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Memorandum in Support

A.3694-C (Gunther) / S.1156-C (Ortt)

*AN ACT to amend the insurance law,
in relation to establishing the mental health and substance abuse parity report act*

The New York Society for Clinical Social Work (NYSSCSW) **strongly supports** A.3694-C (Gunther)/ S.1156-C (Ortt); a critically important bill as it provides a mechanism and authorization for the Superintendent of the Department of Financial Services to collect certain data points and metrics from insurers and health plans in order to scrutinize and analyze if they are in compliance with the federal and state mental health and substance use disorder (MH/SUD) parity laws, culminating in publication of a Mental Health and Substance Use Disorder Parity Report.

Although MH/SUD parity laws have been part of the landscape for a decade on the federal level (The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008) and more than ten years in New York State (Chapter 748 of the laws of 2006 – “Timothy’s Law”), there still exists within the health insurance and health plan industry patterns of disparity between coverage criteria imposed on MH/SUD care and treatment as compared to other covered services.

The Attorney General of New York reached eight settlements/agreements with major health insurers and entity managing behavioral benefits, which found major acts of non-compliance including: applying more stringent and frequent utilization review for mental health and substance use disorder benefits as compared to medical/surgical benefits; denying care and treatment for mental health and substance use disorders at higher rates as compared to medical/surgical benefits; imposing a higher/specialist copayment rate for outpatient mental health and substance use disorder care than for outpatient/medical surgical care; providing no coverage of residential treatment for mental health and substance use disorders even though policies included benefits for skilled nursing treatment for medical/surgical conditions; using medical necessary criteria and models inconsistent with the laws and regulations of the State; imposing fail first requirements for substance use disorders where individuals had to “fail” at lower levels of care; restricting nutritional counseling sessions for eating disorders, including one insurer who limited such counseling to three session per year even though there was no limit if provided for diabetes; and, providing inadequate notification to policyholders. The settlements are an important milestone, but provide a clear demonstration for the need of the above reference legislation as it provides a process for gathering the most critical data – industry wide – needed to assess compliance with federal and state parity laws.

Non-compliance with federal and State MH/SUD parity laws inhibits and delays access to necessary care for mental health and substance use disorders, which can tragic consequences.

For the above reasons, NYSSCSW strongly supports compliance with federal and State parity laws and as such, recommends passage and enactment of the A.3694-C (Gunther)/ S.1156-C (Ortt).

For additional information: Marsha Wineburgh, DSW, Legislative chair, NYSSCSW

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