South Carolina Department of Insurance

MARK SANFORD
Governor

SCOTT H. RICHARDSON
Director of Insurance

BULLETIN 2008-09

TO: All Licensed Insurers and Health Maintenance Organizations Writing Health Insurance Coverage in the State of South Carolina

FROM: Scott H. Richardson, CPCU
Director of Insurance

SUBJECT: Data Call Request for Policy Information on the Cost of Mental Health Parity

DATE: April 16, 2008

On June 7, 2005, Act 76 (See Exhibit A) was passed to amend the Code of Laws of South Carolina, 1976, by adding section 38-71-290. This Act requires health insurance plans to provide coverage for treatment of mental illness and allows a plan that does not provide for management of care or the same degree of management of care for all health conditions, to provide coverage for mental health treatment through a managed care organization. It applies to health insurance plans issued or renewed on or after June 30, 2006. It does not apply to a health insurance plan that is individually underwritten and does not apply to a health insurance plan provided to a small employer, as defined by Section 38-71-1330(17) of the 1976 Code.

The Department of Insurance is issuing a Data Call to estimate the impact of this Act on health insurance costs. As required by the Act, this information must be reported to the General Assembly by July 1, 2008. South Carolina Code Ann. § 38-13-160 (Supp 2006) provides that the Director or his designee may require insurers authorized to write insurance coverages within the state to answer special inquiries regarding its transactions.

The Department is conducting this Data Call using the capabilities of the Internet. You will only receive this cover memorandum. The data worksheet exhibit that is required for submission is available on the Department's website at: http://www.doi.sc.gov/company/mentalhealthdatacall/. The data requested is the average cost per member per month of the mental health benefit in all basic and comprehensive group health insurance plans with 50 or more employees across all blocks of business (please refer to worksheet for definitions). It must be recorded monthly starting with January 2005 and running through December 2007. This report is due to the Department no later than June 1, 2008. Once the data has been analyzed, the Department may require additional information, if deemed necessary. All questions and responses regarding this request should be submitted to Derek McKee, Assistant Actuary, via e-mail at mentalhealthdatacall@doi.sc.gov.

THE EXHIBIT MUST BE SUBMITTED TO THE DEPARTMENT BY MAY 1, 2008. NO EXTENSION WILL BE GRANTED.

Exhibit A

ACT 76

(A76, R77, S49)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-290 SO AS TO REQUIRE HEALTH INSURANCE PLANS TO PROVIDE COVERAGE FOR TREATMENT OF MENTAL ILLNESS, TO ALLOW A PLAN THAT DOES NOT PROVIDE FOR MANAGEMENT OF CARE OR THE SAME DEGREE OF MANAGEMENT OF CARE FOR ALL HEALTH CONDITIONS, TO PROVIDE COVERAGE FOR MENTAL HEALTH TREATMENT THROUGH A MANAGED CARE ORGANIZATION, TO ESTABLISH TREATMENT CONDITIONS TO QUALIFY FOR COVERAGE, TO REQUIRE THE DEPARTMENT OF INSURANCE TO REPORT TO THE GENERAL ASSEMBLY ON THE IMPACT OF THIS ACT ON HEALTH INSURANCE COSTS, AND TO PROVIDE EXCEPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Insurance, health insurance plans, mental health coverage

SECTION 1. Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-290. (A) As used in this section:

(1) 'Health insurance plan' means a health insurance policy or health benefit plan offered by a health insurer or a health maintenance organization, including a qualified health benefit plan offered or administered by the State, or a subdivision or instrumentality of the State, that provides health insurance coverage as defined by Section 38-71-670(6).

(2) 'Mental health condition' means the following psychiatric illnesses as defined by the 'Diagnostic and Statistical Manual of Mental Disorders - Fourth Edition (DSM-IV)', and subsequent editions published by the American Psychiatric Association:

(a) Bipolar Disorder;
(b) Major Depressive Disorder;
(c) Obsessive Compulsive Disorder;
(d) Paranoid and Other Psychotic Disorder;
(e) Schizoaffective Disorder;
(f) Schizophrenia;
(g) Anxiety Disorder;
(h) Post-traumatic Stress Disorder; and
(i) Depression in childhood and adolescence.

(3) 'Rate, term, or condition' means lifetime or annual payment limits, deductibles, copayments, coinsurance and other cost-sharing requirements, out-of-pocket limits, visit

limits, and any other financial component of health insurance coverage that affects the insured.

(4) 'Settings' means either emergency, outpatient, or inpatient care.

(5) 'Modalities' means therapeutic methods or agents including, without limitation, surgery or pharmaceuticals.

(B) A health insurance plan must provide coverage for treatment of a mental health condition and may not establish a rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition in similar settings and treatment modalities. Any deductible or out-of-pocket limits required under a health insurance plan must be comprehensive for coverage of both mental health and physical health conditions.

(C) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization if the managed care organization is in compliance with regulations promulgated by the director. The regulations promulgated by the director must ensure that timely and appropriate access to care is available, that the quantity, location, and specialty distribution of health care providers is adequate, and that administrative or clinical protocols do not prevent access to medically necessary treatment for the insured.

(D) A health insurance plan complies with this section if at least one choice for treatment of mental health conditions provided to the insured within the plan has rates, terms, and conditions that place no greater financial burden on the insured than for access to treatment of physical conditions in similar settings and treatment modalities. The director may disapprove a plan that the director determines to be inconsistent with the purposes of this section.

(E) To be eligible for coverage under this section for the treatment of mental illness, the treatment must be rendered by a licensed physician, licensed mental health professional, or certified mental health professional in a mental health facility that provides a program for the treatment of a mental health condition pursuant to a written treatment plan. A health insurance plan may require a mental health facility, licensed physician, or licensed or certified mental health professional to enter into a contract as a condition of providing benefits.

(F) The provisions of this section do not:

(1) limit the provision of specialized medical services for individuals with mental health disorders;

(2) supersede the provisions of federal law, federal or state Medicaid policy, or the terms and conditions imposed on a Medicaid waiver granted to the State for the provision of services to individuals with mental health disorders; or

(3) require a health insurance plan to provide rates, terms, or conditions for access to treatment for mental illness that are identical to rates, terms, or conditions for access to treatment for a physical condition."

Department of Insurance, report to General Assembly

SECTION 2. Before July 1, 2008, the Department of Insurance shall report to the General Assembly an estimate of the impact of this act on health insurance costs.

State Employee Insurance Program directive

SECTION 3. The State Employee Insurance Program shall continue to provide mental health parity in the same manner and with the same management practices as included in the plan beginning in 2002, and is not under the jurisdiction of the Department of Insurance. The continuation by the State Employee Insurance Program of providing mental health parity in accordance with the plan set forth in 2002 constitutes compliance with this act.

Exceptions

SECTION 4. This act does not apply to a health insurance plan that is individually underwritten and does not apply to a health insurance plan provided to a small employer, as defined by Section 38-71-1330(17) of the 1976 Code.

Time effective

SECTION 5. This act takes effect June 30, 2006, and applies to health insurance plans issued or renewed on or after the effective date of this act.