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Eating Disorders a New Front in Insurance Fight

By ANDREW POLLACK

People with eating disorders like anorexia have opened up a new battleground in the insurance wars, testing the boundaries of laws mandating equivalent coverage for mental illnesses.

Through claims and court cases, those with severe cases of anorexia or bulimia are fighting insurers to pay for stays in residential treatment centers, arguing that the centers offer around-the-clock monitoring so that patients do not forgo eating or

purge their meals.

But in the last few years, some insurance companies have re-emphasized that they do not cover residential treatment for eating disorders or other mental or emotional conditions. The insurers consider residential treatments not only costly — sometimes reaching more than \$1,000 a day — but unproven and more akin to education than to medicine. Even some doctors who treat eating disorders concede there are few studies proving that residential care is effective,

although they believe it has value.

“We’ve seen an increase in denials,” said Kathleen MacDonald, education and prevention coordinator for the Gail R. Schoenbach FREED Foundation, an advocacy group for those with eating disorders. “Now, I go to bed every night and I can’t answer all the e-mails I get. It’s heartbreaking.”

Both sides are closely watching the consequences of a major decision by the United States Court of Appeals for the Ninth

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Circuit, which ruled in August that insurers in California must pay for residential treatment for eating disorders and other serious mental illnesses under the state’s mental health parity law.

In the last decade or so, many states enacted similar laws, and, in 2008, so did the federal government. The laws generally require that coverage for mental and behavioral disorders be equivalent to that for physical ailments like diabetes or a broken bone.

But equivalence, or parity, can be tricky to define, and the appeals court ruling is one of the first by a high federal court to interpret the concept.

Blue Shield of California, the defendant in the lawsuit, is already seeking to have the case reheard, arguing that the decision could force insurers to pay for unlimited amounts of treatment, raising insurance costs.

While the ruling applies only to California’s law, some experts think it will influence courts, state agencies and insurers elsewhere.

“You’ll see it bleed over,” said Scott Petersen, a lawyer in Salt Lake City who often represents insurance companies in parity cases.

In New Jersey, Aetna, Horizon and AmeriHealth have agreed to end limits on the number of days of residential treatment they will cover for eating disorders, according to Bruce Nagel, a lawyer who sued the insurers under the state’s parity law.

The Parity Implementation Coalition, a group monitoring the federal parity law, has filed about 150 complaints about possible violations, according to Dr. Henry Harbin, a psychiatrist and adviser to the group. Some cases involve denial for residential treatment for substance abuse or mental illnesses by plans offered by companies like Wal-Mart and Coca-Cola Bottling.

An estimated 11 million Americans, mostly young women, suffer from eating disorders, the most serious being anorexia nervosa, in which people starve themselves, and bulimia nervosa, in which they engage in binge eating followed by purging. These disorders, particularly anorexia, have the highest fatality rate of any psychiatric disorder.

The advocates for those with eating disorders, who often cooperate or get financing from residential treatment centers, estimate there are about 75 such facilities for those specific illnesses, and many others for substance abuse and for emotionally or psychologically disturbed children.

Sam Menaged, founder and president of the Renfrew Center, which is based in Philadelphia and is one of the oldest and largest residential treatment centers for eating disorders, said only 60 percent of insurers covered the therapy and that hundreds of people were turned away from Renfrew each year.

The Blue Cross Blue Shield plan for federal employees added language to policies at the beginning of this year specifying that residential treatment for any condition would not be covered. Two months later, citing that change in policy, the Remuda Ranch closed its eastern center for eating disorders, which was in Milford, Va.

Executives at the federal plan



JIM WILSON/THE NEW YORK TIMES

Jeanene Harlick, with her dog Franny, won coverage for residential treatment for her anorexia.

said that residential treatment had never been covered and that the new language merely made that more explicit.

Yet Samantha Ascanio, 23, of Gaithersburg, Md., said the plan had covered her four previous stays at a residential center but denied payment this year. She instead enrolled in outpatient programs that lasted more than six months.

