

Michigan Centers Sue Blue Cross Over Payment Cuts, Rash of Denials

August 5, 2019 by Gary A. Enos, Contributing Editor

Four Michigan addiction treatment facilities have filed a federal lawsuit against Blue Cross Blue Shield of Michigan (BCBSM) over what they term an unjustified slashing of payments and a high number of claims denials for substance use treatment since 2016. A partner in a law firm representing the facilities tells Behavioral Healthcare Executive that the lead plaintiff in the case, Serenity Point Recovery, was forced to close its doors as a result of the low payments and coverage denials by the insurer.

The other plaintiffs in the suit, filed July 31 in the U.S. District Court for the Western District of Michigan, are A Forever Recovery, Behavioral Rehabilitation Services and Best Drug Rehabilitation. The lawsuit, which among other relief is seeking compensatory damages of more than \$40 million and forfeiture of insurer profits, states that Blue Cross's actions violated the federal parity law, the Employee Retirement Income Security Act (ERISA) and multiple state laws.

Attorney Matthew Lavin of the firm of Napoli Shkolnik PLLC says BCBSM in 2016 suddenly and without explanation cut the daily payment rate for residential substance abuse treatment, with the rate declining from just over \$1,300 that April to just over \$150 by July. “They also stopped processing thousands of claims submitted by our clients, again without explanation,” Lavin says.

He adds that the plaintiffs were not able to make progress in efforts to resolve the situation with the insurer. Lavin says that last February, BCBSM “informed our clients that they weren't even willing to talk about it anymore or provide any guidance on how to fix the situation, necessitating this suit.”

The closing of Serenity Point Recovery meant a loss to the state of 45 detox beds, 45 residential beds, as well as outpatient treatment slots, according to the lawsuit.

BCBSM's media relations staff could not be reached on Monday to comment on the suit, but a statement from the company that was reported last week by the Law

360 legal news site read in part, “BCBSM is confident it followed all appropriate reimbursement methodologies. Blue Cross believes that the best interests of patients are served when insurers, employers and providers of care work together to keep access to quality care affordable.”

Out-of-network coverage

Much of the lawsuit centers on how BCBSM in recent years has handled claims for out-of-network benefits, as the plaintiff facilities are out-of-network providers for BCBSM plans. The suit states that the insurer required out-of-network treatment centers to submit claims by mail, a highly unusual practice in today's industry.

Also, the lawsuit states, BCBSM routinely denied claims that derived from preferred provider organization (PPO) health plans that explicitly provided out-of-network benefits. These denials often came well after services were rendered and after providers and members had been assured that care would be covered, leaving families with unexpected bills for service.

In many cases, the insurer altered billing requirements without notifying providers in advance of the changes, according to the plaintiffs.

The suit also alleges that at a time when Michigan's opioid problem was taking a heavy toll on the state's residents, the insurer was placing a higher priority on its profits, amounting to \$580 million in profit in 2018 and \$19.2 million in compensation to its CEO.

Lavin says the issues in this case differ from those of a federal suit in California in which United Behavioral Health was found earlier this year to be using flawed guidelines to deny coverage for substance use and mental health services. While the *Wit v. United* case was about the internal guidelines the managed care company was using to deny claims based on medical necessity, “This case is about the rate of payment for claims, not the guidelines used to approve them,” Lavin says. “In fact, all of the claims we are suing over were specifically authorized as medically necessary by BCBSM.”

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