



The State of New Hampshire Insurance Department

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261 Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

Minutes

Behavioral Health and Addiction Services Advisory Committee

August 31, 2016

Committee Members Present: Paul Frehner, Christopher Kozak, Kenneth Norton, Courtney Gray, Michele Merritt, Stephanie Savard, William Brewster, Stephen Kozak, Richard Lafleur, Andrea Rancatore, NH Senator Dan Feltes, NH Representative Ed Butler, NH Representative John Hunt, Lucy Hodder, Peter Mason, Joseph Plaia, and Abby Shockley

Committee Members Unable to Attend: NH Senator Jeb Bradley, Robert Feder, and Amelie Gooding.

New Hampshire Department Representative: Jennifer Patterson, Health Policy Legal Counsel

Insurance Commissioner Roger Sevigny opened the meeting at 9:30 a.m. and welcomed everyone to the first Behavioral Health and Addiction Services Advisory Committee meeting. After reviewing the logistics, purpose and mission of the group, as well as the online resources available on the NHID website, he reminded everyone of the two-hour time frame for the meetings and that public comment will be heard at the end of each meeting.

Commissioner Sevigny then gave an overview of the Department and its mission: To promote and protect the public good by ensuring the existence of a safe and competitive insurance marketplace through the development and enforcement of the insurance laws of the State of New Hampshire and to do so in an honest, effective and timely manner.

Commissioner Sevigny described the different units within the NHID and their functions:

- Financial - licenses all insurance companies in the state, overseeing their solvency and their ability to pay claims;
- Producer Licensing - licenses all the adjusters, brokers and producers in the state;
- Compliance - reviews policy language, to ensure it meets legal standards, and reviews and approves or disapproves all rates to ensure they are sufficient and not excessive;
- Consumer Services – assists consumers with questions or concerns about their insurance coverage, and helps consumers file appeals.
- Market Conduct - reviews carriers' claims handling practices and consumer treatment and looks at the conduct of the insurers in the marketplace.

- Enforcement - When an insurer does not treat consumers in accordance with the law, issues orders requiring immediate compliance (including claim payment), monetary fines and/or suspension or revocation of the insurer's license to do business in the state.
- Fraud - investigates insurance fraud throughout the state whether it is a consumer, a company or an agent.
- Business - works on the budget and handles the business part of running the Insurance Department.
- Health Policy – performs legal and data analysis and stays abreast of what is happening across the country in health policy.
- Communications - handles press releases, media relations, and all communication about the Insurance Department, outreach to consumers, various stakeholder groups.

He continued by introducing staff, their roles, and then spoke a little about himself, explaining that he has been the Insurance Commissioner since 2003. Continuing he spoke about the complexity of measuring compliance with the federal health parity law and that the Department is conducting a market conduct exam in this area.

He introduced Jenny Patterson who is the Health Policy Legal Counsel for the Insurance Department. Jenny thanked everyone for being on the Board and explained that she spends a lot of time at the legislature, has to keep informed on the relation between state and federal law, and also works with other agencies, most recently on responses to the opioid crisis. Jenny added that last spring the NHID brought some stakeholders together on mental health and addiction issues and then in creating this advisory group Commissioner Sevigny decided to expand to look at mental health and behavioral health coverage issues more generally, and to include health insurers and a broader representation of other members as well.

Commissioner Sevigny then asked the Board members to introduce themselves and provide some background on what they do:

Senator Dan Feltes: Former legal aid attorney, state senator, and has worked on parity legislation;

Representative John Hunt: State representative for 30 years and chair of the House Commerce Committee;

Dr. Paul Frehner: Psychologist in private practice, he is the Chair of the Behavioral Health Advocacy Committee of NH Psychological Association, and is on the 1115 waiver's Workforce Development Committee;

Abby Schockley: DHHS Senior Policy Analyst for Substance Use Services, working with all units within DHHS so that the department can have a cohesive approach to Behavioral Health;

Richard Lafleur, MD: Medical Director at Anthem, he practices internal medicine and has been working for three years on a program to support the integration of behavioral health and primary care through medical home; he is also on the Board of Directors of the Foundation for Healthy Communities;

Christopher Kozak: Chief Operating Officer of Community Services/ServiceLink and is at the table representing the mental health centers;

Michele Merritt: Policy Director at New Futures, her focus is on access/treatment issues, and she has worked with the legislature on parity issues for the last three years;

Joe Plaia: Public member - as an attorney both for the state and as a public defender in the criminal justice system, he has seen both sides of the issue; he is also on the Board for NH Legal Assistance and One Sky Community Services;

Stephanie Savard: LICSW at Families In Transition, where she has worked for the past 10 years. She comes from the lens of substance use disorder treatment and behavioral health and is chair of the Governor's Commission's treatment task force. FIT provides housing for families and children and provides intensive treatment for pregnant and parenting women in Manchester.

