



Summary of the New York Attorney General's Assurance of Discontinuance with ValueOptions

Introduction

On March 5, 2015, the New York State Office of the Attorney General (“OAG”) [announced](#) an [Assurance of Discontinuance](#)—similar to a settlement agreement—with ValueOptions (now known as Beacon Health Options), which the OAG found had violated both state and federal laws that require insurers to provide mental health and substance use disorder (“MH/SUD”) benefits equally with medical and surgical benefits. Among other things, the Assurance of Discontinuance (“Assurance”) requires the managed care company—which administers behavioral health benefits for approximately 2.7 million New Yorkers in fully funded or state and local government health plans—to dramatically reform its claims review process and to pay a \$900,000 penalty. Several New York health plans—including MVP, Emblem, Oscar and Empire Plan—subcontract administration of their members’ behavioral health benefits to ValueOptions. This document provides background information on the federal parity law, a summary of the provisions of the Assurance, and next steps for providers and others.

Background: Federal Parity Law

In 2008, the Mental Health Parity and Addiction Equity Act (“federal parity law”) was signed into law, requiring health insurers who choose to provide mental health and substance use disorder benefits to provide them equally—or at parity—with medical and surgical benefits. Final regulations implementing the 2008 law were released at the end of 2013, and became effective for insurance plan years beginning on or after July 1, 2014. The [Legal Action Center](#) (“LAC”) worked successfully with the substance use disorder and mental health fields toward the passage of the federal parity law, and has worked as a co-leader of the [Coalition for Whole Health](#) to ensure that the law is implemented effectively.

The Affordable Care Act (“ACA”), passed in 2010, extends the requirements of the federal parity law to individual and small group health plans. The ACA also requires health plans to allow their members to receive coverage of treatment while members’ internal appeals are pending. LAC and the Coalition for Whole Health have worked to ensure robust coverage of mental health and substance use disorder benefits under the ACA.

New York also has a state parity law that requires health insurers who choose to provide mental health and substance use disorder benefits to provide them equally with medical and surgical benefits.

Highlights: NY OAG and ValueOptions Assurance of Discontinuance

The OAG's investigation found widespread violations of both the state and federal parity laws, as well as the ACA, by ValueOptions. According to the OAG, ValueOptions consistently applied more rigorous—and frequent—utilization review for MH/SUD benefits than was typically applied to other medical or surgical benefits. Denials were nearly twice as common for mental health claims as for other medical claims submitted to insurers, and claims for addiction treatment services were nearly four times as common. Specifically, the OAG found that:

- More rigorous and frequent utilization review was applied to MH/SUD benefits
- Coverage denial rates for MH/SUD claims were significantly higher than for medical/surgical claims
- Review of MH/SUD benefits was more stringent than review for medical/surgical benefits
- Higher co-pays were imposed for MH/SUD treatment
- There were inadequate MH/SUD provider networks
- Treatment plans were required for only MH/SUD benefits before authorizing additional care/paying claims
- Reimbursement rates for MH/SUD providers were significantly lower than for other health care providers
- Denial rates for inpatient MH/SUD care were very high
- MH/SUD residential treatment was not covered
- Authorization for more intensive levels of MH/SUD care was sometimes required on a daily basis
- Medical necessity criteria for MH/SUD benefits was incorrectly applied
- Fail first requirements were applied to SUD benefits
- A utilization management tool was only developed for MH/SUD benefits
- Denial letters were found to block meaningful appeal
- Spending on MH/SUD benefits decreased since ValueOptions began administering MH and SUD benefits

Under the Assurance, ValueOptions must continue to overhaul its claims review process and cooperate with an ongoing independent appeal process for members whose claims have been previously denied due to lack of medical necessity or lack of coverage for residential treatment. More

than 11,000 potentially eligible EmblemHealth members have received notice of their appeal rights and have until the end of March to file appeal applications. Altogether, the settlements could result in millions of dollars in restitution to MVP and EmblemHealth members whose behavioral health benefits are administered by ValueOptions. Already, through the ongoing appeals process for MVP (the result of an earlier [Assurance of Discontinuance](#) between the OAG and MVP), \$250,000 in previously denied claims have been overturned and will be going back to members who paid out of pocket.

ValueOptions has agreed to overhaul its MH/SUD benefits process by:

- Removing visit limits for almost all MH/SUD services, and removing preauthorization requirements for outpatient behavioral health services.
- Covering services provided by mental health practitioners, such as Mental Health Counselors.
- Ensuring that its provider networks and online provider directory are accurate, and assisting members in transitioning providers where necessary.
- Conducting full and fair reviews for services that require preauthorization, such as inpatient substance use disorder treatment.
- Providing detailed oral and written explanations for denied claims, so that members can exercise their appeal rights, and providing up-to-date information about alternative treatment providers.
- Classifying claims correctly so that reviews are done expeditiously and members are afforded full appeal rights.
- Removing the requirement that members “fail” outpatient substance use disorder treatment before qualifying for inpatient rehabilitation treatment.
- Basing the number of treatment days or visits approved on members’ needs, rather than arbitrary limits.
- Integrating medical and behavioral health claims review staff, which will facilitate the coordination of members’ care.
- Continuing coverage of treatment pending the completion of appeals, so that treatment is not interrupted.
- Reimbursing coverage of treatment for most diagnoses listed in the Diagnostic and Statistical Manual of Mental Disorders (“DSM”), including gender identity disorders.
- Reimbursing members for out-of-network services at the usual, customary and reasonable rate (“UCR”) for the relevant behavioral health service, without applying arbitrarily applying lowered rates for non-M.D. providers.

- ValueOptions will also post parity disclosures on its website, file regular compliance reports with the Attorney General, and pay a \$900,000 penalty.

The Assurance with ValueOptions is the fourth reached by the OAG since last year enforcing the state and federal parity laws, and stems from a broader and ongoing investigation into health insurance companies' compliance with the laws. Previous Assurances were reached with [Cigna](#), [MVP Health Care](#), and [Emblem Health](#).

What's Next

The OAG has made clear that it is committed to enforcing both New York State and federal parity laws. When health insurers violate parity laws, they create very real barriers to treatment for people with mental health and substance use disorders, often leading to grave consequences for patients and their families.

Providers or patients in New York State who are concerned that their rights under the state or federal parity laws are being violated are encouraged to call the [OAG's Health Care Bureau](#) Helpline at 1-800-428-9071. Providers and patients can also contact the [New York State Department of Financial Services](#), New York Department of Health, U.S. Department of Labor, U.S. Department of Health and Human Services, or U.S. Department of the Treasury to report violations of the federal parity law. Finally, when appealing adverse decisions by health insurers that seem to violate the parity laws, providers and patients should consider citing to the ValueOptions Assurance—as well as the Assurances with Cigna, MVP, and Emblem—to demonstrate what types of policies and practices have been found to be illegal.