

Plan might violate mental health parity law

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Wisconsin officials have long backed the idea that insurance should cover mental illness as fully as it covers other diseases.

In Washington, D.C., last spring, state Commissioner of Insurance Sean Dilweg testified in favor of a historic federal law ending insurance discrimination against the mentally ill. Gov. Jim Doyle and Lt. Gov. Barbara Lawton are both champions of mental health parity, and Secretary of the Department of Health Services Karen Timberlake recently launched a campaign in which she claimed that “addressing mental health and physical health, substance abuse and addictive disorders within a public health approach in Wisconsin is transformative.”

But when it comes to describing one of the state’s own programs, transformative is not a word some reformers would choose. The reason goes straight to the heart of the national debate over health care reform: the difficulty, some say even the impossibility, of reconciling the conflicting imperatives of expanding coverage to the uninsured while curbing medical costs.

The state’s newest public insurance initiative, the BadgerCare Plus Core plan for childless adults, is under fire for what critics see as its failure to provide adequate mental health and substance abuse benefits to some of the state’s residents who need them most. In a series of meetings, letters and phone calls, advocates for the mentally ill have proclaimed that the program violates the very same parity laws and goals state officials have been pushing for years.

The Core plan, which opened this year to 50,000 low-income adults, pays for unlimited visits to psychiatrists and for medicine. However, it does not cover treatment from counselors, psychologists, therapists, social workers, addiction experts or other providers of mental health and addiction services, even though many experts consider these services essential to recovery. Nor does it reimburse inpatient hospitalization for mental health and addiction problems, though such hospitalization is covered for other disorders.

Advocates for the mentally ill say these disparities and limitations violate both the federal law state officials support and common sense. Research shows that paying for mental health and addiction treatment can actually reduce future medical costs. Advocates also say the state needs to practice what it preaches. “This is pure hypocrisy,” says Diane Greenley, an attorney with Disability Rights Wisconsin in Madison and a staff member of the Wisconsin Council on Mental Health.

But officials with the state say the costs of expanding coverage are prohibitive and that they are waiting to hear from the Centers for Medicare & Medicaid Services, which is expected to issue guidelines in January on this issue. “The devil is in the details,” says Barbara Beckert, director of the Milwaukee office of Disability Rights Wisconsin, who predicts that advocates and state officials might even be able to work out a compromise before then.

The landmark Wellstone-Domenici Mental Health Parity Act that Congress passed last year requires all group health plans at companies with 51 or more employees that provide mental health and addiction coverage to make sure that coverage is equal to benefits provided for other medical conditions. The law also applies to public assistance programs in which care is provided through HMOs. The law is designed to do away with the discrimination against the mentally ill that has historically characterized health insurance policies. No longer can policies impose limits on the numbers of visits or require different caps or co-pays for mental health and addiction services. A pending state proposal would expand that guarantee to companies with 50 or fewer employees; if passed, it would make Wisconsin one of 44 states with such parity laws.

Across the state businesses are already scrambling to comply with the new mandate, which kicks in Jan. 1. So is at least one branch of state government, the Department of Employee Trust Funds, which administers group health plans for 236,000 state worker and retirees. The ETF recently notified members in a handbook that coverage for mental health and substance abuse treatment would expand due to the federal parity law. Policies can no longer cap mental health payments and must include coverage for substance abuse as well.

But the state’s BadgerCare Plus Core plan has not made similar changes to its coverage. Officials with the program claim they do not need to.

The department e-mailed a statement to The Capital Times saying that the Core Plan does not violate the federal parity law because it provides unlimited visits to a psychiatrist. “The parity law does not require plans that provide [mental health and substance abuse disorder] benefits to provide access to all services for those conditions,” wrote spokeswoman Stephanie Smiley, who asserted that the program is under no obligation to provide other mental health or substance abuse services or disorders.