Lucy Hodder: UNH Director of Health Law and Policy Programs; she is on the Board at Riverbend, the NH Medical Society Advisory Board; and the Citizen's Health Initiative;

Courtney Gray: Executive Director of the NH Providers Association, which represents substance use providers working in the fields of prevention, treatment and recovery in NH; their members have an interest in network adequacy, sufficient and timely reimbursement, and parity of health coverage;

Andrea Rancatore: An alcohol and drug counselor, she is supervisor of medical management for NH Healthy Families, which works with Medicaid NHHPP and PAP members struggling with substance abuse to ensure they have access to high quality health care services they need and deserve;

Ken Norton: Executive Director of NAMI-NH, he is a mental health advocate with a background in social work, is on the Governor's Commission for Managed Care, and is also a foster parent;

William Brewster, MD: Medical Director and VP of Operations at Harvard Pilgrim, he has practiced internal medicine in NH for 30 years;

Peter Mason: Family physician and provider focusing on addiction treatment in Claremont, he teaches at Dartmouth's Geisel School of Medicine, is the representative for the NH Medical Society and recently became the medical director for the section 1115 waiver;

Stephen Kozak: Director of Behavioral Health Services at Tufts Health Plan and a social worker by training, he has managed behavioral health care in private clinical programs and crisis settings, and now oversees utilization review, clinical case management and call center operations that support behavioral health benefits and programs at Tufts; and

Representative Ed Butler: Ranking member of the House Commerce Committee, he is a small business owner in the North Country, and a former psychiatric nurse in the New York City area.

Commissioner Sevigny commented that this is a very impressive group. He then gave some information on the way this group will operate, noting that the committee will hold monthly meetings, which are open to the public, and we will share updates and recent developments about fully-insured coverage. He explained that Jenny Patterson will develop the agenda for each meeting and will encourage input and meaningful discussion consistent with the group's mission, which will be printed on each agenda.

Jenny Patterson then explained some background information about insurance regulation so the group could better understand the NHID's role. She first pointed out the NHID website and on-line resources, which can be found on the home page under "quick links."

Ken Norton recommended that the heading of the NHID landing page, which referred only to SUD coverage, should also include behavioral health so that the language is inclusive of all individuals and family that need assistance. [The NHID agreed, and this change has now been made on the website; material will be posted on the [Substance Use And Behavioral Health Coverage](#) page.]

Jenny then explained that in February 2016, the Insurance Department presented its preliminary findings to the Governor's Commission on Alcohol and Drug Abuse, Prevention and Treatment and Recovery. Much of the background information she presented is also included in the slides from that presentation, which are posted on the landing page.

She explained to the group that the scope of NHID jurisdiction is over fully-insured coverage. NHID does not regulate self-funded coverage offered by private employers, in which the employer chooses to bear the financial risk, as these plans are regulated by the US Department of Labor (USDOL). However, self-funded employers typically use a TPA (third-party administrator), often a licensed insurance company, to administer the claims, so there can be some confusion to consumers about who regulates the coverage. We coordinate with the USDOL through the NAIC (National Association of Insurance Commissioners), as USDOL and state insurance regulators enforce some of the same requirements, including the federal mental health parity law. There is currently an MOU (memorandum of understanding) with the USDOL working its way through the NAIC; ultimately state insurance regulators that sign this MOU will be able to share information more freely with USDOL, and coordinate more closely on enforcement issues.

The NHID also does not regulate Medicaid coverage, other than the fully-insured plans purchased under the NHHPP (New Hampshire Health Plan Program) for enrollees covered by the PAP (premium assistance program). For other Medicaid coverage in NH, the NHID regulates the solvency of Medicaid managed care organizations (MCOs), but the benefits are governed by a contract between the MCOs and NH DHHS (Department of Health and Human Services). This coverage is subject to the federal Medicaid Managed Care rule, not the commercial insurance standards.

Continuing, Jenny spoke about the Consumer Services Division at the Department and explained that even if coverage is self-funded we will send people in the right direction to get assistance. She passed out the contact number for consumer assistance (**800-852-4316**), as well as draft guidance for providers seeking NHID assistance with issues that do not relate to a particular consumer.

Jenny talked about data analysis and explained that New Hampshire's all-payer claims database (NHCHIS) is an amazing source of information on costs, and the data set is used to create the HealthCost website. The law requires insurance carriers and TPAs to submit claims to the database, so the data include both self-funded and fully insured plans.

As noted during the NHID's February presentation to the Commission, earlier this year the NHID's consultant looked at the paid claims data to see what trends could be identified with respect to substance use disorder services. More recently, in August, the same contractor looked at provider reimbursement rates for the most common services associated with substance use disorders, and found that providers are reimbursed less than Medicare rates for these services.

These analytical reports, which rely on data from both self-funded and fully insured coverage, are separate from the ongoing market conduct exam. These reports are available on the NHID website and can help the NHID see what areas to look at next through our market conduct authority. The NHID's plan is to begin a new market conduct exam soon looking more broadly at coverage for all types of

behavioral health services, including looking specifically mental health parity and provider reimbursement rates. The latter will be a new area for us, as we typically don't regulate reimbursement rates, which are subject of private contracts between carriers and providers. However, this is an area that is specifically included under the federal mental health parity rule..

