



Office of Commissioner of
Insurance and Safety Fire

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August 9, 2023

Governor Brian P. Kemp
State of Georgia
206 Washington Street
111 State Capitol
Atlanta, Georgia 30334

The Honorable Burt Jones
Lieutenant Governor
State of Georgia
240 State Capitol
Atlanta, Georgia 30334

The Honorable Jon Burns
Speaker of the House
State of Georgia
332 State Capitol
Atlanta, Georgia 30334

Dear Governor Kemp, Lieutenant Governor Jones, and Speaker of the House Burns:

Pursuant to O.C.G.A. § 33-1-27(c), the Office of Commissioner of Insurance and Safety Fire (“OCI”) completed a data call to assess compliance with the Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”) for Data Year 2022. The attached Report includes information about the data call conducted and the market conduct examinations that have been initiated as a result of the data call.

The Georgia Mental Health Parity Act (the “Act”) requires the OCI to submit a report by August 15 of every year. This is the first Report to be submitted under the Act.

Through the authority provided in the Act, the OCI will continue to monitor insurers to ensure compliance with MHPAEA and will address concerns identified during market conduct examinations through corrective action and enforcement tools available under Georgia law. As always, the OCI stands ready to answer any questions you may have regarding the data collection process and this Report.

Sincerely,

John F. King
Commissioner of Insurance
State of Georgia



Office of Commissioner of Insurance and Safety Fire

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Mental Health Parity and Addiction Equity Act

Annual Report for the Period January 1 – December 31, 2022

Submitted August 9, 2023

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Glossary of Acronyms and Terms

Below are definitions of the various abbreviations and acronyms used throughout this Report.

CAR – Comparative Analysis Report

Data Call Responses – Insurer submissions including the Data Call Template and all supporting materials necessary to show compliance with MHPAEA comparative analysis provisions.

Data Call Review Team – Regulatory Insurance Advisors, LLC and OCI staff

Data Call Template – Excel workbook developed by the Data Call Review Team to support collection of MHPAEA compliance data and materials.

MH/SUD – Mental Health / Substance Use Disorder

MHPAEA – Mental Health Parity and Addiction Equity Act of 2008

Med/Surg – Medical/Surgical

NQTL – Non-Quantitative Treatment Limitation

O.C.G.A. – Official Code of Georgia Annotated

OCI – Office of the Commissioner of Insurance

RIA – Regulatory Insurance Advisors, LLC

Act – Georgia Mental Health Parity Act

U.S.C. – United States Code

Executive Summary

The Official Code of Georgia (“O.C.G.A.”) § 33-1-27(c) requires the Commissioner of Insurance to conduct an annual data call and submit an annual report analyzing health insurer compliance with mental health parity requirements, including those outlined in the Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”), Title 42 of the United States Code (“U.S.C.”) Section 300gg-26.

The Office of the Commissioner of Insurance (“OCI”) contracted with Regulatory Insurance Advisors, LLC (“RIA”) to facilitate the collection and analysis of mental health parity data submitted by health insurers offering coverage for mental health or substance use disorders as part of a health care plan. OCI and RIA collaborated in creating a Data Call Template to collect comparative analyses demonstrating that limitations placed on mental health or substance use disorder (“MH/SUD”) benefits are no more stringent than those imposed upon medical and surgical (“Med/Surg”) benefits in the same classifications. The data call requested information and supporting documentation relating to Medical Management, specifically Prior Authorization, Concurrent Review, and Retroactive/Retrospective Review; Networks, including Network Adequacy and Access, Reimbursement Rates and Rate Negotiation, and Credentialing; and Medical Necessity. The Data Call Template will be updated each year based on past reporting and analyses.

The Data Call Review Team notes the following findings:

The majority of insurers contacted offered non-major medical coverage and are therefore exempt from MHPAEA reporting under Georgia law. Of 498 insurers contacted, 444 provided attestations that their companies do not sell major medical products that are subject to MHPAEA. Twenty-eight (28) insurers submitted Data Call Responses pursuant to O.C.G.A. § 33-1-27(c) and BULLETIN 23-EX-3. Fourteen (14)¹ of those 28 also submitted Comparative Analysis Reports (“CAR”) pursuant to O.C.G.A. § 33-1-27(b)(4) and BULLETINS 22-EX-7 and 22-EX-8.² Two of the insurers originally contacted were exempt from reporting based on annual premium data reported after initial outreach. Twenty-four (24) insurers had not responded to communications sent by OCI.

