Ohio Mental Health Parity Report

2019

Purpose of This Report

The purpose of this report is to comply with language that was included in House Bill 49, the State Operating Budget by the Ohio House of Representatives in the 132nd General Assembly. Pursuant to Ohio Revised Code (ORC) 3901.90 – "The superintendent of insurance, in consultation with the Director of Mental Health and Addiction Services, shall develop consumer and payer education on mental health and addiction services insurance parity and establish and promote a consumer hotline to collect information and help consumers understand and access their insurance benefits. The Ohio Department of Insurance (ODI) and the Ohio Department of Mental Health and Addiction Services (OhioMHAS) shall jointly report annually on the departments' efforts, which shall include information on consumer and payer outreach activities and identification of trends and barriers to access and coverage in this state. The departments shall submit the report to the general assembly, the joint Medicaid oversight committee, and the governor, not later than the thirtieth day of January of each year."

The Law

The primary laws that are used for regulatory and compliance oversight are the Federal Mental Health Parity and Addiction Equity Act **(MHPAEA)** and Ohio's Mental Health Law as defined by **ORC 1751.01, 3932.28, 3923.281, and 3923.282.**

Both MHPAEA and the state law work together to help achieve parity among mental health benefits and medical/surgical benefits.

MHPAEA, often referred to as "mental health parity", generally requires that mental health conditions and substance use disorders must be treated by a health plan in the same or similar manner as the plan treats benefits or medical and surgical conditions and disorders. Financial requirements such as co-pays, deductibles and out of pocket maximum limitations applied to mental health and substance use benefits should not be more restrictive than for medical/surgical benefits. Similarly, any treatment limitations such as prior-authorization requirements or number of permitted visits or restrictions on treatment settings applied to mental health and substance use benefits may be no more restrictive than for physical health benefits.

Overview: Ohio Department of Mental Health and Addiction Services (OhioMHAS)

The mission of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) is to provide statewide leadership of a high-quality mental health and addiction prevention, treatment and recovery system that is effective and valued by all Ohioans. The agency works with community partners to embed behavioral health resources into programs that serve individuals of all ages throughout Ohio. This work results in improved healthcare integration and coordinated services that can intervene early to find effective treatments to challenging diseases of the brain.

Overview: Ohio Department of Insurance (ODI)

The Ohio Department of Insurance (ODI) regulates the business of insurance in Ohio. Its mission is to serve and protect Ohio consumers through fair and efficient regulations, provide assistance and education to consumers, and promote a competitive marketplace for insurers. To carry out this mission, it licenses insurance agents and agencies, investigates allegations of misconduct by insurance agents or agencies, examines claims of consumer and provider fraud, investigates consumer complaints, and monitors the financial solvency and market conduct of insurance companies. ODI has jurisdiction over 14% of the health insurance market in Ohio and is also charged with reviewing insurance policies and forms used by insurance companies

and the premiums they charge consumers in the life, accident, health, managed care, and property and casualty insurance lines.

ODI's Role in Regulating Mental Health Parity

ODI is tasked with regulating and enforcing laws relating to the business of insurance. ODI oversees insurance policies, premium rates, company solvency and helps consumers that have questions or complaints. Related to mental health parity; specifically, ODI reviews health insurance products to ensure that they are complying with applicable mental health law. ODI also helps consumers understand their mental health benefits and helps consumers resolve complaints against insurance companies. Finally, ODI tracks trends in consumer complaints and other data to determine if further investigation of company practices is needed.

ODI Regulation

Oversight of insurer compliance with Ohio insurance law takes many forms, and involves many different divisions of ODI. The most utilized divisions that ensure compliance are Product Regulation and Actuarial Services, Consumer Services, and Market Conduct.

Product Regulation and Actuarial Services

The Product Regulation and Actuarial Services division reviews forms and premium rates used by insurers in Ohio. The division reviews the products to ensure that statutorily mandated benefits are included and that the products are complying with Ohio insurance law. In addition, ODI employs actuaries that review rate submissions to ensure that the premium rates are actuarially sound. The division first sees a proposed insurance product and reviews it for compliance with mental health parity and other applicable laws to ensure compliance. For all products, this consists of ODI staff reviewing the language in the contract to understand the product. Once the reviewer has read the submitted documents, the reviewer will formulate a list of "objections" for the company to review. The company must then respond to these objections and resolve them to the satisfaction of the reviewer before ODI will approve the product. For mental health parity specifically, it is during this process that the reviewers will note and ask about provisions in the contract, if any, that appear to violate the law and/or mislead or deceive the consumer. For example, the division reviewed major medical policies from 14 different companies for the 2019 market. On average, ODI reviewers sent 23 objections per review, and of the objections one per review related to Mental Health Parity.