The NHID has applied for a federal consumer enforcement grant, which will be announced in October if awarded, and we hope to use the funds to undertake further market conduct exams in the area of mental health parity compliance, looking at behavioral health services more broadly, not just substance use disorder services.

Courtney Gray asked if a representative from the USDOL could come to NH and speak before this group. Michele Merritt asked about other states' collaborations with USDOL. Jenny responded that the MOU being reviewed within the NAIC will be uniform with all 50 states, which is what USDOL wanted. There will also be the potential for separate Common Interest Agreements allowing collaboration with respect to particular exams or issues.

At this point Commissioner Sevigny gave more detail about the NAIC, of which he served as President in 2009. Every state's insurance regulator is a member; its mission is to develop standards, and they work together on developing model laws. NH is a member of the health and financial committees.

Alex Feldvebel noted that at the last NAIC meeting in August, the ERISA working group met with the USDOL. The NAIC is a good avenue for communication about mental health parity enforcement at the national level.

Abby Shockley was curious about collaboration with the federal parity task force. Jenny Patterson responded that there is a White House Task Force which participated in one of the weekly calls that the NAIC sets up with CCIIO, which specifically focused on mental health parity and also included USDOL.

The meeting proceeded to member discussion about issues and ways to foster good communication.

Rep. Hunt suggested we prioritize what we want to discuss in future meetings.

Lucy Hodder would like to talk about parity, network issues, and ways to bring plans into compliance.

Commissioner Sevigny reminded everyone the consumer services hotline is the best way to help individuals with issues on insurance coverage. He also mentioned that Eireann Aspell, the NHID's new outreach coordinator, had met with seniors recently about senior fraud issues and will be beginning to do outreach on the issue of parity.

Peter Mason commented that there should be discussion on access issues. There are people who can't get in to treatment due to money, things don't get paid for, there are not enough psychologists, and some don't accept new patients, etc. There are prior approval issues as well. He would like to hear from insurance companies about what they think they are saving by creating barriers to access.

Representative Butler stated that he would love to hear from carriers about changes they have made already and also wanted to reinforce the possibility of doing case studies so we can understand how access and parity is working or not working.

Richard Lefleur explained that the model of the medical home is to encourage and enable primary care physicians to work with a behavioral health team and to have services available.

Paul Frehner says that he wants to represent the clinicians. There are many demands on how he decides to spend his time. In deciding whether to accept a new patient he must think not only about what problems the client is presenting, but also what their insurance coverage is and what he knows about the resources that carrier provides. He does not want to be up at night with emergency phone calls if a treatment is not covered by insurance company and he could be left to cover the cost. He can understand certain treatment restrictions-- some are evidence based and have better outcomes than others. However, it is difficult when there are many different protocols for different carriers, because the process of deciding on a course of treatment is a personal one for each patient.

Michele Merritt noted that Families In Transition has had issues getting their drug and alcohol counselors credentialed with carriers. Unless they have a master's degree they can't bill for certain services and are contracted for a narrow scope although they have the capacity to provide a larger array of benefits. They also have payment issues. She suggested we have a subgroup to address clinicians' narrow scope of services, payment issues, reasonable access, etc.

Christopher Kozak mentioned the 1115 Waiver and how the waiver locks in payment reform models, mostly around care management processes.

Tyler Brannen, the NHID's Health Policy Analyst, spoke briefly to two issues that were raised, network adequacy and payment reform. Both have been the subject of much work by the NHID, and there will be further updates at a later meeting. Also, reports are posted on the NHID website.

Abby Shockley explained that, for the traditional Medicaid population, the terms of coverage are dictated by contracts between the MCOs and DHHS. DHHS needs to look at how MCOs are operating and she wants to bring back that information to DHHS.

William Brewster spoke about costs and wanting to have an open and honest discussion. Dollars are available, let's look at where we are, and get access for patients going forward.

Peter Mason added that there are issues with confidentiality and the exchange of information. The federal government is mandating an HIT system that will be a model for all to use down the road.

Abby Shockley: This population is hard to engage and when there there's an issue that pops up, such as they hear from a friend about an issue with an insurance carrier, they may not even try. It would be good to hear about models from other states that can help us figure out how to engage with this population, like communications from carriers, providers, etc.

Lucy Hodder has developed a resource guide for addiction and mental health consumers. It's a start and it's a tool everyone can use.

Peter Mason asked for a list of department staff present at the meeting with names and what they do.

Jenny asked the committee if they could send her a list of their issue priorities and she will send out those focus areas to the committee before the next meeting.

Stephen Kozak suggested that the next meeting start out with information from carriers regarding what they do and how they do it. It might help to have a framework for discussion.

Commissioner Sevigny told the group that we would catalogue issues we receive from members so that we will have clear priorities. We will also look at getting experts to come and speak to the group.

Commissioner Sevigny wrapped up the meeting asking for public comment, hearing none, he reminded everyone of the next meeting. September 20th from 1:30 to 3:30 in Room 100 at 21 South Fruit Street.

Meeting ended at 11:25 a.m.

DRAFT