UnitedHealthcare failed to meet mental health requirements, WA says

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MENTAL HEALTH PROJECT

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UnitedHealthcare, one of the largest insurers in Washington, is facing a $500,000 fine for failing to prove its operations are in line with laws outlining mental and behavioral health coverage requirements.

Washington's Office of the Insurance Commissioner said the fine was the first in the state for this kind of violation and one of the largest fines the office has issued. It comes after the OIC said UnitedHealthcare failed to provide adequate information demonstrating how the company administers its mental health and substance use disorder benefits, as compared to medical and surgical benefits, despite at least four requests between 2019 and 2021.

Stephanie Marquis, the public affairs director for the OIC, said the office discovered the violations during a review of all insurance plans in Washington.

Under a concept known as parity, federal and state laws require insurers to provide coverage for mental health and substance use disorder treatment and services no more restrictively than coverage for physical health concerns. If a patient who went into a diabetic coma would not be refused emergency hospital care and told to diet first, that means a patient in a mental health crisis should not be sent away and told to try talk therapy first.

However, a Seattle Times review of mental health parity in Washington found those regulations difficult to enforce for a few reasons: The process to appeal an insurer's denial can be lengthy and confusing and often requires expensive legal action. The system for governing insurance companies is also bifurcated, creating a patchwork set of rules that can vary by plan. Mental health has also been historically disregarded, leaving awareness of treatment needs decades behind.

One way the system fails to ensure consistent mental health coverage is through enforcement.

The OIC can only force compliance for about 1 in 5 health care plans in Washington, including fully insured small and large group plans and individual plans bought on the health care exchange. It does not have jurisdiction over other types of plans. For example, the federal government — not the OIC — is responsible for administering Medicare and overseeing self-funded plans.

This is the first time the insurance commissioner has taken action against an insurer specifically for violating mental health parity requirements, Marquis said.

The OIC has previously taken enforcement action against insurance companies, including UnitedHealthcare, though fines are often smaller and range from hundreds of dollars up to tens of thousands.

Experts, including state lawmakers, believe government agencies need to more proactively investigate inequities in coverage and be less dependent on members to come forward with complaints.

According to Wednesday's announcement, it appeared more UnitedHealthcare customers were being denied admittance to inpatient facilities for mental health and substance use disorder cases than for medical services. There were also apparent disparities in reimbursement rates for mental health and substance use disorder providers compared to medical and surgical providers.

State insurance commissioner Mike Kreidler also specified "potential noncompliance" with mental health parity laws as reasoning for the fine.

"We expect companies to deliver critical benefits to consumers who need them, without barriers, and to demonstrate their compliance when asked," Kreidler said in a news release. "If they cannot do so, we will hold them accountable."

UnitedHealthcare and Optum Behavioral Care, which manages the behavioral health care branch of the company, were not immediately available for comment Wednesday evening.

Half of the $500,000 fine is suspended as long as UnitedHealthcare meets a compliance plan, requiring the insurer to work with the OIC on these issues and report to the office every six months for two years. The company must show the OIC how it would resolve discrepancies if any reports show more than a 10% disparity — for example, if copays or deductibles are higher for behavioral health services as compared to physical health.

The agreement would also require UnitedHealthcare to report how often it requires and approves prior authorization for inpatient care and office visit reimbursement rates.

The insurer would also need to also show it provides a large enough network for behavioral health services, comparable to those it provides for medical services.

Insurance companies are supposed to maintain a “sufficient” network of health care providers under Washington law, so members can get an in-network appointment in a timely manner. However, a Seattle Times analysis of four of the largest insurance carriers in Washington, including UnitedHealthcare, found insurers’ websites have chaotic and unreliable directories of mental health providers.

UnitedHealthcare’s list of providers was particularly difficult to assess: Nearly all of the search results that came up in the Times’ analysis were providers from a national telehealth platform, and it wasn’t clear to potential patients whether they offered in-person appointments.

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