INSIGHTS FROM THE BDO CENTER FOR HEALTHCARE EXCELLENCE & INNOVATION

A SEA CHANGE IN REIMBURSEMENT PARITY FOR BEHAVIORAL HEALTH

By Bill Bithoney, MD, FAAP and Rachel Laureno, MBA

The behavioral health market has been undergoing a transformative shift making it ripe for growth and consolidation. With the sheer volume of patients now insured for behavioral health needs outpacing the availability of services to treat them investors foresee compelling opportunities to enter the marketplace. Recent developments continue to set the stage for opportunity.

A Legislative Backdrop on Parity

Underlying these occasions for investment and expansion is a sub-sector of healthcare that has often faced low reimbursement rates and lack of payment for behavioral health interventions. In 2008, Congress took a proactive step to address these issues and passed the Mental Health Parity and Addiction Equity Act (MHPAEA). It mandated that behavioral health issues and medical issues be treated under the same terms and conditions when covered by health insurers, and later revisions to the act required most insurance plans cover mental health and substance abuse services. Also in 2008, Congress passed the Medicare Improvements for Patients and Providers Act (MIPPA), which increased access to mental health in Federal programs. In 2013, Congress issued clarifying legislation imposing penalties and sanctions on insurers that did not comply with these requirements. This spate of legislation was a welcome change for patients, mental health professionals and healthcare providers.

Less discussed, however, is the salutary effect this legislation will have on investments in behavioral health. The MHPAEA has resulted in a sea change in reimbursement. This improved reimbursement has already resulted in an increase in investment activity in the behavioral health arena, especially in the many states where true behavioral health parity has been achieved.

Enforcing Parity in New York

Unfortunately, the reality of "parity" has been a mixed state-by-state patchwork of coverage (or lack thereof), which has resulted in an ongoing tussle between payers, treatment providers and regulators. Now New York State offers an intriguing model in which regulators are enforcing mental health parity laws as part of a proactive two-year campaign. Most recently, in March of 2015, New York State Attorney General Eric Schneiderman announced a settlement with Excellus BlueCross BlueShield, headquartered in Rochester, N.Y., after alleging that Excellus had violated the state and federal mental health parity laws by using inappropriate behavioral health reimbursement criteria.

According to the Attorney General's investigation, Excellus required that members fail outpatient treatment multiple times before getting inpatient care. Such a protocol contradicts state law and is not applied by Excellus to medical care. Schneiderman alleged that some denials appeared arbitrary, and Excellus did not appropriately cover residential treatment for behavioral health conditions in its standard contract.

As a result, the non-profit health insurer now must notify its 3,300 clients who were denied inpatient behavioral health services

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About the Author

Dr. Bill Bithoney is a leading physician executive, with experience running an integrated healthcare delivery system, including an award-winning ACO, as an Interim President & Chief Executive Officer (CEO), Chief Operating Officer (COO) & Chief Medical Officer (CMO) of Sisters of Providence Health System (SPHS). In these roles, he oversaw operations of five hospitals – which included Providence Behavioral Health Hospital. As COO and CEO, he managed their Substance Abuse, Methadone Maintenance and Behavioral Health Programs.

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of their right to appeal, cover the cost of the Attorney General's $500,000 investigation and may be required to reimburse approximately $9 million.

This is an important moment in shaping the industry's trajectory, as Excellus is one of five major companies to recently reach such a settlement regarding violations of the MHPAEA. Previously, Schneiderman's office settled with ValueOptions, MVP Health Care, EmblemHealth and Cigna for parity violations.

The Shifting Tide Towards Greater Coverage of Inpatient Treatment

With the aggressive enforcement of the federal MHPAEA mandate, the tide is continuing to shift toward greater coverage for patients with substance abuse and mental health issues in New York—which may now serve as a model for other states as they address issues of behavioral health and medical illness "parity." This will provide an additional boost in behavioral health revenues, particularly for inpatient and substance abuse treatment centers. It will also set the stage for increased investment in behavioral health by healthcare investors, who will continue to see room for growth as reimbursed revenues increase.

Over the next five years, we envision more and more consolidations, mergers and acquisitions in this field as investors recognize the unique confluence of investment opportunities inherent in a market dominated by small niche behavioral health programs. As these programs join together, they will be able to create value for patients, communities and investors. The efficiencies created should result in improved care delivered by highly profitable, clinically excellent programs.

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1. Office of the Attorney General of the State of New York. (March 18, 2015). *Office of Attorney General Settlement with Excellus Health Plan, Inc. Assurance No.: 14-201*. Retrieved from http://www.ag.ny.gov/pdfs/Excellus%20Parity%20AOD%20-%20Executed.pdf

2. Paul Samuels. (March 18, 2015). *NY Attorney General Finds Excellus Denied Claims for Inpatient Addiction Services at Seven Times the Rate of Other Services, Violating Parity Law*. Legal Action Center Newsroom. Retrieved from http://lac.org/ny-attorney-general-finds-excellus-denied-claims-for-addiction-services-at-seven-times-the-rate-of-other-services-violating-parity-law/

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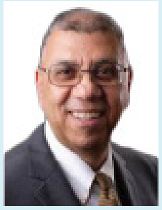

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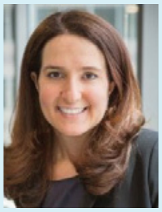

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