Consumer Services Division

The Consumer Services division is the first contact most consumers will make with ODI if the consumer has a question about their insurance plan, is filing a complaint, or has a general insurance inquiry. In addition to assisting consumers, the division also serves to monitor companies' compliance with Ohio insurance laws and regulations.

Representatives assist Ohio insurance consumers through a toll-free hotline, educational materials, social media, community outreach and counseling. Representatives respond to a wide variety of insurance inquiries and investigate insurance complaints against companies and agents. There are different reasons why a consumer may contact Consumer Services regarding their insurance benefits, including:

- Help navigating their certificate of coverage
- Questions about claim delays, denials and policy recessions
- Filing a complaint
- Questions about rate increases
- Educational information about insurance benefits

When a consumer contacts the Consumer Services division, they will speak with representatives that are well versed in the applicable type of insurance, including the mental health parity requirements, and Ohio statutes and regulations. They have experience handling a variety of health benefit matters to ensure the consumer is receiving the best possible assistance. In addition to assisting consumers, the division also reviews overall complaints to identify ways to improve consumer education, tracks and reports on trends in complaints, and ensures complaints are resolved.

Market Conduct

The Market Conduct division monitors insurers' compliance with Ohio insurance laws and regulations by examining insurance companies' business practices, such as underwriting, marketing and claims handling. The division is responsible for gathering industry information from a variety of sources, including consumer complaints, company filings and the National Association of Insurance Commissioners (NAIC). The Consumer Services division may refer a pattern of complaints from consumers on a particular industry segment or company to the Market Conduct division. Additionally, if the Consumer Services division is unable to resolve a complaint, the Market Conduct division may be utilized to resolve the issue directly with the insurer. A wide variety of data is analyzed to determine if a particular company or issue is in need of further scrutiny. ODI – through Market Conduct – can request additional reporting, can require companies to take corrective action, and can issue fines or penalties.

Overview: 2018

Actions Taken in 2018:

After publishing the 2018 Ohio Mental Health Parity Report pursuant to ORC 3901.90 MHPAEA continues to be an important issue for both ODI and OhioMHAS. Both agencies began reviewing and updating materials to educate the general public on mental health parity. Both agencies continue to evaluate where improvement is possible by continuing to work together and with stakeholders and consumers.

Ohio Department of Insurance

Consumer Complaints:

In 2018, the division handled 5,933 complaints and 2,370 of them were specific to accident and health insurance. Three of the accident and health insurance complaints pertained to coverage for mental health services. None of the three complaints that came through the division were within ODI's jurisdiction. Meaning that depending on a consumer's plan type depends on what regulatory agency oversees regulation and enforcement of MHPAEA. The following complaints that came through the division are as follows:

- 1 self-funded employer plan
- 1 Medicaid plan
- 1 was against a mental health provider

When a complaint comes through CSD that is outside ODI's jurisdiction, CSD will inform the consumer the reasoning for why they are unable to investigate their claim and provide information for the regulatory agency that is able to assist them.

Stakeholder Outreach:

ODI met with a number of stakeholders throughout 2018. These meetings and discussions were meant to start an ongoing dialogue around mental health and substance use benefits and health insurance. Through this dialogue, stakeholders provided feedback on how ODI can make consumer and advocate information more user friendly and what additional steps that ODI could take to improve its regulatory efforts around MHPAEA

compliance. As an enforcement agency, it is necessary to have specific information in order to identify violations of law and require appropriate remedies. However, there may be times an individual is unable or unwilling to file a complaint. In order to assist advocates and stakeholders, ODI has developed a process, the Ombudsman to utilize information from third parties that provide sufficient detail to allege a violation of law and allow for follow-up by ODI. Advocates will be able to send specific information to ombudsman@insurance.ohio.gov where ODI will monitor the information that comes through to track trends relating to a specific insurer, a geographic area or other trend that would indicate a possible violation of insurance law.

