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LEGISLATIVE HEARING RELATIVE TO

HOUSE 989

AN ACT PROVIDING FOR CERTAIN STANDARDS IN
HEALTH CARE INSURANCE COVERAGE

Before the
Joint Committee on Financial Services

October 31, 2007

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TESTIMONY OF
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Thank you for the opportunity to testify in support of House 989, *An Act Providing for Certain Standards in Health Care Insurance Coverage*. My name is Rebecca Brink and I am a staff attorney at Health Law Advocates (HLA). HLA is a non-profit public interest law firm. HLA provides free legal assistance to low-income Massachusetts residents who cannot access needed health care. Since 1996, HLA has represented many clients seeking adequate mental health services, including many clients who struggle with eating disorders. Expanding insurance coverage of eating disorders is one of HLA's top priorities.

For many years, mental illnesses were subject to discriminatory treatment by health insurers. While most health plans did not set dollar or unit of service caps on treatment of physical conditions, mental disorders were routinely subject to such restrictions. The Legislature recognized the need to address this wrongful discrimination in chapter 80 of the Acts of 2000, the Mental Health Parity Law. Under this law, an insurance plan is providing parity if it "does not contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of [certain designated] mental disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions." This important act brought Massachusetts closer to ensuring fair insurance coverage for mental illness.

Unfortunately, the intervening years have revealed shortcomings in the 2000 law. A major limitation of the law is that adults are entitled to non-discriminatory insurance coverage only for a handful of mental illnesses deemed "biologically-based." Eating disorders is not on this

list. Several years ago, HLA began hearing from many physicians and advocates, including Representative Kay Khan, about the serious problems individuals with eating disorders have accessing health care. In 2004, HLA created the Eating Disorder Task Force to bring together physicians, mental health clinicians, advocates and elected officials to join forces to improve health care coverage for people with eating disorders and their families. In May, 2004, HLA and the Task Force petitioned the Commissioner of Mental Health to add eating disorders to the list of biologically based disorders; the Mental Health Parity Law of 2000 gives the Commissioner the discretion to do so. Unfortunately, the Commissioner declined to do so, despite strong clinical support that eating disorders are in fact biologically based. In addition to its biological basis, the dire impact eating disorders have on individuals and their families, combined with the challenge of getting coverage for appropriate treatment, demonstrate the need for parity. The need to provide adequate treatment to people with eating disorders is urgent. More than 8 million Americans have anorexia nervosa or bulimia nervosa. The mortality rate for anorexia nervosa is the highest of any psychiatric illness and is over 12 times higher than the death rate among young women (aged 15-24) in the general population.¹ While patients are unlikely to recover without treatment, multidisciplinary, long-term treatment has proven very effective. According to the National Eating Disorder Association, 12 states currently mandate health care coverage for the treatment of eating disorders.²

¹ National Institute of Mental Health, *The Numbers Count: Mental Disorders in America*, www.nimh.nih.gov/health/publications/the-numbers-count-mental-disorders-in-america.shtml

² California, Connecticut, Delaware, Maine, Maryland, Minnesota, New York, North Dakota, Rhode Island, Vermont, Washington, West Virginia. [Nhttp://www.nationaleatingdisorders.org](http://www.nationaleatingdisorders.org)

HLA has worked with many clients seeking treatment for eating disorders and it's always a challenge to ensure they receive the services which they desperately need. One of the reasons insurance coverage for eating disorders is so complex is that eating disorders are psychiatric disorders with physical manifestations that occur when an individual's eating becomes dysfunctional. Once an individual has become medically stable (for example, reach a specific body weight), insurance companies often discontinue coverage for related mental health services. Because the patient has gained a few pounds, the insurance company will not pay for any additional inpatient hospital days and the patient is released. But if the patient has not received adequate services to address the underlying mental health problem leading to her eating disorder, she can quickly relapse once released from a hospital or other intensive setting. A few case scenarios highlight the problem:

