

TESTIMONY

Presented by: Adam Hamm
Commissioner
North Dakota Insurance Department

Before: Human Services Committee
Representative Chuck Damschen, Chairman

Date: August 28, 2014

Good morning Mr. Chairman and members of the Committee. My name is Adam Hamm. I am the North Dakota Insurance Commissioner.

I was asked to appear today to address the potential changes in insurance coverage related to behavioral health services, particularly in light of the recent Attorney General opinion.

The opinion correctly pointed out the fact that all health insurance plans issued in the State of North Dakota today meet all state mandated coverage laws, including those related to substance abuse (N.D.C.C. § 26.1-36-08 or alternatively N.D.C.C. § 26.1-36-08.1).

Although the Department has limited authority to enforce federal laws and regulations, we have had several calls with federal agencies about the final Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008 rules issued in November 8, 2013.

Page 1 of the Attorney General's opinion says the Insurance Department has asked the U.S. Department of Health and Human Services about whether residential treatment services for substance abuse disorders would be included in the Essential Health Benefit (EHB) package, and therefore, could not be offered in a way that discriminates based on age. This is inaccurate.

The question the Department asked the federal government was how they expected plans to comply with the final MHPAEA rule effective July 1, 2014, when the final rule detailing the requirements for these plans was not issued until after the federal rate and form filing deadline of July 31, 2013. Furthermore, the Insurance Department required filings to be submitted for review by May 15, 2013, to comply with the July 31, 2013, federal deadline.

I point this out to illustrate the impossibility of insurance companies complying with a rule that did not exist at the time in which insurance companies had to meet the state and federal filing deadlines. Because of our question, the federal agencies clarified the rule to apply to most insurance plans after January 1, 2015. Effectively, plans could not be changed until the federal agencies allowed new filings to be approved. The first period for new filings is now, as we start reviewing the 2015 filings.

The Department has asked all insurers to update their filings, where MHPAEA is applicable, for plans issued after January 1, 2015, or upon renewal of older plans after that date. This will apply to grandfathered and non-grandfathered plans, on and off of the Marketplace.

I want to also point out that with every new policy filing, especially those that change benefits, insurers are given a chance to justify rate changes. The Department reviews every piece of these rate changes but must allow insurers to recoup the cost of benefit changes to ensure financial solvency.

That concludes my testimony and I would be happy to take any questions at this time. Thank you.