

DEPARTMENT OF INSURANCE

April 25, 2005

CIRCULAR LETTER 01-05, Health Benefit Coverage for Serious Mental Illness-Drug and Alcohol Dependency

18 Del.C. §3343

In 2001, the Delaware General Assembly passed and the Governor signed 73 **Del. Laws** c. 199 amending 18 **Del.C.** §3343. In particular, 18 **Del.C.** §3343(b)-(f) reads as follows:

(b) Coverage of serious mental illnesses and drug and alcohol dependencies. -- Carriers shall provide coverage for serious mental illnesses in all health benefit plans delivered or issued for delivery in this State. Subject to subsections (a) and (c) through (h) of this section, no carrier may issue for delivery, or deliver, in this State any health benefit plan containing terms that place a greater financial burden on an insured for covered services provided in the diagnosis and treatment of a serious mental illness than for covered services provided in the diagnosis and treatment of any other illness or disease covered by the health benefit plan. By way of example, such terms include deductibles, co-pays, monetary limits, co-insurance factors, limits in the numbers of visits, limits in the length of inpatient stays, durational limits or limits in the coverage of prescription medicines.

(c) Eligibility for coverage. -- A health benefit plan may condition coverage of services provided in the diagnosis and treatment of a serious mental illness on the further requirements that the service(s):

- (1) Must be rendered by a mental health professional licensed or certified by the State Board of Licensing or in a mental health facility licensed by the State or substantially similar licensing entities in other states;
- (2) Must be medically necessary; and
- (3) Must be covered services subject to any administrative requirements of the health benefit plan.

A health benefit plan may further condition coverage of services provided in the diagnosis and treatment of a serious mental illness in the same manner and to the same extent as coverage for all other illnesses and diseases is conditioned. Such conditions may include, by way of example, and not by way of limitation, precertification and referral requirements.

(d) Benefit management. -- A carrier may, directly or by contract with another qualified entity, manage the benefit prescribed by subsection (b) of this section in order to limit coverage of services provided in the diagnosis and treatment of a serious mental illness to those services that are deemed medically necessary. The management of benefits for serious mental illnesses may be by methods used for the management of benefits provided for other medical conditions, or may be by management methods unique to mental health benefits. Such may include, by way of example and not limitation; pre-admission screening, prior authorization of services, utilization review and the development and monitoring of treatment plans.

This section shall not be interpreted to require a carrier to employ the same benefit management procedures for serious mental illnesses that are employed for the management of other illnesses or diseases covered by the health benefit plan or to require parity or equivalence in the rate, or dollar value of, claims denied.

(e) Exclusions. -- This section shall not apply to plans or policies not within the definition of health benefit plan, as set out in subsection (a)(2) of this section.

(f) Out of network services. -- Where a health benefit plan provides benefits for the diagnosis and treatment of serious mental illnesses within a network of providers and where a beneficiary of the health benefit plan obtains services consisting of diagnosis and treatment of a serious mental illness outside of the network of providers, this section shall not apply. The health benefit plan may contain terms and conditions applicable to out of network services without reference to this section.

Section 13 of 73 **Del. Laws** c. 199 also provided that, with respect to the mandate for serious mental illness and drug and alcohol dependencies, "This act shall become effective upon the specific appropriation of funds for such purposes in the Annual Appropriations Act."

The purpose of this circular letter is to advise the companies providing health benefit coverage in the State of Delaware that the Delaware General Assembly is actively considering the appropriation of funds for the purposes set forth in 18 **Del.C.** §3343 and that the mandate contained in the statute will become immediately effective upon the passage of the appropriation unless a later effective date is provided for in the appropriations act or other legislation.