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Testimony of Loretta Jay to the Insurance and Real Estate Committee
March 12, 2024

Re: SB 402, An Act Concerning Mental Health Parity – In Support with Alternative Language

Dear Senator Cabrera, Representative Wood, Senator Hwang, Representative Pavalock-D'Amato and distinguished members of the Insurance and Real Estate Committee,

I am writing to urge the Insurance and Real Estate Committee to vote in support of SB 402, *An Act Concerning Mental Health Parity,* with the substitute language offered by the Mental Health Parity Coalition. This suggested alternative language addresses gaps in the current bill; it provides enforcement procedures and safeguards to protect the rights of those seeking mental health care. Following are two real-life examples of how mental health care is treated differently and unfairly compared to other medical services, and why the parity enforcement measures are needed.

Earlier this year, I experienced the parity problem. I was trying to get pre-authorization for an out-of-network therapist. That's because in Fairfield County there are not many in-network therapists. To get any reimbursement, our family's healthcare plan required that the out-of-network therapist contact them directly with a service code - *before* they even had any contact with me. The insurance company refused a code from my regular doctor; or from me; or on a claim form. Their policy violates existing parity rules in three different ways:

- A provider cannot determine what the service code would be prior to having contact with the patient; this would be unethical, fraudulent and against good practice.
- Other medical providers do not have such a prerequisite.
- And, by definition, out-of-network providers do not deal with insurance companies. That is what makes them out of network. Therefore, this requirement creates an unrealistic and unattainable demand.

I'm fortunate that I was able to manage these roadblocks. But others are not so lucky.

Through Parasol, my consulting business, I provide special education advocacy. In this capacity, I work with youth who have behavioral health challenges. Repeatedly, I've seen how insurance companies make parents jump through procedural hoops when they try to get their kids medically necessary mental health care. While dealing with their child in crisis, they must also navigate burdensome expectations and inconsistent messaging. This delays or prevents access to care.

This next example illustrates another way that insurance companies are not compliant with existing parity laws. When one of my clients needed residential treatment for their daughter,

their insurance company required that they pay a $1,000 “admission fee” to the program. This was in addition to their co-pay and co-insurance. Furthermore, it was *not* applied toward their annual deductible. Later, once in the residential treatment center, their daughter was discharged from the program when the insurance company - not the healthcare provider - determined she was ready. But she was not ready. Three months later, during the *same* calendar year, the *same* teen had to re-enter the *same* program. Again, the insurance required another $1,000 admission fee. And again, it was not applied toward the family’s deductible. And it was not applied to their co-insurance. Consequently, these costs were in addition to what was expected, and they created unnecessary hardship for this family that was already struggling to pay their bills.

Treating mental health differently than other medical services hurts people. This discrimination exhausts families financially and emotionally. With the suggested language (below) included in SB 402 and successful passage of the bill, existing parity laws will be enforced. This will protect your constituents from any potential violations, ensure that insurance coverage is fair, and our community cared for. As a member of the Connecticut Parity Coalition, I respectfully ask you to vote in favor of SB 402 with the proposed substitute language.

Thank you for your consideration.

Sincerely,

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Legislative Recommendation:

Strengthen oversight and enforcement by imposing fines, in line with the current law in place in Massachusetts, for non-compliance with both State and Federal Parity Laws. Notably, fines with regards to inadequate reporting will only be imposed if a health carrier 1.) Doesn't fulfill the reporting requirements and 2.) Doesn't remedy the error after guidance and technical support is offered by the Insurance Department to ensure the report is in compliance. Fines will also be applied to health carriers found in violation after a thorough review of their submitted completed NQTL Report, ensuring adherence to federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued under the act. The language we seek is noted below and mirrors the latest mental health parity legislation in Massachusetts.

Draft Language:

The commissioner may impose a penalty against a carrier that provides mental health or substance use disorder benefits, directly or through a behavioral health manager as defined in section 1 of chapter 176O or any other entity that manages or administers such benefits for the carrier, for any violation by the carrier or the entity that manages or administers mental health and substance use disorder benefits for the carrier of state laws related to mental health and substance use disorder parity or the mental health parity provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued under the act.

The amount of any penalty imposed shall be $100 for each day in the noncompliance period per product line with respect to each participant or beneficiary to whom such violation relates; provided, however, that the maximum annual penalty under this subsection shall be $1,000,000; provided further, that for purposes of this subsection, the term "noncompliance period" shall mean the period beginning on the date a violation first occurs and ending on the date the violation is corrected.

A penalty shall not be imposed for a violation if the commissioner determines that the violation was due to reasonable cause and not to willful neglect or if the violation is corrected not more than 30 days after the start of the noncompliance period.

What will be the designated destination for the funds collected through the imposition of fines?

While our aspiration is for health carriers to remain in compliance, should fines be imposed, we advocate for a purposeful allocation of collected funds. Directing these funds towards a dedicated resource for assisting low-income families with medical-related expenses stands as a testament to our commitment to community well-being. The CT Parity Coalition vehemently opposes any diversion of these funds to the Connecticut General Fund or for administrative costs, ensuring a targeted and impactful contribution to those in need.