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Media Contact: Cory King  
(401) 462-9658  
[cory.king@ohic.ri.gov](mailto:cory.king@ohic.ri.gov)

**OHIC Releases Two Market Conduct Exams for Behavioral Health Coverage**

*Insurer improvements are already underway*

**CRANSTON, R.I.** (March 5, 2020) - The Office of the Health Insurance Commissioner (OHIC) has released two additional reports from its Market Conduct Examinations of the four major commercial health insurers operating in the state. The reports measure compliance with laws and regulations relating to the coverage of mental health and substance use disorder services. The first report issued in September of 2018 involved the state's largest insurer, Blue Cross and Blue Shield of RI. The two reports being issued publicly today involve examinations of Neighborhood Health Plan of Rhode Island (NHPRI) and Tufts Health Plan (THP). The matter of the Market Conduct Examination of UnitedHealthcare Insurance Company and UnitedHealthcare of New England, Inc. (collectively "United RI") remains underway.

Protecting consumers and ensuring access to health care is at the core of all of OHIC's activities. OHIC's concentrated oversight and enforcement of federal and state "parity" laws are part of the state's multi-pronged approach to ensuring access to mental health and substance use disorder services in Rhode Island. These market conduct exams play a critical role in eliminating the disparities between physical and behavioral health care in our state.

Market conduct exams involve a detailed review of insurer records and operations during a specific timeframe. This exam process included a review of a random sample of case records from each insurer to assess operational compliance with statutory and regulatory requirements for the purpose of determining if laws and regulations are being followed.

Based on the cases reviewed from 2014-2016, both insurers were found to be non-compliant in certain aspects of their processes for approving coverage of behavioral health services—known as utilization review (UR). Both insurers have made changes and improvements in their processes since the start of the exam.

[Neighborhood Health Plan of Rhode Island](#)

For the NHPRI examination, OHIC reviewed 154 behavioral health cases and 104 behavioral health prescription cases from 2015 and 2016. According to the report, based upon the cases reviewed, OHIC's examiners found that NHPRI sometimes did not fully comply with Rhode Island and federal laws with respect to its behavioral health parity obligations. Examiners also found instances where NHPRI's benefit determination review process used clinically inappropriate utilization review criteria for coverage of

behavioral health services and prescription drugs (including step therapy requirements) and/or applied the criteria in an inappropriate manner. Additional findings included instances where NHPRI employed review practices that “could have resulted in impeding of patient care”, including: “inadequate consideration of the treating provider’s clinical judgement”, conducting “short term frequently concurrent reviews without a clinical basis to support the reviews”, “failure to adequately consider all information presented” and “not adequately consider[ing] the patient’s need for transition and continuity of care, and the patient’s safety and welfare.”

The Commissioner ordered and NHPRI consented to the examiners’ recommendations to correct the identified non-compliant practices and further ordered NHPRI to submit a proposed Plan of Correction to address the recommendations to OHIC for review and approval. Included in the settlement terms with NHPRI, in lieu of penalties, NHPRI will make a contributions to a fund created by OHIC at the Rhode Island Foundation to support services targeted at behavioral health prevention and early intervention programs. NHPRI has agreed to make a contribution totaling \$330,000 over the next three years. This contribution shall be separate from and in addition to, the costs to NHPRI of implementing the ordered recommendations contained in the examination report.

#### Tufts Health Plan

For the THP examination, OHIC reviewed 119 behavioral health cases and 97 behavioral health prescription cases, from 2014 and 2015. According to the report, based upon the cases reviewed, OHIC’s examiners found THP was challenged to provide sufficient oversight of a third party delegate whose benefit determination review work potentially resulted in negative impacts on patients including because it “did not give sufficient weight to the clinical recommendations of the attending physician” and “collected insufficient information for denial.” The examiners also found THP’s practices for prior authorization of some prescription drugs used to treat behavioral health conditions relied upon “clinically inappropriate” criteria during the exam period.

The Commissioner ordered and THP consented to the examiners’ recommendations to correct the identified non-compliant practices and areas of concern and further ordered THP to submit a proposed Plan of Correction to address the recommendations to OHIC for review and approval. Included in the settlement terms with THP, in lieu of penalties, THP will make a \$150,000 contribution to a fund created by OHIC at the Rhode Island Foundation to support services targeted at behavioral health prevention and early intervention programs. This contribution shall be separate from and in addition to, the costs to THP of implementing the ordered recommendations contained in the examination report.

OHIC is the state agency working to ensure health insurance consumer protection, insurer solvency, fair treatment of providers, and health care system improvement and affordability. The full examination reports are available on [OHIC’s website](#).