

# **BEHAVIORAL HEALTH POLICY REFORM AND REGULATORY ENFORCEMENT AGENDA**

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**JULY 15, 2021**





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## OHIC'S BH AUTHORITY: STATE OF RHODE ISLAND GENERAL LAWS § 42-14.5-3

- (p) To work to ensure the health insurance coverage of behavioral health care under the same terms and conditions as other health care, and to integrate behavioral health parity requirements into the office of the health insurance commissioner insurance oversight and health care transformation efforts
- (q) To work with other state agencies to seek delivery system improvements that enhance access to a continuum of mental-health and substance-use disorder treatment in the state; and integrate that treatment with primary and other medical care to the fullest extent possible
- (r) To direct insurers toward policies and practices that address the behavioral health needs of the public and greater integration of physical and behavioral health care delivery

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## OHIC'S BH AUTHORITY: STATE OF RHODE ISLAND GENERAL LAWS § 27-38.2

- OHIC actively enforces the state BH parity statute in its regulatory enforcement activities including the following requirements:
  - Coverage of treatment of BH under the same terms and conditions as provided for other illnesses or diseases
  - The definition of BH is any disorder that is listed in the Diagnostic and Statistical Manual or International Classification of Disease Manual
  - No annual or lifetime dollar maximums for medically necessary BH services
  - Quantitative and non-quantitative treatment limitations comparable to and no more restrictive than those limitations for medical/surgical benefits
  - The reliance on American Society of Addiction Medication criteria for SUD treatment
  - Coverage for medication assisted treatment or maintenance therapy for SUD
  - Parity of cost-sharing requirements including that cost-sharing for BH counseling visits and medication maintenance visits must be consistent with the cost-sharing applied to primary care office visits





## PREVIOUS BH EFFORTS: EXAMINATION OF COMMERCIAL HEALTH INSURER COMPLIANCE WITH MH AND SUD LAWS AND REGULATIONS

- Commencing in January 2015, OHIC conducted a market conduct examination focused on BH parity the four major health insurers in the RI fully-insured commercial market:
  - Blue Cross & Blue Shield of Rhode Island (BCBSRI)
  - Neighborhood Health Plan of Rhode Island
  - Tufts Health Plan
  - UnitedHealthcare
- Measured compliance with federal and state laws and regulations relating to coverage of BH benefits including:
  - UR, which involved a sampling of approximately 1,000 case files selected for BH and pharmacy
  - Included approvals, denials, and appeals case files
  - Consultation with independent BH clinicians to determine whether utilization review decisions were clinically appropriate

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## PREVIOUS BH EFFORT: EXAMINATION OF COMMERCIAL HEALTH INSURER COMPLIANCE WITH MH AND SUD LAWS AND REGULATIONS

- Common areas of non-compliance were:
  - The use and application of clinically inappropriate UR criteria for coverage of BH services and prescription drugs
  - UR practices that “could have resulted in impeding of patient care,” including:
    - Inadequate consideration of the treating provider’s clinical judgement
    - Short-term concurrent reviews without a clinical basis
    - Not adequately considering the patient’s safety and welfare and the need for transition and continuity of care
- Health insurers were required to submit plans of correction addressing each recommendation.
- The final examination reports and plans of correction are available on OHIC’s website.

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## PREVIOUS BH EFFORT: EXAMINATION OF COMMERCIAL HEALTH INSURER COMPLIANCE WITH MH AND SUD LAWS AND REGULATIONS

- In 2017, OHIC entered into agreements with the four major health insurers in RI to end prior authorization for opioid dependency medications.
- The Behavioral Health Fund was created to support strategies and service models that enhance primary and secondary prevention and access to high quality, affordable BH care services.
  - **Total Contributions to Date:** \$8.3 million
- BCBSRI removed utilization review for all in-network BH services.
- Development of a sample case audit tool as part of plans of correction
  - Health insurers are required to conduct a UR case record audit at least quarterly through June 2022 and submit to OHIC for review.



## CURRENT BH EFFORTS: ANNUAL BENEFIT COVERAGE DOCUMENT REVIEW

- Annual in-depth review of health insurer benefit coverage documents:
  - Review of certificates of coverage and summaries of benefits
  - Review of Affordable Care Act compliance and federal and state parity mandates including:
    - **Quantitative Limitations:** Comparable cost-sharing and benefit limits
    - **Non-Quantitative Limitations:** Prior authorization requirements, network tiering, drug formularies, step therapy, etc.
  - Use of federal plan management tools to analyze:
    - Cost-Sharing
    - Formularies
    - Network Adequacy
- Certification of all benefit determination and utilization review (UR) agents to ensure consumer protections are in place including those related to BH



# CURRENT BH EFFORTS: CONSUMER AND PROVIDER COMPLAINT RESOLUTION

- OHIC's consumer assistance partner, the Rhode Island Parent Information Network, manages and triages both consumer and provider complaints.
  - RIPIN reporting addresses BH parity issue trends across complaints.
- Network plan annual complaint reports also require that BH complaints are reported in separate categories from medical/surgical complaints to allow OHIC to identify trends that may require further investigation.

