



## MENTAL HEALTH LEGAL ADVISORS COMMITTEE

The Commonwealth of Massachusetts

Supreme Judicial Court

24 SCHOOL STREET - 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02108

TEL: (617) 338-2345

FAX: (617) 338-2347

[www.mhlac.org](http://www.mhlac.org)

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Mental Health Legal Advisors Committee

in favor of H. 1174

An Act requiring mental health parity for disability policies

January 24, 2012

Mental Health Legal Advisors Committee supports H. 1174, An Act requiring mental health parity for disability policies. Our agency represents low-income persons with mental illness and provides advice to anyone in the Commonwealth on mental health legal matters. In this capacity, we have seen first hand the hardship that discriminatory limitations in short- and long-term disability policies have wrought upon persons with mental illness.

Numerous clients have been affected by these policies. In a span of just under four years, one Massachusetts short-term disability insurer alone has denied almost 100 claims per year solely because the claimant is disabled by mental illness. Clients contact us in shock when the insurance for which they have faithfully paid premiums refuses to pay benefits when the event that should trigger the insurance occurs. The disability has thrown the person's life into tumult; the insurer's action throws the person's financial life into disarray.

Others will describe their individual experience at the hearing and in writing. The hardship our clients and other victims of discrimination have had to endure is immense. Clients have had to borrow money from elderly and frail parents, have been pushed into bankruptcy, and have had to withdraw from their small retirement accounts. Perhaps more importantly, financial distress has exacerbated the very illness for which they were claiming benefits – anxiety is increased, depression deepened, and feelings of abandonment aroused, not to mention the fear, sleeplessness, isolation enforced by the inability to afford transportation, hopelessness and frustration brought on by stress from the loss of income.

The discrimination against persons with mental disabilities embodied in these policies is no different from discrimination against a person for color or for gender. A person does not choose to be disabled. How would the legislature react if a loophole allowed insurers to take premiums from or for persons of color, but then deny benefits to those persons because of their color? The legislature has recognized that the stigma associated with mental illness should not be permitted to permeate the health insurance industry. Likewise, it should not be permitted to permeate the disability insurance industry.

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Discrimination should not form the basis for a cynical economic strategy, one that is not even actuarially justified. Insurers claim premiums would have to rise if mental disabilities were covered. However, we have heard insurers make similar claims before with respect to health insurance coverage and the parity laws of 2000 and 2008. And we know that the insurers were crying wolf because expenses did not skyrocket as they predicted. H. 1774 does not limit the ability of insurers to manage benefits; the bill simply limits the ability of insurers to discriminate against persons with mental disabilities. The bill simply prevents disability insurers from shirking their duty to persons who have paid premiums and from pushing them onto public benefits.

The legislature should clarify that it will not tolerate discrimination by disability insurers based upon the nature of a person's disability. Please report out H. 1174 quickly and favorably.

Respectfully submitted,

Susan Fendell  
Senior Attorney