Most plans offered to California state employees also added language this year clarifying that residential treatment was not covered.

Advocates and some doctors who treat eating disorders say that hospitalization, which insurers typically cover, might stabilize a patient and restore weight but does not generally treat the underlying psychological issues. Outpatient treatment, which

though a daily rate is generally lower than a hospital’s, patients often stay much longer — for weeks or months. Insurers also say that few standards exist for these types of centers.

“There’s a wide variation in licensing across the country,” said Jena L. Estes, vice president for the federal employee program at the Blue Cross and Blue Shield Association. “There’s a lack of oversight of many of those residential treatment centers.”

Ira Burnim, legal director of the Bazelon Center for Mental Health Law, which litigates for better mental health treatments, said that while he was not familiar with eating disorders, “study after study” had shown that residential centers for other mental or emotional disorders were not as effective as treatment at home.

Dr. Anne E. Becker, president of the Academy of Eating Disorders and director of the eating disorders program at Massachusetts General Hospital, said that despite a paucity of studies, “There’s no question that residential treatment is life-saving for some patients.”

Some insurers say that there is no treatment for physical illnesses that is equivalent to residential treatment for mental illnesses, and therefore residential treatment does not have to be paid for under parity laws.

Ms. Harlick’s lawyer, Lisa S. Kantor, argued that residential treatment centers were equivalent to skilled nursing facilities, which Blue Shield did cover.

Adam Pines, a lawyer for Blue Shield, countered that residential treatment was more akin to assisted living, which the insurer did not cover.

The Ninth Circuit Appeals judges, based in San Francisco, ruled that residential treatment was medically necessary for eating disorders, and therefore had to be covered under the state’s parity law, even if no exact equivalent existed on the physical disease side.

“Some medically necessary treatments for severe mental illness have no analog in treat-

ments for physical illnesses,” the three-judge panel wrote. “For example, it makes no sense in a case such as Harlick’s to pay for 100 days in a skilled nursing facility — which cannot effectively treat her anorexia nervosa — but not to pay for time in a residential treatment facility that specializes in treating eating disorders.”

In Blue Shield’s request for a rehearing, it argued that the decision would require insurers to pay for treatment of mental conditions “without substantive limits.” That would mean better coverage for mental illnesses than for physical illnesses, which would be inconsistent with parity, the company said, adding that it would also increase costs “to the point where some employers may simply forgo offering plans to their employees.” Even if policies cover residential treatment, an insurer could still deny reimbursement on the ground that the treatment is not medically necessary for a particular patient.

Katie Bird of St. Paul sought residential treatment last year, saying she had been exercising vigorously while consuming no more than a single hot chocolate on some days. As a result, she said, she experienced heart palpitations and frequently passed out while trying to care for her 3-year-old daughter.

She said her insurer, United Behavioral Health, would not pay the \$200,000 it cost for her four months of residential treatment because her weight was not low enough. She sued and reached a confidential settlement.

It is still unclear how much money Ms. Harlick and her parents will recover from Blue Shield.

Ms. Harlick, who lost her job and insurance and is now on disability while studying social work in graduate school, said she hoped the court decision would show people that eating disorders were not just matters of weight and appearance, but serious diseases.

“I just feel like this ruling gives a little more legitimacy to the reality of what this illness is,” she said.

Residential treatment is at issue under medical parity laws.

might also be covered, does provide counseling but not round the clock. Residential treatment, they say, occupies a vital niche between those two.

“I don’t think I would be alive today if I hadn’t gone there,” said Jeanene Harlick, who was the plaintiff in the recent California case.

Ms. Harlick, who is 37 and lives in San Mateo, Calif., stayed at the Castlewood Treatment Center in St. Louis from April 2006 through January 2007 to treat her anorexia. She was 35 percent below her ideal weight when she checked in and, within a month, needed a feeding tube.

With Blue Shield declining to pay, Ms. Harlick’s parents borrowed hundreds of thousands of dollars against their home.

Residential treatment can cost from hundreds of dollars to well over \$1,000 a day, and even