

**GOVERNOR'S COMMISSION ON ALCOHOL & DRUG ABUSE
PREVENTION, INTERVENTION AND TREATMENT**

**February 19, 2016
LEGISLATIVE OFFICE BUILDING
CONCORD, NH**

MINUTES

Members Present:

John Barthelmes, *Department of Safety*
Lorraine Bartlett, *Division of Children, Youth and Families*
Marty Boldin, *Recovery Representative*
Cheryl Ann Coletti, *Business and Industry Association*
Scott Dunn, *Liquor Commission*
Monica Edgar, *Substance Use Services Concord Hospital*
Rebecca Ewing MD, *Co-chair of the Perinatal Substance Abuse Taskforce*
Joseph Foster, *Attorney General*
Traci Fowler, *Prevention Professional*
Todd Gardner, *New Hampshire Nurses Association*
Joseph Harding, *Executive Director*
Scott Kalicki, *NH Community College*
Timothy Lena, *Prevention Professional*
Molly Kelly, *Senator*
Jeffrey Meyers, *Department of Health and Human Services*
Chris Placy, *Public Member*
Dan Potenza, *Suicide Prevention Council*
William N Reddel III, *Major General*
Tym Rourke, *Chairman*
Seddon Savage, *New Hampshire Medical Society*
Stephanie Savard, *Treatment Professional*
Roger Sevigny, *New Hampshire Insurance Department*
Mary Steady, *Department of Education*
Mike Wilkey, *New Hampshire Insurance Department*

Tym Rourke welcomed everyone and opened the meeting with introductions. Minutes were reviewed and motion to approve and minutes were approved.

Tym Rourke: we are going to start our day with a presentation from the Department of Insurance about work they have been doing around addiction coverage with the private marketplace. We want to dedicate as much time to this as possible. We have on the agenda forty-five minutes but it will probably take longer. This is an incredibly important piece of information that we need to be weighing in on and thinking about. We are going to move item four on the agenda, Policy Position Process to next meeting. That is an agenda item specifically around how we manage the growing opportunity and requests of this Commission to weigh in on bills that get cycled through the legislature. Both in terms of instances that may come to a task force because there are specific bills for prevention, per se or the fact that if I were to weigh in on every bill no one would ever see me again. We really want to get on "how we best advise the legislature," pursuant to our duties. I would ask for task force chairs, as we work through the current session, if there are issues that begin to arise because of particular bills that you passed on to Joe and I, I think there are instances that I have had the chair of a task force first go and testify because I couldn't make it logistically but let's just make sure that we are in touch with myself and Joe.

We might defer more on the agenda because we want to give this presentation the time that it needs and we will defer to the pulse of the room. On that I will apologize as I need to leave a few minutes early as I will be attending the Attorney General's Task Force on Child Abuse and Neglect. Joe will take the meeting at 11:00 am.

Lastly a welcome to Senator Kelly for joining us this morning. We also would like to congratulate Commissioner Meyers in his new role with the Commission. With that I will turn the floor over to our presenters.

New Hampshire Insurance Department.

https://www.nh.gov/insurance/consumers/documents/021916_nh_id_sud_preliminary_exam_results_presentation.pdf