But advocates strongly disagree for several reasons. First, they say, limiting treatment to psychiatrists — who, unlike psychologists and other counselors, have a medical degree and can write prescriptions — is an illegal treatment limitation not imposed on other medical conditions in the plan. Second, many psychiatrists, loathe to accept Medicaid rates, refuse to take on these patients. The few

that do are often so booked that it takes weeks and even months to see them, particularly in rural and inner city areas. Third, some psychiatrists require patients to be screened first, or seen later by other mental health professionals not covered by the plan. Finally, effective, efficient, and often less expensive therapy is available from psychologists, social workers, therapists, and others not covered by the plan.

“The law says that if you offer mental health benefits there can be no artificial constraints,” says David Riemer, policy director for Community Advocates Public Policy Institute, a Milwaukee organization that provides services and advocacy to low-income people. “On the health side, if you go to a doctor you can get a referral to a rehab specialist. So on the addiction side, if you go to a psychiatrist, you should be able to get a referral to an addictions rehab specialist.”

Repeated requests over a week to speak directly to the in-house attorney representing the Department of Health Services on this matter were rebuffed. Regardless of the legal arguments the state comes up with, say advocates, withholding mental health treatment is simply not the way to go.

“They can go through whatever contortions they want to say they comply, but our real point to them is they are setting a poor example,” says Shel Gross, policy director for the Wisconsin chapter of Mental Health America, an advocacy group.

The Wisconsin Council on Mental Health, a 15-member group appointed by the governor to advise the state health department and legislators on mental health issues, made that same point in an October 9 letter to Timberlake, whose health department launched the campaign to get business and community leaders to join the state in pushing for mental health parity this year. “Taking this position for the short-term benefit of one DHS program undermines your moral authority to promote parity in the private sector,” they scolded.

The private sector is already grumbling about a double standard. “It’s not fair,” says Bill Smith, a spokesman for the Wisconsin Chapter of the National Federation of Independent Businesses. The organization has been fighting the state mental health parity in the statehouse, claiming it will be unaffordable for small businesses. “We would like to limit our mandated benefits, too. We need to save money, too.”

The need to save money is at the crux of the problem, says Jason Helgerson, program director for the state Medicaid programs. The state deserves credit, not criticism, for getting the core program up and running in this economy, he says. The state would like to be able to provide more mental health and substance abuse benefits to members. But it can’t afford to do so, unless it shrinks some other aspect of the program.

The Core program is a Medicaid waiver program that must remain budget neutral, which means that it can’t exceed a \$215 million two-year spending cap imposed by Uncle Sam (the state’s other BadgerCare programs are not run as Medicaid waiver programs with strict caps). Within months of its official debut last summer, the program was so flooded by desperate applicants that it needed to freeze enrollment at 50,000 and start a waiting list, which now numbers more than 20,000.

Many of these people have an acute need for mental health and addiction treatment, based on data collected by the state over the first three months of the program this year.

Between January and March of this year, about 13,000 Milwaukee residents were rolled over into the state program from a floundering county-run public assistance program. This was the first batch of enrollees, since the plan did not open to other members until the summer. Around 29 percent of this first group of members suffered from at least one mental illness, including substance abuse. Around 9 percent reported that they had been hospitalized or required other medical care in the past two years for an emotional or mental health problem. And 5 percent reported they had problems with drugs or alcohol.

A state review of the costs incurred by this first group of enrollees gives a sense of the odds state officials and advocates are up against as they try to figure out how to pay for expanded mental health coverage.

Even the limited coverage the program currently offers resulted in payments for mental health and substance abuse treatments and drugs that trumped all other expenses.

The biggest chunk of drug costs, for example, was consumed by anti-psychotic medications. Drugs for such conditions as manic depression, schizophrenia, and bi-polar disorder cost nearly \$500,000, or a third of all drug expenditures. And substance abuse, according to state data, racked up the highest costs among claims for in-patient care. More than \$155,000 was paid to 35 members going through detox treatment, which is considered medical, not mental health treatment.

State officials found that the one percent of members accounted for approximately 25 percent of the program’s total expenditures in the first three months of its operation, while ten percent of members accounted for around 68 percent of total expenditures. These are at-risk individuals, officials say, with a complex tangle of chronic mental and physical disorders.