None of the insurers provided sufficient data in their Data Call Responses to ensure compliance with NQTL comparability in operation, therefore, the Data Call Review Team recommended targeted market conduct examinations to review claims and appeals files for all insurers. In addition, a number of insurers provided insufficient documentation to support their comparability analyses across NQTLs. The Data Call Review Team recommended that targeted market conduct examinations include submission and review of company policies, claims, procedures, internal audits and reports that were referenced but not provided.

¹ Out of the 14, one was not required to respond and received an exemption.

² Bulletins referenced in this report are available at <https://oci.georgia.gov>.

I. Introduction

O.C.G.A. § 33-1-27(c)(1)(A) requires the Commissioner to “[c]onduct an annual data call no later than May 15” of every year to ensure compliance with MHPAEA. If the information collected from the data call suggests a potential mental health parity violation by an insurer, the OCI is to initiate a market conduct examination to determine whether mental health parity requirements are being met by such insurer.

O.C.G.A. § 33-1-27(c)(1)(B) requires that the Commissioner “[s]ubmit a report to the Governor, Lieutenant Governor, and Speaker of the House” by August 15, 2023, and every August 15 thereafter, outlining the data call and details regarding any market conduct examinations initiated by the OCI pursuant to the data call.

The information and documents obtained and specific company analysis resulting from this data call are treated with confidentiality.

This report provides a summary of the MHPAEA Data Call for the calendar year 2022.

II. Process and Methodology

The OCI engaged RIA to collect, compile, and analyze data that was submitted by insurers under BULLETIN 23-EX-3 and pursuant to O.C.G.A. § 33-1-27(c)(1)(A). The OCI and RIA (“the Data Call Review Team”) developed a Data Call Template and reference materials to provide guidance on data requests expectations. The Data Call Review Team also developed an attestation form for insurers not subject to MHPAEA reporting.

A. Request Universe

In order to ensure an accurate accounting of insurers in the Georgia market offering products that include mental health benefits, the OCI contacted all insurers with health-related premium reported in 2021 annual filings.³ This data set included all Accident and Health lines of business, even those not subject to MHPAEA, i.e., excepted benefits, workers compensation, and Medicare/Medicaid.⁴ Formal and informal communications were sent to 498 insurers outlining the requirements, timelines, and expectations set forth in BULLETIN 23-EX-3. All insurers were asked to submit a complete Data Call Response or an attestation indicating reasons the company is exempt from the reporting requirements outlined in BULLETIN 23-EX-3 and pursuant to O.C.G.A. § 33-1-27(c)(1)(A).

As noted in the Executive Summary section of this report, of the 498 insurers contacted, 444 responded with attestations requesting an exemption from the reporting requirement, 28 submitted data calls, and 24 did not reply as of submission of this report. Following the initial outreach to the insurers, updated premium data for 2022 was received and the Data Call Review Team determined

³ 2022 annual filings were submitted after the initial outreach effort.

⁴ 42 U.S.C. § 300gg-91(c).

that two insurers should be excluded from the Data Call communications. The two insurers were notified that they were not required to submit further information.

Insurer Outreach & Response	
Attestations submitted	444
Data Call Submissions uploaded	28*
No submission required	2
No response	24
TOTAL	498

* Four insurers initially submitted Data Call Templates but were determined to be exempt from the reporting requirements.

Eighteen company groups⁵ comprise 28 companies that submitted Data Call Responses. Insurers were permitted to report analyses at the group level if the analyses were the same. Due to the nature of the analyses; however, information relating to in-operation analyses was required to be provided at the insurer/company level.

B. Attestations

Insurers not subject to MHPAEA were given the option to submit an attestation providing information about the benefits offered and the resulting exemption. Of the 498 insurers contacted, 444 submitted attestations indicating that they were not subject to this data call. The reasons for requesting exemption through an attestation are listed below – many insurers reported more than one coverage type in their attestation forms. The Data Call Review Team confirmed (1) the statements made in the submitted attestations and (2) the insurers were exempted from the data call reporting requirement.

During this process, two of the 28 insurers indicated they had products that would require full Data Call Responses, i.e., the products were not exempt from MHPAEA reporting. The Data Call Review Team created secure ShareFile folders for the insurers’ submissions and incorporated the insurers’ subsequent submissions into the Data Call review process. The results are included in the Data Call Submissions below.

Of the 444 submitted attestations, 103 insurers reported that they did not offer coverage during the experience period. The remaining 341 attestations identified coverage across multiple lines of business in the Life and Health type. In many cases, insurers reported more than one type of coverage being offered.

