

E-BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

Bringing New York State Psychiatrists Together



For Immediate Release

December 22, 2021

Contact: Karin Carreau
(518) 339-0765

NYSPA-Inspired Law Leads NYS Department of Financial Services To Recoup \$3.1 Million from Insurers for Violations of Mental Health & Substance Use Disorder Parity Laws

Garden City, NY – The New York State Psychiatric Association (NYSPA) is pleased to report that the Department of Financial Services (DFS) recently recovered \$3.1 million from insurance carriers doing business in New York for violations of federal and state mental health and substance use disorder parity laws. This recovery is a direct result of the Mental Health and Substance Use Parity Report Act, a state law enacted in 2018/2019, which was envisioned and championed by NYSPA.

“The enactment of the Mental Health and Substance Use Disorder Parity Report Act was a historic achievement in the fight for full implementation and enforcement of parity laws, a concept borne out of the NYSPA Committee on Legislation” said Jeffrey Borenstein, MD, President of NYSPA. “The regular reporting and analysis required is crucial in identifying instances of non-compliance so the appropriate regulatory action and remedies can be taken as these laws are the bedrock for maintaining and enhancing access to care, which has never been more important as New Yorkers continue to contend with COVID-19 and variants.”

The Mental Health and Substance Use Disorder Parity Report Act, codified in section 343 of the New York State Insurance Law, compels all insurers, health plans, and behavioral health management companies, to submit key data to the DFS on a biennial basis for analysis and evaluation of compliance with federal and state parity laws. The 2018 data and analysis submitted by Aetna Life Insurance Company, Oscar Insurance Company and Wellfleet New York Insurance Company led to the discovery that these insurers sold policies requiring individuals “...to either: pay a type of cost share for MH/SUD

benefits that was not applied to substantially all med/surg benefits, or pay an amount of cost share for MH/SUD benefits that was not the predominant level of cost share applied to med.surg benefits in the same classification.” Both such practices are out of alignment with state and federal parity requirements.

As further described in the DFS [announcement and consent orders](#) the fines levied were as follows:

- Aetna Life Insurance Company was fined a total of \$1,2500,000 including: \$874,000 for violations of the federal Mental Health Parity and Addiction Equity Act (MHPAEA) and the New York Insurance Law and \$376,000 for erroneous data reporting under Section 343 of the Insurance Law;
- Oscar Insurance Corporation was fined \$1,000,000 for violations of MHPAEA and the New York Insurance Law; and
- Wellfleet New York Insurance Company was fined \$425,000 for violations of MHPAEA and the New York Insurance Law.

Out of the penalties collected, \$2,299,000 will be deposited into the Behavioral Health Parity Compliance Fund, which funds efforts related to parity implementation, including the state's Behavioral Health Ombudsman Program. Mandatory consumer restitution for all three plans totals \$473,565.90.

A copy of the consent orders can be accessed via the DFS website at: https://www.dfs.ny.gov/industry_guidance/enforcement_actions_Insurance.
