

Harlick v. Blue Shield of California: The Ninth Circuit Court of Appeals Incorporates California's Mental Health Parity Act Into Health Insurance

Aline I. Gaba, JD, MS, CRC

Abstract: *In Harlick v. Blue Shield of California, the Ninth Circuit Court of Appeals held that Blue Shield of California was required to pay for the residential treatment of Jeanene Harlick's eating disorder at an out-of-state residential treatment facility even though such treatment was not covered under the terms of Ms. Harlick's health insurance policy. The court relied on California's Mental Health Parity Act, which requires that coverage for the treatment of "severe mental illnesses," such as eating disorders, be on par with coverage for the treatment of physical illnesses.*

Keywords: eating disorders, mental health, medical liability, litigation

Introduction

There is great disparity in coverage most private health insurance companies provide for the treatment of mental illnesses as opposed to physical illnesses.¹ Mental health coverage limitations can lead to unnecessary suffering and inadequate treatment of individuals with treatable mental illnesses, as well as increased homelessness, crime, and demands on state budgets.² To combat this disparity, several states have enacted parity laws so coverage for mental illnesses will be "on par" with coverage for physical illnesses.³ In 1999, the California Legislature enacted the California

Mental Health Parity Act, which requires insurance companies to provide "all medically necessary treatment" for "severe mental illnesses."⁴

Issue: Health Insurance Company Coverage of Medically Necessary Treatment for Mental Illness

Background

Jeanene Harlick is a 37 year old California resident with a documented history of eating disorders, having suffered from anorexia nervosa for more than 20 years.⁵ In April 2006, Ms. Harlick sought treatment for her anorexia nervosa at an out-of-state residential treatment facility after her physicians told her that the severity of her eating disorder required a higher level of care than she was receiving.⁶ Ms. Harlick's had purchased an insurance policy in California. Her health insurance provider, Blue Shield of California, informed her that residential treatment was not covered under the terms of her policy; however, Ms. Harlick's physicians determined that none of the in-network facilities covered by the terms of Ms. Harlick's policy would provide adequate treatment.⁷ As a result, Ms. Harlick registered at Castlewood Treatment Center in Missouri, which specializes in eating disorders, where she stayed from April 2006 until January 2007.⁸ Blue Shield refused to pay for any of Ms. Harlick's treatment at Castlewood Treatment Center beyond the first eleven days.⁹

Legal Analysis

The question before the Court of Appeals in this case was whether Blue Shield of California was required to pay for the treatment of Ms. Harlick's eating disorder at a residential treatment facility either under the terms of her health insurance policy or under the California Mental Health Parity Act.¹⁰

The appellate court first analyzed the terms of Ms. Harlick's insurance policy. It found the policy expressly did not cover residential treatment for mental illnesses.¹¹ Next, the Court had to determine whether Ms. Harlick's

stay at Castlewood Treatment Center was “medically necessary” and whether her anorexia nervosa was a “severe mental illness” under the California Mental Health Parity Act.¹² The Court determined that the terms of Ms. Harlick’s health insurance policy with Blue Shield of California did not cover residential treatment; however, the Court also determined that Ms. Harlick’s residential treatment at Castlewood Treatment Center was “medically necessary” and that her anorexia nervosa was a “severe mental illness” under California’s Mental Health Parity Act.¹³ Because Blue Shield did not raise lack of medical necessity in its original denial of coverage, it was precluded from arguing this basis on appeal. As a result, the Court held that Blue Shield of California was required to pay for the residential treatment of Ms. Harlick’s anorexia nervosa, not under the terms of her policy with Blue Shield, but rather under the California Mental Health Parity Act.¹⁴

Conclusion

Relying on California’s Mental Health Parity Act, the Ninth Circuit Court of Appeals determined that Blue Shield of California was required to pay for the “medically necessary treatment” of Ms. Harlick’s “severe mental illness” even though the terms of plaintiff’s policy did not cover residential care.

Competing Interests: None reported

Acknowledgments: None reported

Author(s)

Aline I. Gaba was Clinical Research Project Manager, Department of Psychiatry at Wake Forest University School of Medicine. Ms. Gaba graduated from California Western School of Law with Honors in the Health Law Concentration, and she practices law in San Diego, CA representing Social Security Disability Claimants.

References (Bluebook)

¹ Harlick v. Blue Shield of Cal., 656 F.3d 832, 842 (9th Cir., 2011).

² *Id.*

³ *See id.* at 836.

⁴ cal. health & safety code § 1374.72 (2003).

⁵ Harlick, *supra* note 1, at 835.

⁶ *Id.* at 835-36.

⁷ *Id.* at 836.

⁸ *Id.*

⁹ *Id.* at 837.

¹⁰ *Id.* at 835.

¹¹ *Id.* at 835-36.

¹² *Id.* at 842-44.

¹³ *Id.* at 851.

¹⁴ *Id.*

© Institute of Health Law Studies 2012
All rights reserved
e-ISSN: 2168-6513