- Introduction 1
 - We as most citizens of the State of New Hampshire are well aware of the substance use disorder crisis that we are facing particularly here in New Hampshire.
 - Intent today: Begin to bring factual basis to the ongoing discussion of barriers to care, and how changes in insurance companies' practices and/or changes to insurance laws could help eliminate those barriers.
 - This is just the beginning of where we see ourselves headed.
 - There are two components to this presentation. One is from our comprehensive claims database and the second is the first phase of the Mark in Conduct exam that we are doing on the three major carriers. The Mark in Conduct examinations is very intense. Very labor intensive and take a lot of time.
 - We are going to go into Phase II very shortly.
- Introduction 2
 - NHID began targeted exam in Nov. 2015 on how companies handle SUD claims: preauthorization, claim denials, utilization review practices, carriers' network of SUD treatment providers, and system for handling appeals.
- Introduction 3
 - The exam findings we are presenting today are still preliminary: Exam is ongoing.
 - If violations found, NHID has authority to order corrective action, fine companies.
 - Enforcement action alone is not necessarily the solution; removing barriers may require a more nuanced approach, including changes in the law.
- Consumer Protection Role
 - Mission Statement: The mission of the New Hampshire Insurance Department is to promote and protect the public good by ensuring the existence of a safe and competitive insurance marketplace through the development and enforcement of the insurance laws of the State of New Hampshire. We are committed to doing so in an honest, effective and timely manner.
- Insurance Regulatory Tools
 - Financial oversight: ensure solvency/ability to pay claims.
 - Form review: prior approval of policy language, ensure it meets legal standards.
 - Rate review: prior review and approval to ensure rates sufficient and not excessive.
 - Market conduct examination: claims handling practices, consumer treatment
- NHID Enforcement Authority
 - When an insurer does not treat consumers in accordance with the law, the Insurance Department can:
 - Issue an order requiring immediate compliance, including claim payment.
 - Impose monetary fines.
 - Suspend or revoke the insurer's license to do business in the state.
- Insurance Consumer Rights
 - Right to coverage: under contract law, consumer has the right to the coverage he/she paid for.
 - Title XXVII: right to protections under state insurance laws, including protection against unfair insurance trade practices.
 - Federal law: NHID can enforce, including mental health parity requirements.
- Legal Requirements for SUD Claims
 - Most private insurance policies must cover SUD treatment as part of state and federal mental health parity laws.
 - Treatment must be covered "on par" with coverage for medical/surgical treatment.
 - Two main components of NHID oversight:
 - Policy language -> form review

- Actual practices - > market conduct exam.
- Fully Insured vs. Self-Funded Plans
 - Fully insured plans: Insurer bears risk
 - NHID regulates only fully insured plans.
 - Self-funded plans: Employer, not insurance company, bears financial risk of claims.
 - Federal law (ERISA -Employee Retirement Income Security Act of 1974 <http://www.dol.gov/general/topic/health-plans/erisa>) Employer, not insurance company, bears financial risk of claims.
 - An insurance carrier typically administers claims for the employer, so employees covered under the plan will still have a card bearing an insurer's name.
- Claims Data Review Findings
 - NHID contractor (Compass Health Analytics) reviewed 2014 NHCHIS data for claims related to opiate substance use disorder.
 - Review was of paid claims only.
 - Includes both self-funded and fully-insured.
 - Information shows results by carrier.
- Total Medical Costs: Findings
 - For all four major carriers, medical claims payments on a per-person, per month basis were higher for self-insured plans than for fully insured plans.
 - This finding is for all types of medical claims – not specific to SUD (Substance Use Disorder) treatment.
- Opiate SUD (Substance Use Disorder) Claims: Findings.
 - Looking at opiate SUD claims specifically, all insurance companies except Anthem paid more per person, per month for self-insured than for full-insured individuals.
 - For Anthem, payments per person, per month were about the same for self-insured and full insured.
- OSUD by Age Group: Findings.
 - Costs paid per person, per month varied substantially by the age of the person being treated.
 - The highest costs per person, per month were for people ages 17-24 and 25-32.
 - For people ages 17-24, there was a substantial difference between self-insured, where the payments were higher, and fully insured, where the payments were less.
- Claims by Carrier: Findings.
 - The percentage of covered lives receiving substance-use treatment was roughly the same for all carriers and for self-insured vs fully insured
 - Payment levels per member, per month varied substantially.
- OSUD Providers: Findings
 - Carriers varied in their use of particular providers of OSUD treatment services.
 - Examples: The Treatment Center of the Palm Beaches; Merrimack River Medical Services; and Elliot Hospital.
- Market Conduct Examination
 - The NHID is in the process of examining the market conduct of insurers on SUD claims:
 - SUD treatment protocols: top three insurers.
 - Actual claims handling: top three insurers.
 - Time period: Jan 1, 2015 – Sept. 30, 2015.
 - Exam ongoing: final results this summer.
 - ❖ Preliminary findings are mainly qualitative and do not identify particular carriers.
- Areas of Review – Exam
 - Utilization review criteria/protocols.
 - Claim denials.
 - Overall denial rates.
 - Denial notices.
 - Medical necessity denials: medical expert review of denial grounds.
 - Grievance and appeal processes
 - SUD treatment provider networks.
- Overall Denial Rates

