



March 10, 2022

Dear Senators Dahms and members of the Senate Commerce and Consumer Protection Finance and Policy Committee:

NAMI Minnesota has concerns with SF3287 which impacts how the Department of Commerce conduct market conduct examinations. We are not aware of why this bill is being proposed but want to make sure that you know that there could be an unintended consequence. The proposed changes could have a negative impact on our state's ability to enforce the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which has also been adopted into our state law.

Unfortunately, for too many individuals and families, MHPAEA is a dream and not a reality. They have difficulty having their health insurance pay for treatment for themselves or their children, face more frequent medical necessity reviews than other health care conditions, find their insurance won't pay for a more intensive residential treatment needed by their child, the drug formulary is more restrictive, they use an arbitrary treatment limit, or the networks are so narrow that you can't find any provider taking new patients.

One of the most important ways that Commerce Departments in all states can enforce parity is through implementation of market conduct exams and network adequacy assessments. Minnesota, like many other states, has just begun this process. And it is sorely needed. Department examinations are critical to uncovering parity issues.

Other states have recently used the market conduct exams to enforce parity. In general, the violations revolved around a lack of parity between mental health and medical/surgical procedures, drug formularies, and prior authorization requirements. Exams have also found differences between health and mental health around out of network use due to having very limited in-network providers – not related to the number of providers in the state. For example, Pennsylvania regulators, through a market conduct exam, found United Health had extensive noncompliance with mental health parity and found concerns with the company's coverage for services relating to autism spectrum disorders and substance use disorders. New York found several insurers were not in compliance with state and federal parity laws. Rhode Island found that an insurer was not following parity laws and the company is now being required to cover more mental health services.

We cannot rely on individuals to enforce parity. When this happens, you or a loved one do not have the strength or wherewithal to file a complaint with the Department of Commerce. You probably don't even know that you can make a complaint to that department. Market conduct exams allow the department to look at the policies, coverage of mental health and substance use disorders, treatment covered, claims payment procedures, complaint handling procedures, and more. Only through market conduct exams will the dream of parity be realized.

Sincerely,

Sue Abderholden, MPH
Executive Director

Cc: Senators Pratt, Bakk, Eichorn, Gazelka



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