

# Washington Association for Mental Health Treatment Protection

## *Appeal Process for Denial of Mental Health Treatment For Clinicians*

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Mental health treatment in Washington is still being unfairly limited by insurers, in spite of our excellent state mental health parity laws. The Washington Association for Mental Health Treatment Protection (WAMHTP) was created in August 2011 to address this problem. One difficulty in preventing violations of parity laws is that mental health patients and clinicians do not appeal insurance denials of treatment. WAMHTP is compiling a list of cases in which mental health treatment was denied in apparent violation of mental health parity laws. The Partnership offers this document as a summary of the problem of denied mental health treatment and a template for the best way to gather the information needed to file an appeal.

### *Overview*

In a recent survey (November 2011) of mental health clinicians in Washington (N=112), WAMHTP discovered that 169 mental health claims made by these clinicians were denied by insurers in Washington over the past 10 years. Only 61 of these claims were appealed. Of the claims appealed, only 24 were resolved in favor of the patient, or 14% of all denied claims, 36% of all appealed claims. The low rate of success may contribute to why so few claims are appeals. It may also be that there is a reluctance on the part of patients and/or clinicians to appeal denied mental health claims.

Another problem with appeals of denials of mental health claims is the difficulty in finding clinical understanding with insurance reviewers of claims. Some reviewers are not in the discipline of the clinician; some do not share the clinical perspective of the clinician. The lack of shared clinical understanding makes appealing claims difficult. Some insurance plans have codified their view of what mental health treatment should be covered by developing clinical “policies” about what kind of mental health conditions will be covered (often violations of parity laws), restrictions on how frequently a patient can be seen, and limitations on the overall length of treatment for mental disorders.

These barriers to mental health treatment can feel demeaning to the clinician, who has had advanced training in mental health treatment (all licensed clinicians have a minimum of three

years of post-graduate training and have passed national examinations). They also support the stigma attached to having mental health disorders, which still exists for many patients.

### *Clinical Considerations*

Many clinicians are reluctant to pursue an appeal of a denied claim because it feels like an intrusion into the treatment process. Chronic mental health conditions, including schizophrenia, bipolar disorder, PTSD, personality disorders, and dissociative disorders, require years of treatment. The continued absence of psychotic states and traumatic episodes are often the main evidence that treatment is succeeding. Requiring documentation that treatment goals are being met every 20 sessions interferes with the development of the treatment relationship and the focus on the intrapsychic changes that need to be made in patients who have chronic disorders.

The transference relationship may be jeopardized when the therapist moves from being a therapeutic partner to objectively assessing the treatment progress and providing proof that treatment goals are being met. There is no one right way to address the issue of appeals, but incorporating the process into the treatment should be considered as grist for the mill. Most mental health clinicians believe that no information about patients should be released without discussing the release with the patient, including release of information for the purpose of an appeal.

Clinicians who do not advocate for needed treatment may be allowing insurers to make treatment decisions that harm the patient's progress and support the patient's being helpless to attain the mental health treatment that the patient needs. Since insurers began making clinical mental health decisions 30 to 40 years ago, clinicians have generally passively accepted the limits placed on mental health treatment, while feeling trapped and victimized by these limits.

Mental health clinicians should consider the meaning of appealing a denial, including what the impact will be on the treatment if the denial cannot be reversed. First and foremost, does the patient support making the appeal? If the patient wants the therapist to make the appeal, how will this affect the client's autonomy? What information about the treatment is the patient willing to release to the insurer to support the appeal? How do the patient and clinician decide when the appeal should be made? What financial arrangements can be made if the appeal fails to allow the treatment to continue? Will the patient need to be referred to a clinician or agency who accept a lower fee if the appeal fails? The answers to these questions may vary

depending on the patient but should all be considered when a denial has occurred and an appeal is a possibility.

If the patient and clinician decide that an appeal of denied mental health treatment is in the patient's best interest, the following steps are the most effective way to pursue an appeal of denied care.

### *Appeals Process*

There are usually two to three internal appeals in an insurance plan before a plan is required to have an "independent" review by a clinician outside the insurance plan review system.

When a claim is denied, the following steps should be taken:

1. Determine whether the insurance plan is a privately insured plan or a self-insured plan.
2. If the patient has a health resources coordinator and/or an insurance broker working for their employer, see if they will support the appeal process.
3. Gather all information about the "standards of care" that a plan uses to determine whether treatment is covered by the plan.
4. The patient and/or clinician should ask the plan representative how the denial is consistent with restrictions on medical/surgical benefits.
5. The patient and/or the therapist should send the following request to the insurer either via email or regular mail, return receipt requested: "Please provide me with a copy of my complete appeals file, including all internal emails, communications, memoranda and other documents, so I can determine my next steps in the appeals process. Please provide those documents to me on an expedited basis, consistent with state and federal law. Please provide me with a complete copy of the Plan document, summary plan description, certificate of coverage or contract under which my health benefits are provided as well."
6. If the first appeal is denied and there is another level of internal appeal, complete the second level of appeal.
7. Submit all appeals materials to the WAMHTP Appeals Survey at <http://www.surveymonkey.com/s/GPS3WP3> every time an appeal is made.
8. Identify whether the patient is willing to be a plaintiff in a lawsuit opposing violations of mental health parity laws.

### *Future Steps*

WAMHTP encourages all mental health clinicians to appeal any denial of mental health treatment, using the criteria above. WAMHTP plans to pursue the possibility of legal or legislative action if insurers continue to deny mental health treatment in ways that violate state and federal mental health parity laws.