Toolkit:

The purpose of the Mental Health and Substance Abuse Disorder Toolkit is to create a page where consumers and advocates can go to access information regarding MHPAEA. Throughout 2018, ODI revised the entire toolkit to make it more consumer and advocate friendly. This included revising the content and language on the webpage and provided additional resources and handouts including:

- MHPAEA Frequently Asked Questions
- Links to both state and federal law language
- Regulation MHPAEA Guide (printable handout)
- MHPAEA Coverage Chart
- Filing an Individual Complaint (printable handout)
- Advocate Tip Sheet (printable handout)

The Coverage Chart, Regulating MHPAEA Guide, Filing an Individual Complaint, and Advocate Tip Sheet handouts were new additions for consumers and advocates. The printable handouts provide detailed information on ODI's role in regulating MHPAEA, understanding plan type and coverage, and specific details on how to file a consumer complaint depending on the type of plan an individual has.

The handouts are attached in the appendix and can be found under the Mental Health Parity Toolkit: http://insurance.ohio.gov/Consumer/Pages/MHParity.aspx

Ohio Department of Mental Health and Addiction Services

Evaluation of call volume:

OhioMHAS operates a toll-free helpline for the purpose of connecting Ohioans to prevention, intervention, treatment and recovery resources. The line accepts consumer complaints related to mental health and addiction providers, and answers questions about what to expect in treatment and other general information about mental wellness, mental illness and substance use disorder. The helpline is staffed by people with mental health and substance abuse disorder experience. In 2018, OhioMHAS reviewed the data collected by the helpline and found that parity issues were not an item that the data collection tool is equipped to capture. The department further found that staff have not been trained in how to identify parity issues that callers may be experiencing or where to direct callers if they have a complaint about their insurance provider. The department has begun discussions on updating the data collection tool to better capture insurance issues, and training hotline staff appropriately.

Future Planning for Takechargeohio.org:

OhioMHAS met on several occasions with the Ohio Association of Health Plans to identify opportunities for collaboration between the department and Ohio's health plans on improving consumer education about their mental health and substance abuse treatment coverage. OAHP shared feedback from their membership on

which plans have webpages dedicated to mental health or substance use treatment coverage, as well as input on where consumers should turn if they have questions or concerns about their coverage. OhioMHAS is currently using that feedback to develop updates to the Takechargeohio.gov website for the purpose of improving consumer access to information about how to pay for treatment and how to best navigate insurance provider interactions.

Ongoing Efforts in 2019:

- Ohio Department of Insurance
    - ODI will continue to promote and monitor the Ombudsman for possible complaints that come through to track trends relating to a specific insurer, a geographic area or other trends that would indicate a possible violation of insurance law.
    - ODI has received positive feedback on the changes that have already been made to the online toolkit and will continue to update both the toolkit and consumer content as necessary. These updates may include any changes in state or federal laws or guidance surrounding MHPAEA and adding content that consumers may find useful.
    - ODI received $1 million in the state budget for each Fiscal Year 2020 and 2021 to increase educational efforts with consumer groups, advocacy organizations and other stakeholders about the role of the Department in regulating mental health and addiction benefits. In addition, ODI will provide education and outreach to health insurers in Ohio to improve transparency and understanding around these benefits, and help identify any possible enforcement issues or trends.

- Ohio Department of Mental Health and Addiction Services
    - OhioMHAS will work to update the toll-free helpline data collection tool to better capture complaints and questions related to insurance coverage. In addition, staff will be trained on the topic of parity, how to identify when callers are having parity related issues, and where to refer callers when they have parity complaints. Efforts to update resources related to paying for treatment, and understanding insurance coverage on Takechargeohio.org will continue in 2019. A short video demonstrating how to contact an insurer and what key questions to ask the insurer about coverage was made available on Takechargeohio.org in the spring of 2019. Other enhancements will continue to be developed throughout the year.
- Joint
    - Launch a coordinated awareness effort, by leveraging stakeholders and various channels of communication. ODI and OhioMHAS will develop a joint communications plan aimed at disseminating educational materials developed by ODI on the topic of parity – and how to file a parity complaint. Both ODI and OhioMHAS will work jointly with stakeholders, and health insurers to continue to identify issues related to compliance and consumer education.

