



March 23, 2012

The Honorable Kevin M. McCarty
Insurance Commissioner
Florida Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399

Dear Commissioner McCarty,

We, the American Psychological Association Practice Organization and the Florida Psychological Association, are writing for our own organizations and on behalf of the American Academy of Child and Adolescent Psychiatry, Mental Health America, National Alliance on Mental Illness, NAMI Florida, Inc. (National Alliance on Mental Health), the TeenScreen National Center at Columbia University and Florida Partners in Crisis.

As you know, Blue Cross Blue Shield of Florida (BCBS FL) unilaterally terminated its mental health and addiction recovery providers in August and required them to apply to contract with its behavioral health carve out company, New Directions Behavioral Health, LLC (New Directions) at substantially lower reimbursement rates and with restrictions on serving or referring patients out-of-network. New Directions was to take over management of mental health and addiction recovery services, but BCBS FL remained responsible for paying claims ("the Transition").

Last August, the Florida Office of Insurance Regulation (FLOIR) was very helpful in requiring BCBS FL and New Directions to make certain changes to their proposed provider contracts and clarify that providers had more than 15 days to accept those contracts. We are again asking your assistance in requiring BCBS FL and New Directions to comply with Florida law.

It has been seven months since this Transition was announced and it is clear that it has not only been detrimental to mental health and addiction recovery patients in Florida, but that its implementation is in violation of Florida law. An recent survey of our members and their patients shows that the Transition has caused major disruptions in patient care; anxiety and confusion among patients; and damage to practices. We provide more information about this survey in the Appendix. We request that FLOIR take the following actions to address these problems:

1. Require BCBS FL to Make Prompt Payments in Compliance with Florida Law.

The simplest and most immediate problem on which we seek your assistance is enforcing Florida's prompt payment laws, Chapters 641.3155 and 627.613. Despite requirements that BCBS FL pay claims within 20, 40 or 45 days (depending on whether it is an HMO plan and whether claims are submitted electronically), many psychologists and psychiatrists report not being paid by BCBS FL for over three months. We also hear that patients are not being promptly reimbursed. For those practices with a large proportion of BCBS FL patients, this extreme delay has made some unable to make payroll for employees, while others have been forced to reduce staff. Some practitioners have taken out home equity loans to keep their practices afloat. The delay threatens to put some practices out of business altogether if BCBS FL is not required to follow the law soon. As these practices are driven to downsize or forced out of existence, this will further impair access to quality care for all Florida mental health and addiction recovery patients (not just those insured by BCBS FL).

2. Require BCBS FL to Correctly Process Claims.

In addition to slow pay, many practices report huge inaccuracies and other chaos in claims processing. These problems are illustrated by the experience of one large practice that submitted over 500 claims to BCBS FL only to be told that (contrary to established procedures) they would have to convert all of their claims to an Excel spreadsheet format. After spending considerable money to have their claims converted to this format, BCBS FL denied the claims on the basis that they were not submitted in the proper format. This practice also reported having 95% of its claims processed incorrectly.

3. Investigate the Adequacy of the Network.

In your August 17, 2011, letter to the Florida Psychological Association (FPA), you cite BCBS FL's assurances that it had "robust standards to ensure that reimbursement rates and the number of participating providers will be adequate." [BCBS FL's website](#) promised consumers enrolling for the 2012 plan year an "extensive network," offering "access to the best doctors, facilities and more." These representations have not proven true.

A late December survey by FPA indicates that 63% of responding members had not signed the less favorable New Directions contracts. Psychiatrists report similar levels of not electing to join the New Directions network. Patients and providers continue to report that there are not sufficient providers to meet the needs of patients and that appointment times, when available, are several weeks and sometimes months away.

4. Require BCBSFL to Provide Accurate Information to Patients about Provider Status, Cost of in- or out-of-Network Service.

Patients' problems due to network inadequacy are compounded by the fact that New Directions apparently does not have an accurate list of who is, and is not, in its network. Providers who did not sign with New Directions report that New Directions is instructing patients that they are in-network. Consequently, patients are either frustrated when they seek appointments or are billed out-of-network fees. Conversely, patients report that New Directions is telling them their preferred provider is not in-network, when in fact they are in-network. This misinformation increases patient stress by causing them to waste time and energy seeking appointments with providers who are not participating in the network, or by causing them to leave their long-term providers and interrupt care because New Directions erroneously advised that their provider is out-of-network.

Because of the bond of trust that develops between the mental health or addiction recovery patient and his/her professional, many patients have sought to continue with their professional even though they are no longer in-network. New Directions has erroneously told some patients that they cannot see an out-of-network provider at all. New Directions has told others with out-of-network coverage that they can continue their relationship with their out-of-network provider, but the high percentage of patient responsibility for out-of-network care makes this financially prohibitive. In some plans, BCBS FL only covers 60% of the allowable rate (\$60 or \$70 for individual psychotherapy) after a \$350 deductible (other plans have a higher deductible) has been met. While there is confusion regarding how the company applies deductibles, this appears to mean that a patient would have to pay for the first 5 or 6 sessions entirely out of pocket before BCBS FL started paying a portion of the cost. Most patients in Florida cannot afford this and therefore are either forced to reduce their visits with an out-of-network provider or to seek an in-network provider within an inadequate network. This is resulting in mental health and addiction recovery patients in Florida foregoing necessary treatment.

Survey Data Supporting our Requests.

This complaint is not based on anecdotal evidence or isolated stories. Instead, the Florida Psychological Association, the American Psychological Association Practice Organization, the Florida Psychiatric Society, and the American Psychiatric Association, along with several other mental health organizations including, NAMI, Faces and Voices of Recovery, and the American Academy of Child and Adolescent Psychiatry, informally surveyed providers and patients to determine how the Transition has impacted patient care. FPA's survey results show that:

- **Major disruptions in patient care** have been caused by the reduced network of providers, prohibitive costs of going out of network, and misinformation.
 - 93% of psychologists do **not** think that the transition from BCBS FL to New Directions was handled in a manner that minimized impact to patients.
 - 69% of psychologists report disruption in their patients' care.
 - 64% of psychologists report patients dropping out of treatment.
 - 61% of psychologists report that patients have stopped using their insurance coverage or have paid out-of-network fees as a result of the Transition.
- **Patients have received bad information.** 98% of psychologists do not think that patients were given clear and adequate information about the Transition.
- **Slow pay is damaging practices.** Psychological and psychiatric practices that provide crucial services to those patients are having their ability to provide services, and in some cases their ability to stay in business, endangered by BCBS FL's failure to pay them for over three months.

Examples of specific complaints by providers and their patients responding to this survey are found in the Appendix.

In addition to the urgent concerns noted above, we continue to believe that these barriers -- uniquely imposed on mental health and addiction recovery patients -- violate the Mental Health Parity and Addiction Equity Act of 2008, and we believe that your office does have jurisdiction to enforce this federal law. As you know, however, we have reached out to the federal enforcement agencies on those complex issues.

To prevent further harm to Florida's vulnerable mental health and addiction recovery patients, we request your prompt action to correct the issues of Florida insurance regulation that are the focus of this letter. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in dark ink that reads "Katherine C. Nordal". The script is fluid and cursive.

Katherine C. Nordal
Executive Director for Professional Practice
American Psychological Association

A handwritten signature in dark ink that reads "Connie Galietti". The script is fluid and cursive.

Connie Galietti, JD
Executive Director
Florida Psychological Association

cc:

US Department of Health & Human Services
US Department of Labor
US Treasury Department
The Honorable Bill Nelson
The Honorable Debbie Wasserman Schultz