New York State is Ending Discriminatory Insurance Practices

By Lauri Cole
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Imagine you’ve contracted a debilitating illness, so you try to find a doctor to treat you. Then you find out that most healthcare providers won’t accept you as a patient because the insurance you have won’t adequately reimburse them for the cost of the treatment. As a result, you call every doctor in your community day after day, only to find that the list your insurance carrier gave you only included doctors not offering this care or others who aren’t even accepting new patients.

For decades, this is the stark reality many individuals with commercial insurance coverage have encountered when seeking mental health or substance use disorder treatment in New York State.

Why is this considered an acceptable standard for those living with mental illness or addiction? When left untreated, these medical conditions can have lasting detrimental impacts including premature death and permanent disability. For far too long, this discriminatory reimbursement practice has been a reality of life for millions of New Yorkers. Now, thanks to Governor Hochul and the state Legislature, this discrimination will finally end.

Across the state, commercial insurance reimbursement rates for mental health and substance use disorder treatment average about 50 percent of the Medicaid rate, which is set by the state and reflects the actual cost of care. This has meant community-based providers are faced with an untenable situation of either turning an individual seeking needed care away, or providing the care knowing they will have to find another way to make up the financial shortfall.

As part of Governor Hochul’s executive budget proposal in January, the governor included a proposal requiring commercial insurers to pay adequate rates for these essential services – at the same level, or greater, that the state requires the Medicaid program to pay for services. This change was supported by the Legislature and officially adopted as part of the state budget last month. The amended law will mean better reimbursements for mental health and addiction treatment, and a major increase in the availability of community-based care for those with private insurance.

Because of unequal reimbursement for care, New Yorkers with commercial insurance have received subpar access to community-based mental health and addiction services. Roughly 31 percent of commercial insurance policy holders in the state received the mental health care they needed, according to a study conducted by a national mental health advocacy coalition.

In December, a report released by the state Attorney General’s Office showed that many commercial insurance companies claim to have adequate networks of mental health providers. In many cases, however, plans didn’t provide accurate information to beneficiaries regarding available providers or the practitioners accepting commercial insurance in their community,
further decreasing the likelihood of finding care for these individuals and diminishing their likelihood of recovery.

Inadequate commercial rates are also a significant contributor to workforce shortages across the behavioral health field, where some estimates suggest there is a staff vacancy rate of about 25 percent. While vacancies can result from a variety of factors, one is clearly that providers can’t recruit and retain the staff they need due to inadequate salaries, which are linked directly to the payments providers receive from insurance reimbursements.

This new law, along with a provision adopted in last year’s budget requiring the state to update its Network Adequacy standards – a new regulation that will allow New Yorkers to go out-of-network for mental health and addiction services at in-network rates when timely appointments are not available – will make it easier for New Yorkers to find a provider to meet their mental health or addiction care. The law will also go a long way to address several barriers that have resulted in delayed or denied treatment for these individuals.

The commercial rate mandate that was part of the health/mental hygiene section of the State Budget is an example of government at its best. Executive leadership was matched by unwavering legislative support, which was designed to deliver on the promises made by our elected leaders. There are long waiting lists for these services and New York must take every tactic possible to ensure access to care amid the escalating overdose epidemic and increasing rates of suicide.

Every New Yorker should have equal access to mental health and addiction prevention, treatment, recovery, and harm reduction services regardless of the insurance card in their pocket, just as they are with any other medical condition. With this change, Governor Hochul and lawmakers continue to demonstrate their strong commitment to correcting a longstanding inequity faced by New Yorkers with commercial insurance and improving access to mental health and addiction care for everyone in our state.

Lauri Cole is the executive director at NYS Council for Community Behavioral Healthcare, a statewide advocacy group that has led the fight for the commercial insurance rate mandate for more than a decade.