- All SUD paid and denied claims were requested for the exam period for the top three carriers.
- The overall SUD denial rates (which includes denials for any reason and partial as well as full denials) for the three carriers were: 9.5%, 15%, and 28.3%.
- Utilization Review Process
 - UR (Utilization Review) includes prior authorization requirements.
 - Top three carriers had all adopted SUD claim criteria/protocols.
 - Independent medical experts deemed protocols appropriate.
 - Closer look:
 - One carrier uses a contracting entity to handle review for SUD medical necessity.
 - Two carriers have their own utilization management entities within their corporate structure.
- Medical Necessity Denials
 - Review by independent medical review team (IRO) of top three carriers' prior authorization protocols and practices.
 - Protocols for all three were consistent with ASAM (American Society of Addiction Medicine) standards.
 - Practices: 64 medical necessity denials out of 11, 650 total claims for SUD services (all carriers combined).
 - IRO reviewed all documentation for every prior authorization denial for SUD during review period.
- Prior Authorization Concerns
 - Independent medical examiners identified concerns with eight of the sixty-four denials.
 - Most of these (5 of 8 denials) involved disagreement on level of care (inpatient v. intensive outpatient), not outright denial.
 - Potential lack of understanding regarding need for short-term inpatient withdrawal management vs. indefinite inpatient admission.
 - Inpatient withdrawal management not typically approved unless necessitated by co-morbidity.
 - Independent medical experts confirmed this practice was consistent with ASAM but still had concerns in some cases.
- Grievance and Appeal Processes
 - Examiners reviewed all appeals and grievances filed during exam period:
 - All supporting documentation.
 - All notices to providers and members.
 - All denial notices informed consumer of reason for denial and rights to appeal.
 - No appeals went to External Review, even with instructions and form enclosed.
 - Conclusion: no legal violation.
- SUD Provider Networks
 - Top three insurers queried on network for:
 - SUD inpatient.
 - SUD intensive outpatient.
 - SUD rehabilitation.
 - Licensed addiction counselors (LADC).
 - Shortage of contracted providers identified for each insurer:
 - Coos County a challenge for all.
 - No shortage in Rockingham/Hillsborough.
 - Some gaps in other seven counties.
 - NH network adequacy standards met, but availability of providers appears to be an issue.

- Consumer Rights of Appeal
 - Internal Appeal (Step 1): Review by different decision-maker with the insurance company.
 - External Review (Step 2): Independent medical expert reviews insurance company's medical necessity determination.
 - In an urgent situation, the two steps can be simultaneous with required review 72 hours or less.
 - NHID Role: Oversee external review process and assist consumers in understanding internal appeals.
 - Self-funded ERISA plans have similar appeals, overseen by the US Department of Labor.
- SUD Consumer Activity
 - January 2013 through February 2016
 - Consumer Inquiries – 7
 - Consumer Complaints – 3
 - External Reviews for Medical Necessity – 14
 - Reversed by Independent Review – 4
 - Conclusion: Limited use of Consumer Services by individuals for SUD on coverage, access and benefit issues.
- NHID Consumer Services
 - Assist consumers in filing appeals, getting claims covered and paid.
 - Contact Information: 21 Fruit Street, Suite 14, Concord, NH 03301. Toll-Free: 1-800-852-3416 Main Number: 1-603-271-2261. TDD Access Relay NH: 1-800-735-2964
 - www.nh.gov/insurance
- NHID's Next Steps
 - Final exam results: Summer 2016.
 - Further education and outreach to ensure consumers receive full benefit of coverage
 - Outreach/education position.
 - NHID convening stakeholder group.
 - Consumer tool kit – work with UNH Law.
 - Coordination with US Dept. of Labor and NHDOJ on self-funded plans.
- Questions for Policymakers
 - “Window of opportunity” for treatment-timing of coverage/preauthorization decision to match window.
 - Identifying and obtaining appropriate level of care.
 - Evaluation by practitioners skilled in ASAM.
 - Incentivizing provider capacity-building at crucial levels of care, geographic areas.

