pharmacy benefit managers) are currently able to negotiate lower prices, but that would have been eliminated. Tyler Brannen noted that there could be negative implications for people taking prescriptions related to BH/SUD treatment.

HB 286 has been retained. It is relative to requiring reporting on suicide deaths of individuals receiving services through the Department of Health and Human Services or its subcontractors.

HB 400 has passed in both bodies. It requires the Department of Health and Human Services to develop a 10-year plan for mental health services, relative to due process rights of persons subject to involuntary emergency admissions, relative to the Philbrook center, relative to reports of abuse and neglect, and relative to the commission to study grandfamilies in New Hampshire, and extending the commission to review child abuse fatalities.

HB 572, extending the suspension of prior authorization requirements for a community mental health program on drugs used to treat mental illness, was retained. Kroll added that it is now in HB2, and is just for prescriptions and is very limited. Dr. Feder added that this is specific only to Medicaid patients. Chris Kozak added that it is a drain on mental health centers to do prior authorizations every three months.

SB 158 is relative to authorization for clinician-prescribed substance use disorder services. This bill declares that if substance use disorder services are a covered benefit under a health benefit plan, a health carrier that has authorized or approved medication-assisted treatment for such services shall not require a renewal of a prior authorization more frequently than once every 12 months.

Patterson clarified for the committee that SB 158 is specific to private commercial coverage and HB 572 is for Medicaid coverage.

SB 157 passed and requires substance use services to be included in network adequacy and a notice of Consumer Rights to be provided to members. The bill states that a health carrier shall, at least annually, in a conspicuous communication as approved by the commissioner which may be included as an insert in an annual mailing or by electronic communication, notify each covered person of his or her consumer rights under this chapter, including, but not limited to, appeal rights and the ability to access services out-of-network in the event covered services are not available in-network. A health carrier shall also notify covered persons of the right to access out-of-network services when the covered person contacts the health carrier directly requesting assistance finding clinically appropriate in-network care. A health carrier shall also provide notification to covered persons of their right to appeal whenever a covered person contacts the health carrier regarding a denial of coverage or when a health carrier verbally informs the covered person of the denial of coverage.

Rep. Butler said the alcohol fund dedicates 3.4% to treatment and prevention and that this is robust funding but not as much as Governor Sununu had requested.

HB 468 is a workforce development bill relative to licensure of mental health practitioners from other states. This bill requires the licensure of mental health practitioners licensed in any other state if the other state's licensure requirements are substantially equivalent to or higher than those of NH.

SB 54 focuses on the licensure of alcohol and drug counselors, requiring occupational regulatory boards and commissions to post reciprocity information and establishing a committee to study licensure of alcohol and drug counselors. It was passed and adopted with an amendment.

The discussion returned to SB 158 the Medication Assisted Treatment (MAT) bill. This bill declares that if substance use disorder services are a covered benefit under a health benefit plan, a health carrier that has authorized or approved medication-assisted treatment for such services shall not require a renewal of a prior authorization more frequently than once every 12 months. Dr. Feder asked if this would apply to both health insurance companies and PBMs. Anthem had stated that it was eliminating prior authorizations for buprenorphine, but a significant number of prior authorizations are still required, and it depends on whom the contract is with. Express Scripts still requires prior authorization. Dr. Lafleur responded that this should not be happening for Exchange plans, but that it may be happening for self-insured plans. Patterson added that NHID does not have jurisdiction for self-funded plans.

Merritt mentioned the co-pay coupon bill: New Futures initially was opposed to the bill but heard compelling testimony and learned that it would impact costs passed down to consumers. The coupon makes it more affordable to take brand-name drugs, but the costs are passed down to all consumers through premium rates. Ken Norton added that there are a number of people who use these coupons, and they make the drugs much more affordable. Hodder added that the committee should consider pharmaceuticals as a next topic for discussion, since pharmacies and PBMs seem to be an ongoing issue.

Merritt also returned to the topic of SB 157, the bill that addresses consumer rights and network adequacy. Dr. LaFleur stated that MAT is not listed as a specialty for network adequacy. The Board of Medicine certification would need to make a decision for MAT to be listed. He indicated that Anthem-accepting providers can call the Anthem directory and volunteer to be listed on the network for MAT services. Patterson added that the proposed network adequacy rules will be service-based, which may help with this problem in the future.

Hodder asked for an update on the status of the network adequacy changes rulemaking process. Patterson responded that formal rulemaking will begin sometime this summer. The [draft of the rule](#) is posted on the NHID website.

There was no public comment.

The Commissioner wrapped up the meeting with discussing when rates will be made public, which will be on November 1. CMS will make public proposed rate increase of 10% or more in August.

The committee will next meet July 18th from 1:30 to 3:30 p.m. and September 8th from 9:30 to 11:30 a.m. in Room 100 of the Walker Building.

The meeting ended at 10:45 a.m.