<b>Behavioral Health/Substance Use Disorder</b> <u>*If no data, please use 0. Don't leave any cells blank.</u>	<u>Consumer</u> <u>Total</u>	<u>Average</u> <u>Resolution</u> <u>Time (Calendar</u> <u>Days)</u>	<u>Provider</u> <u>Total</u>	<u>Average</u> <u>Resolution</u> <u>Time (Calendar</u> <u>Days)</u>
1. Contracting/Credentialing				
2. Formulary (to include tiering, ST/QL, non-formulary, frequent changes)				
3. In-Network Access to care				
4. Notification and/or Referral Process				
5. Out-of-Network Access to care				
6. Prior Authorization (Pharmacy)				
7. Prior Authorization (Non-Pharmacy)				
8. Quality of Care				
9. Silent/Surprise/ Balance Billing				
10. Transition of Care/Continuity of Care				

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## CURRENT BH EFFORTS: AFFORDABILITY STANDARDS AND INTEGRATED BH

- In 2010, OHIC established a comprehensive set of Affordability Standards to lower costs and improve quality.
- In 2019, OHIC established the Integrated Behavioral Health (IBH) Work Group to identify potential solutions to several administrative barriers to patient access to integrated care.
- The final report proposed a set of recommendations to the health insurance commissioner that addressed:
  - Reducing co-payments at qualifying IBH practices
  - Expanding health and behavior assessment and intervention code coverage policies
  - Eliminating out-of-pocket costs for preventive BH screenings
- Based on the recommendations from this work group, OHIC incorporated several IBH requirements in its revised Affordability Standards promulgated in June 2020.

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## CURRENT BH EFFORTS: AFFORDABILITY STANDARDS AND INTEGRATED BH

- The Affordability Standards include payer reporting on IBH efforts.
- Health insurers will submit reports to OHIC by June 2021 to:
  - Confirm compliance with the Affordability Standards IBH requirements
  - Delineate additional strategies to facilitate and support access to IBH services
  - Provide an update on their progress on the alternative payment methodology requirement, including a description of how the payment model satisfies the requirement that the payment compensate practices for the BH services delivered by the site
- The reports will be publicly available on OHIC's website.

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## CURRENT BH EFFORTS: INTERAGENCY BH WORK

- **Substance Use Disorder Treatment/Overdose Prevention:**
  - Governor's Overdose Prevention and Intervention Task Force
  - State of Rhode Island Executive Office of Health and Human Services (EOHHS) Overdose Pulse
- **EOHHS BH System Review:**
  - BH system capacity challenges have been identified.
  - Based on these findings, closing the gap in mobile crisis services and advancing certified community BH clinics are priority policies.
  - Project includes a BH spending and benchmarking analysis

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## FUTURE BH EFFORTS: STATE FLEXIBILITY CYCLE II GRANT

- OHIC aims to build on the success of its recent accomplishments in the federal State Flexibility to Stabilize the Market Grant completed in 2020.
- The federal State Flexibility Cycle II Grant opportunity will help OHIC to enhance its ability to effectively regulate commercial health insurance markets.
- The opportunity is for approximately \$660,000 over two years.
- Proposed projects include:
  - Upgrading to a consumer–centered website that is educational and easily accessible
  - Enhancements to OHIC’s UR data portal to assist in identifying trends and/or and discriminatory practices for investigation, including through market conduct examinations
  - Hiring of a staff person and expert legal consultant assistance to improve access to BH services and ensure BH parity



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## FUTURE BH EFFORTS: NEXT GENERATION AFFORDABILITY STANDARDS AND BH SPENDING

- OHIC has had primary care spending requirements as part of the Affordability Standards since 2011.
- The Affordability Standards require insurers to dedicate at least 10.7% of annual medical spend to support and strengthen the capacity of a primary care practices.
- OHIC is exploring the idea of instituting similar type of spending requirement for BH.
- EOHHS and OHIC are currently performing a BH spending analysis, which will examine high-value (less intensive) versus low-value (more-intensive) services, correlating to outcomes, and benchmarking against other states.
  - OHIC will engage with consumers and providers to gain feedback on these results for commercial spending.
- This analysis will help inform where BH spending is most needed to lower costs and improve quality.

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## FUTURE BH EFFORTS: MARKET CONDUCT EXAMINATIONS

- As part of the state fiscal year 2022 governor's budget, OHIC has requested funding for a new position, the director of consumer protection.
- If enacted, this position will be dedicated solely to continued oversight and enforcement through the market conduct examination process.
- This position would provide OHIC with the ability to perform robust ongoing investigations into potential health insurer non-compliance with federal and state BH parity requirements both proactively and as issues are brought to the attention of OHIC by consumers and providers.
- OHIC is also actively exploring different potential options for market conduct examinations related to BH going forward.



## FUTURE BH EFFORTS: ENHANCED COMPLAINTS ANALYSIS

- OHIC will partner with RIPIN to prioritize to enhance the analysis of BH complaints on a more frequent basis.
- This may occur monthly or every other month as appropriate.
- The goal is to support prompt identification of trends that may require further investigation and/or action by OHIC.



## FUTURE BH EFFORTS: CHILDREN'S BH NETWORK ADEQUACY

- OHIC consistently hears of the challenges faced by Rhode Island children in accessing the right care at the right time in the right setting for BH services.
- To address this, OHIC will systematically review all the policy levers available to it to direct insurers toward policies and practices that address the BH needs of children.
- Based on the outcome of this review, OHIC will engage consumers and providers to discuss and validate the most effective actions that OHIC can take in this area.
- OHIC will also work to align this effort with similar efforts by other state agencies when appropriate and possible to maximize impact.



## ONGOING FEEDBACK

- OHIC welcomes all feedback about its current and future BH efforts on an ongoing basis.
- From both a BH policy reform and regulatory enforcement perspective, OHIC, the feedback of consumers and providers is critical.
- OHIC will engage with both consumers and providers consistently to provide updates, receive feedback, and evaluate progress toward increasing BH access and ensuring BH parity for Rhode Islanders.