Tanya had struggled with an eating disorder for two years and was admitted to the hospital several times during one year due to complications of her illness. Outpatient treatment did not slow the progression of her illness and she continued to drastically restrict her food intake, purge after meals and exercise excessively. Her eating disorder had become life-threatening and she needed the intensive treatment offered by residential care. Tanya was on a waitlist for a program when a bed became available at an out-of-network treatment center. Tanya's doctor sought approval for her to go there as the in-network program had a wait of several months. The insurance company denied this request and her doctors appealed. The insurance company upheld its decision. Although the plan did not dispute Tanya's need for residential care, it offered her an "alternative" placement in an inpatient program. This placement was not medically appropriate for Tanya. HLA represented Tanya in a request for review to the state Office of Patient Protection (OPP). OPP agreed that the HMO's denial of residential care for Tanya was inconsistent with Massachusetts law and persuaded the insurer to approve the placement at the available facility. Tanya now has a chance to begin the long process of recovery from her devastating eating disorder.

Jill had anorexia and was admitted to a hospital where she received IV fluids and was released. A week later, she was readmitted with hypotension and bradycardia. She was sent to an inpatient program specializing in eating disorders, but after a week her insurance refused to pay for the program. The family appealed and the denial was upheld. Jill returned home and her eating immediately deteriorated. Jill attended an outpatient partial day program, but the other patients were much farther

along in their recovery and Jill was unable to comply with the eating program. Jill refused to attend the outpatient program and remained at home, further deteriorating. Jill's parents again sought preauthorization for admission to the specialized inpatient program and were denied. Jill's parents, desperate to get their daughter treatment, admitted her to program and paid out of pocket. HLA represented Jill in a request for review to OPP; OPP ordered the insurance to pay for the inpatient eating disorder program. Jill spent 10 weeks at an inpatient program and then transitioned home with a variety of outpatient services.

HLA has many more heartbreaking cases we could share; but as is clear from those brief case examples, treating individuals with eating disorders is a complicated process and brief stays in a hospital are generally insufficient to treat the illness. Insurance companies must provide individuals suffering from eating disorders with robust and flexible coverage to properly treat their illness.

In addition to adding eating disorders to the list of biologically based illnesses, this bill would also help all insurance consumers in a variety of ways, including mandating that insurance companies provide more detailed and easily understandable information to enrollees about the scope of the health care services provided. Insurance companies routinely conduct utilization reviews to determine the clinical appropriateness of health care services, procedures or settings that an enrollee's medical providers are requesting. This bill properly calls upon insurers to conduct these reviews in a more transparent, patient-friendly manner. The bill also requires that utilization reviews are conducted in a manner that permits an "individualized medical assessment based on specific medical data" and that insurers make "reasonable efforts to obtain all relevant clinical documentation from the attending health care professional." HLA applauds this effort to require the insurers to

gather needed information, rather than demanding that a patient in the midst of a health care crisis proactively provide the insurer with this information.

HLA also supports the provision of the bill which call for more specific and understandable notifications of denials of care. Such information will help to demystify the insurance approval process and allow patients and their medical providers to fully understand what information was relied upon by the insurer in determining that a requested service or procedure is not medically necessary. We also support the provision which requires insurer's internal appeal proceedings to provide for a review that does not afford deference to the initial adverse benefit determination and is conducted by an independent clinical peer reviewer. HLA often appeals cases to the Office of Patient Protection and we greatly value this external review process. In particular, we applaud the requirement that in mental health and substance abuse appeals the panel must include a physician who is board certified in the specialty that is at issue in the appeal. The issues in these cases are often quite complex and it's crucial that clinicians with highly relevant training and experience are the ones reviewing the appeals.

Another crucial provision of the bill relates to the requirement that insurers provide coverage of pediatric specialty care, including mental health care. HLA often struggles to find children appropriate mental health clinicians who are accepting new patients, despite insurer's claims that they have ample providers in their network. The bill would deem insurers to be out of compliance with the requirement of providing pediatric specialty care if an insured had to wait a "clinically inappropriate period of time" to receive medically

necessary services. Insurers with insufficient appropriate network providers would be required to provide for treatment by non-network providers.

In conclusion, Health Law Advocates strongly supports House 989. We urge you to report the bill favorably out of Committee and to work diligently for its passage. Thank you.