Appendix:

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MENTAL HEALTH

and Substance Abuse Disorder Coverage

WHAT DOES THE LAW SAY?

- Insurers must treat mental health and substance abuse disorder benefits generally in the same manner as other health benefits.
- Financial limitations such as copays, deductibles, and coinsurance for mental health and substance abuse disorder benefits cannot be more restrictive than for other health benefits.
- Treatment limitations such as number of visits, geographic location, or facility type cannot be more restrictive than for other health benefits.

KNOW YOUR PLAN

Some plans are required to provide mental health and substance abuse disorder benefits. Other plans are required to ensure that if they do offer mental health and substance abuse disorder benefits, they are similar to other health benefits.

How do I know what my plan is required to cover?

Most plans you buy directly for yourself or your family (not provided through an employer) - including those sold through healthcare.gov - are required to provide mental health and substance abuse disorder benefits and ensure that those benefits are similar to other health benefits covered by the plan. Many plans provided through an employer provide mental health and substance abuse disorder coverage, but not all are required to do so.

CHECK TO SEE IF YOU HAVE

Mental Health/Substance Abuse Disorder Coverage

- Check your certificate of coverage issued by your insurer or provided by your employer.
- Contact your employer's human resources office.
- Contact your health insurer directly.
- Contact your insurance agent.
- Contact the Ohio Department of Insurance at 800-686-1526.

Federal and state mental health laws do not provide a specific definition of what mental health and substance abuse disorder benefits or services must be covered in a health plan or insurance contract. However, see examples below of benefit categories where coverage provided for physical and mental health and substance abuse disorder benefits should be similar:

- Inpatient - If a plan covers a medically managed hospital stay for a medical condition such as a seizure disorder, then a medically managed stay for active withdrawal and stabilization of mental health condition should be similarly covered.
- Outpatient - If a plan covers an office visit to the cardiologist, it should also cover an office visit to the psychiatrist.
- Emergency Care - If a plan covers emergency treatment for a broken arm, it should also cover emergency treatment after a suicide threat or for an unintended overdose.
- Prescription Drugs - If a plan covers maintenance medication for diabetes, it should similarly cover maintenance medication for depression and medicated assisted therapies for addiction.

IS MY MENTAL HEALTH CONDITION COVERED?

KNOW YOUR COSTS

Just like your other health benefits (doctors visits, prescription drugs, physical therapy), your mental health and substance abuse disorder benefits are subject to copays, coinsurance, deductibles and other out-of-pocket costs.

Understanding the costs associated with your plan:

- Co-payment = the dollar amount the patient is expected to pay at the time of service.
- Deductible = the amount you pay for health care expenses before insurance covers the costs. Often, health insurance plans have an annual deductible amount.
- Co-insurance = usually a % of the total cost you are responsible for after services have been provided.
- More insurance definitions = click for additional health insurance terms.

YOU CAN CHECK THE ESTIMATED COST OF YOUR OUT-OF-POCKET EXPENSES IN THE FOLLOWING WAYS:

- Check your Summary of Benefits and Coverage (SBC) in your insurance paperwork
- Contact your insurer directly

KNOW Your Rights

- It is important that you are familiar with your plan and the type of benefits and coverages that are offered for mental health and substance abuse disorder conditions. Knowing your plan can help you determine the costs you will pay and help you identify any questions you may need to ask.
- If your insurer denies your claim or takes any other adverse action regarding your benefits, you have the right to ask that your claim be reviewed again.
- If your insurer continues to deny your claim, you have the right to request an independent review through the Ohio Department of Insurance.

If you believe that your plan has violated the law, you need more information about requesting an independent review or help filing a complaint, please call the Ohio Department of Insurance's CONSUMER HOTLINE at 800-686-1526.

Mike DeWine
Governor

Jillian Froment
Director

For additional information on how to file a consumer complaint with the Ohio Department of Insurance Consumer Services Division click here.