⁵ Groups include companies that are part of a larger group of insurance companies and therefore affiliated and identified with a group code, “a unique three to five digit number assigned by the NAIC to identify those companies that are part of a larger group of insurance companies” (content.naic.org/consumer_glossary, 7/27/2023).

Number of Insurers reporting coverage type not subject to Data Call requirement:	
Accident Only/Accidental Death & Dismemberment (four insurers reported only closed blocks ⁶ or move-in business in GA)	152
Cancer Policy	6
Credit Only Insurance	17
Critical Illness (one insurer reported closed blocks)	18
Dental (two insurers reported closed blocks or move-in business in GA)	44
Disability Income Insurance (six companies reported closed blocks)	97
Fixed Indemnity (one insurer reported closed blocks)	4
Hearing	2
Hospital Indemnity (three insurers reported closed blocks)	56
Life Insurance	8
Limited Benefit Medical Expense	8
Long Term Care Benefits (five insurers reported closed blocks)	42
Medicaid Coverage	2
Medicare or Medicare Supplemental Coverage (two insurers reported closed blocks)	102
Short Term Medical	7
Specified Disease (four insurers reported closed blocks)	62
Stop Loss (one insurer reported closed blocks)	11
Travel Insurance (includes medical benefits)	11
Vision benefits (two insurers reported closed blocks)	33
Workers Compensation	3
Other reason reported (includes liability insurance, TriCare, retiree, supplemental, gap policies, etc. (One insurer reported closed blocks))	18
Other reason selected - benefits not specified (ten insurers reported closed blocks)	31

The OCI continues to reach out to the remaining 24 insurers who have not yet responded to outreach to determine whether they are, in fact, exempt from Georgia's MHPAEA reporting requirements.

C. Data Call Submissions

Health insurers (as defined in O.C.G.A. § 33-1-27(a)) were required to submit a Data Call Response, which includes the Data Call Template and all supporting materials necessary to show compliance with MHPAEA comparative analysis provisions. Insurers required to submit a Data Call Response were given access to an insurer-specific, Citrix ShareFile folder from which to download the Data Call Template and resource materials. Once the materials were gathered and the Data Call Template populated, insurers were directed to upload all materials to a Company Response folder contained in the insurer-specific, Citrix ShareFile folder.

The Data Call Review Team evaluated Data Call submissions and assessed the following:

⁶ For purposes of this report, "closed block" generally refers to coverage that the insurer no longer sells to new applicants.

- Complete and accurate list of covered services, including sufficient supporting documentation (e.g., Certificates of Coverage, Schedules of Benefits).
- Complete and accurate classification of covered services, including:
 - Accurate definitions of services as MH/SUD or Med/Surg,
 - Appropriate classification of services as in-network inpatient, out-of-network inpatient, in-network outpatient (office and other if subclassifying), out-of-network outpatient (office and other if subclassifying), emergency, and pharmacy.
- Complete and accurate comparisons of Medical Management protocols, including sufficient supporting documentation,
 - For prior authorization, concurrent review, and retroactive/retrospective review, narratives for comparability both as written and in operation.
- Complete and accurate comparisons of each Network-related Non-Quantitative Treatment Limitation (“NQLT”), including sufficient supporting documentation, with narratives identifying comparability as written and in operation.
- Complete and accurate comparisons of application of medical necessity to covered services, including supporting documentation with narratives identifying comparability as written and in operation.

As discussed below, the Data Call Review Team assessed the comparative analyses as written and in operation for the 28 Data Call Responses that were submitted. While many of the analyses included documentation to support compliance as written, details for the in-operation portion of the analyses were lacking.

III. Results

As noted above, of the 498 insurers contacted, 444 submitted attestations requesting an exemption from the MHPAEA Data Call reporting. The Data Call Review Team reviewed and approved all the exemption requests received.

Twenty-eight (28) of 498 insurers submitted Data Call Responses. The Data Call Review Team analyzed the Data Call Responses for all 28 insurers. The Data Call Review Team determined that four of the insurers submitting Data Call Responses did not offer products subject to MHPAEA reporting and recommended attestations be submitted. Market conduct examination certifications were issued for the remaining 24 insurers (see further discussion below). Of the 28 insurers that submitted Data Call Responses, 14¹ had also submitted Comparative Analysis Reports (“CAR”) in response to BULLETIN 22-EX-7. The OCI is continuing to follow up with the insurers who are responsible for submitting CARs for 2022.

