

MARYLAND INSURANCE ADMINISTRATION *
200 ST. PAUL PLACE, SUITE 2700 *
BALTIMORE, MARYLAND 21202 *

BEFORE THE
INSURANCE COMMISSIONER

vs.

INVESTIGATION NO.:
MCLH-6-2014-I

CIGNA HEALTH AND LIFE INSURANCE *
COMPANY *
900 COTTAGE GROVE ROAD *
BLOOMFIELD, CT 06002 *
(NAIC # 67369) *

ORDER NO.: MIA-2015-10-007

ORDER

This Order is entered by the Maryland Insurance Administration (“the Administration”) against CIGNA Health and Life Insurance Company (“Respondent”) pursuant to the authority granted in §§ 2-108 and 2-204 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.) (“Insurance Article”) by the Insurance Commissioner for the State of Maryland (“the Commissioner”).

I. Facts

(1) The Respondent currently holds a Certificates of Authority from the Administration to operate as an insurer in the State of Maryland.

(2) A survey was sent out in August 2014 to the Respondent regarding compliance with the Mental Health Parity and Addiction Equity Act (“MHPAEA”) Final Rule which was published November 13, 2013.¹ After receiving the survey response from the Respondent, the Administration opened investigation MCLH-6-2015-I to gather the additional information necessary to determine compliance with the federal regulations and Maryland law.

¹ See Federal Register, Volume 78, No. 219, published November 13, 2013

II. Findings

(3) The Administration asked for the credentialing policies used for both medical/surgical providers and mental health and substance use disorder providers (“collectively “mental health providers”). When compared, the Administration found that the Respondent requires a screening interview for both medical and mental health providers. The Administration finds that this is a violation of section § 15-112.1(b) of the Insurance Article, Annotated Code of Maryland, which provides in pertinent part:

(b) (1) Except as provided in subsection (c) of this section, a carrier or its credentialing intermediary shall accept the uniform credentialing form as the sole application for a health care provider to become credentialed or recredentialed for a provider panel of the carrier.

(4) The Administration also found that the Respondent imposes a more burdensome credentialing process for mental health providers in two ways:

a. The Respondent requires that any mental health provider who has been treated for substance abuse is not eligible for network participation until they have been sober for two years. This was not required of medical/surgical providers.

b. The Respondent requires that mental health providers are allotted 20 days in which to respond to inquiries relating to credentialing, while medical/surgical providers are afforded 30 days.

The Administration finds that these are both a violation of 45 CFR 146.136 (c)(4) which provides in pertinent part:

(i) General rule. A group health plan (or health insurance coverage) may not impose a nonquantitative treatment limitation with respect to mental health or substance use disorder benefits in any classification unless, under the terms of the plan (or health insurance coverage) as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the nonquantitative treatment limitation to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more

stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical/surgical benefits in the classification.

(ii) Illustrative list of nonquantitative treatment limitations. Nonquantitative treatment limitations include—[. . .]

(D) Standards for provider admission to participate in a network, including reimbursement rates;

(5) In addition to all other relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding the Respondent violated federal and state insurance laws:

(i) 45 CFR 147.160 Parity in mental health and substance use disorder benefits.

(a) In general. The provisions of § 146.136 of this subchapter apply to health insurance coverage offered by health insurance issuer in the individual market in the same manner and to the same extent as such provisions apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the large group market.

(ii) §4-113, Insurance Article, Annotated Code of Maryland

(b) The Commissioner may deny a certificate of authority to an applicant or, subject to the hearing provisions of Title 2 of this article, refuse to renew, suspend, or revoke a certificate of authority if the applicant or holder of the certificate of authority:

(1) violates any provision of this article other than one that provides for mandatory denial, refusal to renew, suspension, or revocation for its violation[.]

(d) Instead of or in addition to suspending or revoking a certificate of authority, the Commissioner may:

(1) impose on the holder a penalty of not less than \$100 but not more than \$125,000 for each violation of this article; and

(2) require the holder to make restitution to any person who has suffered financial injury because of the violation of this article.

II. Sanctions

(6) By the facts and violations stated above, the Respondent's Certificate of Authority is subject to suspension or revocation, and/or the imposition of an administrative penalty and/or restitution.

(7) Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the investigation number MCLH-6-2014-I. Unpaid penalties will be referred to the Central Collection Unit for collections.

(8) The payment of the administrative penalty shall be sent to the attention of: Victoria August, Associate Commissioner, Compliance and Enforcement, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

(9) No amounts paid pursuant to Paragraph C of this Order shall be included in or recoverable as expenses in any rate filing made with the Administration or any other regulatory authority.

(10) Failure to comply with the terms of this Order may subject the Respondent to further legal and/or administrative action.

WHEREFORE, for the reasons set forth above, and subject to your right to request a hearing, it is this ^{9th} day of October, 2015, **ORDERED** that:

A. The Respondent shall take corrective action within ten (10) business days of the date of this order to eliminate the practice of requiring a screening interview prior to credentialing providers.

B. The Respondent shall take corrective action within ten (10) business days to allow mental health providers 30 days to respond to written requests for additional information, consistent with that Respondent provides health care providers of medical/surgical services, and provide documentation to the Administration of changes to the credentialing policies for mental health providers.

C. The Respondent shall pay an administrative penalty to the State of Maryland for the violations stated herein in the amount of nine thousand dollars (\$9,000.00) within thirty (30) days of the date of this Order.

**ALFRED W. REDMER, JR.
INSURANCE COMMISSIONER**

signature on original

By: Victoria August
Associate Commissioner
Compliance & Enforcement

RIGHT TO REQUEST A HEARING

Any person aggrieved by this Order has the right to request a hearing. A request for a hearing must be made in writing and received by the Maryland Insurance Administration within thirty (30) days of the date of this Order. The request must be addressed to the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. Attention: Hearings and Appeals Coordinator. Failure to request a hearing in a timely fashion, or to appear at a scheduled hearing, will result in a waiver of your right to contest the Commissioner's action, and the Order will be final on the effective date. If a hearing is requested within ten (10) days of the date of the letter accompanying this Order, the effective date of the Order will be stayed until the matter is adjudicated. Should an aggrieved party request a hearing, the hearing officer may reduce, increase, or affirm the penalty amount sought by the Commissioner.