Joe Harding: I would like to mention a couple of things. If I understood the correctly, according to the information provided less than 1/2 % of the individuals covered under the QHPs actually access the services, which is surprising when we know that 9%-10% of the general population are misusing alcohol and drugs and have substance use disorder. So there is certainly break down there. The good news is a lot of the work that the Commission, the Department and many folks at the community level are helping with addressing some of these things. Screening, Brief Intervention, Referral to Treatment (SBIRT) we've put out over a million dollars to increase some capacity for that. So that that these issues can be addressed earlier on in a more effective way but it is not happening enough and it's not happening enough in primary care. There are lots of different resources to the capacity for services that are needed for specialized substance use disorder for medication assisted treatment. We are doing many things in all those areas. We put out a couple of million dollars for infrastructure development for specialty substance use disorders services and that RFP (Request For Proposal) just closed. There is another one that we put together. A document that contributed to that for guidelines for developing office space for opioid treatment services which is critically needed in this state. We are putting out a few million dollars in resources for that. So many things going on. For Peer Recovery Support services there is an RFP that is out right now. These things are not happening fast enough and it also is not happening at the level that needs to happen within communities. We need the communities to say “We do not have enough resources in our area.” “Who can provide these services?” “What can we do as a community?”

We have put out a Continuum of Care Facilitator in the thirteen regions of the Public Health Networks starting this year to help in that process, but all they can do is lend some support to organizing that and the logistics around that. It really takes the community to say “we are going to come together and do this”, and to mobilize and convene people for that. There are things happening but we need to do more on getting the word out there as this is really a collective

responsibility. The state could never solve this problem by itself. This is a problem that we all have to solve. Until we start developing this needed capacity we are going to be spinning our wheels for a while. There needs to be a collective effort put forward.

Question: What about the workforce? *There are some workforce development efforts underway. Tuition Reimbursement Program that now includes Master's level Alcohol and Drug Counselors. There is an effort underway to recruit people that are in clinical programs in college become licensed in this area. There is an effort for folks that are behavioral health practitioners' to have the core competencies to address these issues. We are hearing a lot from folks that are spending a lot of time when trying to get services approved that that is taking away from billing time and that is a cost to them, especially individuals practitioners' with small agencies. This does not speak to the issue around compensation. That is something maybe the Commission should take a look at broadly.*

Comment: What we are hearing is people are calling the insurance company and getting a list of providers. When they call the providers they are being told that the providers are not accepting persons for that diagnosis. The issue is they are not being able to access services.

Comment: From my own experience as a treatment provider we are being told by some insurance companies that we have to accept the rate we are taking and there is no negotiation. I really cannot stress enough I think the Commission has to look at the workforce development issue. When I look at the NH Provider's Association to make sure our offers are out there for jobs I see every treatment provider that I know have listings looking for help.

Annual Report and Review

- On page 31 under the Prevention Message the Prevention Task Force submitted information and it says there are attachments and they are not attached on here. That is OK so we can just remove the Attached.
- A motion was made with the noted amendment for page 31.
- All voted in favor of the report.

The next meeting for the Governor's Commission on Alcohol and Drug Abuse Prevention and Recovery is April 22, 2016 at the Legislative Office Building from 9:30 am to 11:30 am in Room 301-303.