Number of insurers providing data call responses by topic:			
Complete and accurate lists of covered services, including supporting documentation (e.g., Certificates of Coverage, Schedules of Benefits)	14		
Complete and accurate classification of covered services	7		
	Prior Auth	Concurrent	Retro Review

Written narrative provided for Medical Management NQTLs	17	18	16
Adequate documentation provided	9	16	13
Sufficient comparison as written	7	7	8
Sufficient comparison in operation	1	1	2
Factors listed	21	20	20
Evidentiary standards provided in support of factors	1	6	6
	Access	Reimburse	Credential
Written narrative provided for network-related NQTLs	16	19	21
Adequate documentation provided	16	14	16
Sufficient comparison as written	10	17	18
Sufficient comparison in operation	8	11	15
Factors listed	19	20	21
Evidentiary standards provided in support of factors	10	12	14
Written narrative provided for application of medical necessity	18		
Adequate documentation provided	18		
Sufficient comparison as written	18		
Sufficient comparison in operation	4		
Factors listed	22		
Evidentiary standards provided in support of factors	13		

IV. Recommendations

A. Market conduct examinations

As noted above, market conduct examinations were called for 24 of the 28 insurers that submitted Data Call Responses. None of the insurers provided sufficient data to ensure compliance with NQTL comparability in operation; therefore, the Data Call Review Team recommended targeted market conduct examinations to review claims and appeals files. In addition, a number of insurers provided insufficient documentation to support their comparability analyses across NQTLs. The Data Call Review Team recommended that targeted market conduct examinations include submission and review of company policies, claims, procedures, internal audits and reports that were referenced but not provided.

The Data Call Review Team assessed comparative analyses for sufficiency based on the narrative included, as well as the documentation uploaded in support of the comparative analyses. A comparative analysis was considered insufficient if the analysis and supporting materials lacked specificity in describing the process (e.g., “the medical management program is reviewed annually to identify areas for improvement” or “policies are updated annually using a rigorous evidence-based process”). Further, an analysis was considered insufficient if the insurer referenced documents in support of the comparative analysis but did not provide the referenced documents (e.g., “the Committee reviews internal claims data, proprietary guidelines, and annual audit reports” – if the relevant elements of the claims data, specific guidelines used in decision-making, and relevant sections of the audit reports were not cited and uploaded, the analysis lacks the specificity necessary to be considered sufficient).

None of the insurers submitted claims-level samples to support application of NQTLs in a compliant manner. While many insurers provided overviews of how the NQTL policies were developed (i.e., supporting comparisons as written), none of the insurers offered information on oversight of the NQTL as it was applied (either by vendors or internal staff) to support their comparisons in operation. The Data Call Review Team recommended review of claims and appeals files to confirm that the processes that were outlined are, indeed, being implemented according to the outlined processes.

B. Improvement Opportunities for Insurers

The Data Call Review Team recommends that insurers reference submitted CARs in order to promote efficiency and consistency in future Data Calls. In addition, internal references within the Data Call Templates may also be used if the analyses for different NQTLs are the same. For example, if the factors used for a particular covered service is the same for all other covered services within the NQTL tab, the company may reference other cells within the tab. Further, if the analyses are the same for multiple NQTLs, the company may reference other tabs within the workbook. The Data Call Review Team also recommends that insurers provide clearly defined medical management ratios in support of in-operation analyses.

Insurers who are required to submit Data Call Responses pursuant to O.C.G.A. § 33-1-27(c) must also complete annual CAR submissions pursuant to O.C.G.A. § 33-1-27(b)(4). If an insurer is using the same analysis for multiple companies (e.g., a parent company submitting the same analysis for all companies within the parent group), the CAR must indicate the company names and NAIC codes for which the CAR is being provided.

C. Future Data Calls

While the 2023 Data Call was the inaugural information collection under Georgia's mental health parity protection law, and it was critical for the OCI to complete a full market scan to have a complete picture of the market, future data calls will not require Company validation via attestation unless there is a significant change to the lines of business offered by insurers that submitted validated attestations or unless there are new companies.

Future guidance will continue to clarify CAR and Data Call reporting requirements. Future guidance will also note that CARs, which are required to be submitted annually under O.C.G.A. § 33-1-27(b)(4) and posted publicly, should include complete information regarding NQTLs. Future Data Calls, issued pursuant to O.C.G.A. § 33-1-27(c), will be updated based on State and Federal guidance as well as other indicators of concern.