Health department officials say they simply cannot afford to pay for even more generous mental health benefits. A state analysis of what it would cost to expand mental health benefits in the Core plan, presented to an advisory group last August, came up with a price tag between \$10 and \$30 million.

Advocates say they sympathize with the state's plight. "Everybody is beating up on them," says Beckert, the Milwaukee program director for Disability Rights Wisconsin. "They are in an impossible situation. They have to do more with less. But what makes me nuts is that we're spending all this money, but if we put more in up front on preventive services and recovery, we'd save on both fiscal and human costs."

There is a way out, advocates say.

Treatment.

Research shows that integrating mental and primary care treatment in programs like the BadgerCare Core Plus plan may cost more up front, but save money in the long run. Advocates say the costs will eventually be offset by declines in inpatient and emergency room expenditures, which is where many of the poor with untreated mental illnesses and addictions end up now, according to a 2009 report issued by the Department of Health Services, "Linking Mental and Physical Health."

Others end up on the streets or in jails, where the costs of caring for them are also climbing.

"We need a different accounting system that puts all costs and all savings — present and future — into balance," Riemer argues. "This should include savings not only in health but in criminal justice, and increased revenues due to people returning to work and paying taxes."

Around 7 percent of state residents suffer from moderate to severe depression, according to the 2009 report. But many members of public assistance plans like the Core program suffer from depression paired with chronic medical illnesses as well. In Wisconsin, adults with serious mental health problems suffer from higher rates of asthma, diabetes and cardiovascular disease than the general population, according to the 2009 report. They were twice as likely to smoke, three times as likely to be obese or physically inactive, and four times as likely to have cardiovascular disease.

In medical jargon, these combinations of medical and mental illnesses are called co-morbid conditions, and they can feed on each other. Patients with mental illnesses, for example, find it difficult to comply with treatment regimes, including diet, exercise and medication routines. And they end up in an ever-worsening spiral of poor health.

"I get so I can barely move, and then I just end up in this big funk of depression," says a 59-year-old Madison woman who is currently on the wait list for the Core program. The business owner, who requested anonymity, has asthma, high blood pressure, diabetes and depression, which is not helped by the tens of thousands of dollars in hospital bills she is still trying to pay back from an inpatient stay for a heart condition several years ago. Yet she can't afford to go to a doctor or pay for her inhalers, she says, so twice in the past several years she has ended up in the emergency room after her heart condition and asthma flared up. She also can't afford anti-depressants, which one doctor recommended. Her best hope, she says, is that she finally gets into the Core program.

The future for those stuck in this cycle of poverty and mental illness is grim. One research study found that public mental health clients have a mortality rate that is up to five times higher than the general population, and an average life expectancy that is 25 years shorter.

Yet advocates point to studies that suggest this bleak calculus can be reversed once those with mental health and addiction disorders get even simple treatment. One out of 14 hospital stays was related to substance abuse in 2004, a federal study found. But another study found that total medical costs were reduced 26 percent among one group of patients that received addiction treatment, and a group of at-risk alcohol users who received brief counseling recorded 20 percent fewer emergency department visits and 37 percent fewer days of hospitalization.

It is this kind of research, including data from the state's own 2007 Behavioral Risk Survey, that led the Wisconsin Department of Health Services to state in its 2009 report that mental health must become a "primary" health issue. "Efforts to integrate mental health care with primary health care must increase in order to address the effects of mental health on overall health status," the report says. "The Wisconsin Department of Health Services is leading efforts to integrate mental and physical health care, and encourages providers to make formal commitments to health care integration within their organizations."

Now all the state needs to do, advocates say, is to figure out how it can follow its own advice.

"Creating the Core plan was a creative and courageous act," Riemer says. "It's already saving lives, improving health, and sparing the poor from even greater financial pressure than they already face. But we are a nation of laws, and the federal Wellstone-Domenici law needs to be followed. And we need parity for the Core plan, as for all health insurance plans, because it promotes good health care."