Additional resources to help you navigate your mental health benefits:

- Ohio Mental Health Parity Law
- The Mental Health Parity and Addiction Equity Act (MHPAEA)
- Your Guide to Health Insurance
- Ohio Mental Health and Addiction Services

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MENTAL HEALTH

Regulating MHPAEA

ODI's Role in Regulating the Mental Health Parity and Addiction Equity Act (MHPAEA)

The Ohio Department of Insurance (ODI) is tasked with regulating and enforcing laws relating to the business of insurance. ODI oversees insurance policies, premium rates, company solvency and helps consumers that have questions or complaints. Related to mental health parity specifically, ODI reviews health insurance products to ensure that they are complying with MHPAEA and applicable state mental health law. ODI also helps consumers understand their mental health, substance use disorder and other benefits and helps consumers resolve complaints against insurance companies. Finally, ODI tracks trends in consumer complaints and other data to determine if further investigation of company practices is needed.

ODI has three main divisions that help to oversee and enforce MHPAEA and state mental health law:

• Product Regulation and Actuarial Services Division is the first division to see a proposed Insurance product and reviews it for compliance with MHPAEA, state mental health and other applicable laws. For all products, this consists of ODI staff reviewing the language in the insurance contract to understand the plan. Once the reviewer has read the submitted documents, the reviewer will formulate a list of "objections" for the company, who must then respond to the objections and resolve them to the satisfaction of the reviewer before ODI will approve the plan. For MHPAEA specifically, it is during this process that the reviewers will note and ask about provisions in the insurance contract, if any, that appear to violate the law and/or mislead or deceive the consumer.

• Consumer Services Division provides information to consumers and investigates complaints involving insurance companies. Annually, ODI saves consumers millions by reviewing different types of insurance complaints received from Ohioans related to cancellations, refunds, sales practices, misrepresentation, claim and benefit disputes and more. The Consumer Services Division has analysts that have experience in all areas of insurance and that review consumer complaints. If a consumer has a question about their mental health or substance use disorder benefits or is alleging a violation of MHPAEA, this is the division that would handle the inquiry or complaint. To speak to a consumer services representative, please call the ODI hotline at 1-800-686-1526.

• Market Conduct Division monitors insurers' compliance with Ohio insurance laws and regulations by examining insurance companies' business practices, such as underwriting, marketing and claims handling. The division looks at information from a variety of sources, including consumer complaints, company filings and the National Association of Insurance Commissioners (NAIC) to establish trends that might require further review. The Consumer Services division may refer a pattern of complaints from consumers on a particular industry segment or company to the Market Conduct division. Additionally, if the Consumer Services division is unable to resolve a complaint, the Market Conduct division may be utilized to resolve the issue directly with the insurer. ODI – through Market Conduct – can request additional reporting, can require companies to take corrective action, and can Issue fines or penalties.

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MENTAL HEALTH

Coverage Chart

Some plans are required to offer mental health and substance abuse disorder benefits. Other plans are required to ensure that IF they do offer mental health and substance abuse disorder benefits, that they are covered similarly to other health benefits.

The chart below may assist you in determining if your plan is required to offer mental health and substance abuse disorder benefits and if it is required to cover those benefits similarly to other health benefits.

DO YOU GET INSURANCE FROM YOUR EMPLOYER?

Yes

Does your employer have 51 or more employees?

Yes

LARGE GROUP PLANS

Offered through and employer with 51 or more employees.

Not all large group plans are required to cover mental health and substance abuse disorder benefits however, IF a plan does cover those benefits, the plan is required to cover them similarly to other health benefits.

No

SMALL GROUP PLANS

Offered through an employer with 50 or fewer employees.

The date that the plan was purchased determines what mental health and substance abuse disorder benefits are covered.

- If your plan was purchased on or before March 23, 2010 it is considered "grandfathered" and is only required to cover limited mental health and substance abuse disorder benefits.
- If your plan was purchased after January 1, 2014 it is required to cover mental health and substance abuse disorder benefits similarly to other health benefits.
- If you purchased your plan after March 23, 2010 and before January 1, 2014 it is considered "transitional" and is required to cover limited mental health and substance abuse disorder benefits similarly to other health benefits.

No

Did you buy your own health insurance for yourself and/or your family?

Yes

INDIVIDUAL PLANS

Not offered through an employer but may be purchased through an insurance agent, the Exchange or directly through the insurance company.

