

Attorney General Eric T. Schneiderman

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A.G. Schneiderman Announces Settlement With Emblem Health For Wrongly Denying Mental Health And Substance Abuse Treatment For Thousands Of New York Members

Health Insurance Company To Overhaul Behavioral Health Claims Review Process, Cover Residential Treatment And Bring Co-Pays Into Line With Primary Care

Insurer To Submit Thousands Of Denied Claims For Independent Review; Could Result In More Than \$31 Million In Restitution To 15,000 Consumers; Will Pay \$1.2 Million Penalty

Schneiderman: We Will Continue To Vigorously Enforce New York Mental Health Parity Laws

NEW YORK – After an investigation uncovered widespread violations of mental health parity laws by the company, Attorney General Eric T. Schneiderman today announced a settlement with New York City-based EmblemHealth, Inc., requiring the health insurer to reform its behavioral health claims review process, cover residential treatment and charge the lower, primary care co-payment for outpatient visits to mental health and substance abuse treatment providers. The settlement also requires the health insurance plan -- which has 3.4 million members in its HIP and GHI divisions -- to submit previously denied mental health and substance abuse treatment claims for independent review. That review could result in more than \$31 million being returned to members wrongfully denied benefits.

An investigation by the Attorney General's Health Care Bureau found that since at least 2011, EmblemHealth, through its behavioral health subcontractor, Value Options, issued 64% more denials of coverage in behavioral health cases than in medical cases. The agreement with EmblemHealth is the third reached by the Attorney General's office so far this year enforcing the mental health parity laws and stems from a broader and ongoing investigation into health insurance companies' compliance with the laws. Further information about the earlier cases can be found [here](#) and [here](#).

"Our mental health parity laws were enacted to ensure that New Yorkers have adequate access to mental health and substance abuse treatment," **Attorney General Schneiderman** said. "Insurers must comply with the laws -- and they must treat people with mental health and substance abuse conditions as they do those with medical conditions. Under this settlement, improved services will be available to the millions of New Yorkers who are members of EmblemHealth plans. My office will make sure that everyone, including big insurance companies, play by the rules."

New York's mental health parity law, known as Timothy's Law, was enacted in New York in 2006, and requires that insurers provide mental health coverage at least equal to coverage provided for other health conditions. The federal Mental Health Parity and Addiction Equity Act, enacted in 2008, prohibits health plans from imposing greater financial requirements or treatment limitations on mental health or substance use disorder benefits than on medical or surgical benefits.

Mental and emotional well-being is essential to overall health. Every year, almost one in four New Yorkers has symptoms of a mental disorder, but less than half of those people receive treatment. And, despite the fact that in any given year, one in ten New Yorkers has a substance use disorder, only 11% of these individuals receive any treatment. Lack of access to treatment for vulnerable individuals, which can be caused by health plans' coverage denials, can disrupt

New York City Press Office: (212) 416-8060

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work, family, and school life, and lead to more serious illness.

Under the agreement, EmblemHealth has agreed to provide members with an independent review of claims or requests that were denied as not medically necessary from 2011 through present, and to reimburse members for residential treatment costs that the plan did not pay due to its exclusion of coverage for this service. In total, this could result in more than \$31 million in reimbursement to more than 15,000 members.

The company – which serves members from Albany to Suffolk counties -- will also submit to monitoring by an external entity, will file an annual parity compliance report, and will pay \$1.2 million to the OAG as a civil penalty.

The Attorney General's investigation into EmblemHealth revealed that the plan scrutinized behavioral health care claims more rigorously than it has medical and surgical claims. Since 2011, this has resulted in thousands of its members not receiving coverage for care requested by their doctors and therapists. The disparity is especially pronounced in more intensive levels of care. The plan denied 36% of its members' claims for inpatient psychiatric treatment and 41% of its members' claims for inpatient substance abuse treatment.

The Attorney General's investigation revealed that before 2014, EmblemHealth did not cover residential treatment for behavioral health conditions for its 1.4 million HIP members, even though it is a standard, evidence-based form of treatment. EmblemHealth excluded this type of treatment while covering similar treatment -- skilled nursing, for example -- for medical conditions. In one case, EmblemHealth denied coverage of residential treatment for a young woman with a severe case of anorexia nervosa, a potentially life-threatening condition. EmblemHealth only agreed to cover the treatment after the Attorney General's Health Care bureau intervened.

Under today's settlement, EmblemHealth has agreed to cover residential treatment for behavioral health conditions, including eating and substance abuse disorders, for all of its 3.4 million members.

Emblem improperly denied requests for coverage of substance abuse rehabilitation, for example, on the grounds that the member was not experiencing "life-threatening withdrawal." Such a withdrawal is not a requirement for such treatment. In fact, Emblem members who are suffering from life-threatening withdrawal require a more intensive level of care than rehabilitation, including medically managed inpatient detoxification. Emblem also denied requests for coverage of substance abuse rehabilitation treatment through application of "fail first" requirements. For example, Emblem improperly denied a request for coverage of substance abuse rehabilitation because the member had not recently failed an outpatient program.

EmblemHealth has agreed to overhaul its claims review process by:

- Removing visit limits for almost all behavioral health services.
- Classifying claims correctly so that reviews are done expeditiously and members are afforded full appeal rights.
- Removing the requirement that members "fail" outpatient substance abuse treatment before receiving inpatient rehabilitation treatment.
- Basing the number of treatment days or visits approved on members' needs rather than arbitrary limits.
- Integrating medical and behavioral health claims review staff, which will facilitate the coordination of members' care.
- Ensuring that letters denying behavioral health claims are accurate and specific, so that members and providers understand the reasons for the plan's denials, and can exercise their appeal rights.
- Continuing coverage of treatment pending the completion of appeals, so that treatment is not interrupted.

Members will be notified by Emblem of their eligibility for independent review of eligible claims.

EmblemHealth also charges some members the higher, specialist co-payment for psychotherapy, which can deter members from seeking treatment. Under the agreement, EmblemHealth will charge all members the lower, primary care co-payment for members' outpatient visits to behavioral health professionals.

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To assist members in accessing their behavioral health benefits, EmblemHealth will appoint full-time behavioral health advocates to help members cut through red tape, and will provide information regarding claims review and treatment options.

Consumers with questions or concerns about this settlement or other health care matters may call the Attorney General’s Health Care Bureau Helpline at 1-800-428-9071.

The investigation of this matter was conducted by Assistant Attorney General Michael D. Reisman, of the Attorney General’s Health Care Bureau, which is led by Bureau Chief Lisa Landau. The Health Care Bureau is a part of the Social Justice Division, led by Alvin Bragg.

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