Individual plans are required to cover mental health and substance abuse disorder benefits similarly to other health benefits. .

The following government-sponsored health plans may be required to cover mental health and substance abuse disorder benefits:

- Children's Health Insurance Program (CHIP)
- Medicaid Managed Care Plans
- Medicare

IF YOU ARE UNSURE WHICH TYPE OF HEALTH PLAN YOU HAVE OR IF THE PLAN YOU HAVE OFFERS MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS HERE ARE A FEW WAYS TO FIND OUT:

- Check your certificate of coverage issued to you by your insurer or provided by your employer
- Contact your employer's human resource office
- Contact your health insurer directly
- Contact your insurance agent
- Contact the Ohio Department of Insurance at 800-686-1526
- For additional information on Medicaid or CHIP plans visit cms.gov or contact the Ohio Department of Medicaid's Consumer Hotline at 800-324-8680.

Ohio Department of Insurance
50 W Town St
Third Floor - Suite 300
Columbus OH 43215
800-686-1526

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MENTAL HEALTH

Filing an Individual Complaint

Consumer Complaints Related to MHPAEA Compliance

If a consumer is unable to resolve a complaint with his/her insurer, an individual may contact the Consumer Services Division at the Ohio Department of Insurance. A complaint can be filed online using ODI's complaint center, by phone, a complaint form or by mailing in a written complaint. When an individual files a complaint, the Consumer Services Division will take a number of step to begin working on the case:

- A CSD analyst will answer questions over the phone and explain any additional steps the individual should take to resolve the problem, if any.
- ODI will send the company a copy of the complaint and ask for an explanation of its position. The assigned analyst will review the company's response to make sure it has correctly addressed the problem.
- ODI will decide if the company handled the issue appropriately and within the terms of the policy or certificate of coverage.
- ODI will decide if the company is in compliance with state insurance laws or administrative rules and take enforcement action when necessary or appropriate. If it is determined that the company violated insurance laws or rules, the complaint will be referred to ODI's Market Conduct Division or Enforcement Division for further action.
- The analyst will send the individual a letter that explains the results of ODI's review. After a complaint is filed, the process usually takes approximately 30 days but can take longer if the complaint involves a unique or complex problem.

For questions or for help in filing a claim contact the Department's Consumer Services Hotline at 1-800-686-1526.

Employer plans that are self-insured, and Medicaid plans are outside the ODI's jurisdiction. If a complaint comes to ODI but is outside it's jurisdiction, CSD will redirect the consumer on where to file the complaint.

Individuals with a self-insured employer plan can file a complaint with the Department of Labor by calling 859-578-4680 or by visiting www.DOL.Gov.

Individuals with Medicaid can file a complaint with the Ohio Department of Medicaid by calling the Consumer Hotline 1-800-324-8680 or by visiting www.Medicaid.ohio.gov.

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MENTAL HEALTH

MHPAEA Advocate Guide

This guide is intended to help advocates and others assisting consumers with an insurance complaint navigate the Ohio Department of Insurance's (ODI) complaint process. ODI takes all complaints related to any insurance product seriously and staff are trained to thoroughly review all cases to ensure Ohio law is being followed.

As an enforcement agency, it is necessary to have specific information in order to identify violations of law and require appropriate remedies. However, ODI understands that there may be times an individual is unable or unwilling to file a complaint.

In order to assist advocates and stakeholders, ODI has developed a process to utilize information from third parties that provide sufficient detail to allege a violation of law and allow for follow-up by ODI. At a minimum, information provided to ODI must contain at least:

- A plan or policy number
- Plan type (i.e., if the consumer gets their insurance through their employer or purchases it on their own)
- Name of the insurance company
- A detailed description of the complaint or what happened – it is NOT enough to simply say the insurance company is violating the law

This information should be submitted to the following ODI Contact:
OMBUDSMAN
ombudsman@insurance.ohio.gov

Important to Know:

Advocates should know that any information sent to the ombudsman will not be considered an individual complaint. ODI will utilize any information sent to the ombudsman to track trends relating to a specific insurer, a geographic area or other trend that would indicate a possible violation of insurance law. If an individual wants to file an official complaint with ODI they will need to contact the Consumer Services Division at 1-800-686-1526.