

Compliance

ALERT

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» IN THIS COMPLIANCE ALERT: MENTAL HEALTH PARITY AND SUBSTANCE ABUSE GUIDANCE RELEASED

The Department of Labor (DOL), Health and Human Services (HHS), and the Treasury have issued an interim final rule implementing the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA).

In addition to continuing the parity requirements under the Mental Health Parity Act of 1996 the MHPAEA mandated group health plans that offer mental health (MH) and substance use disorder (SUD) benefits to ensure that treatment limitations, deductibles, co-payments, and covered hospital days and visits be on par with those for other physical impairments. Today's guidance will assist plans with the implementation of these requirements to ensure parity under the MHPAEA.

The law applies to both fully-insured and self-insured group health plans offered by employers with 50 or more employees.

EFFECTIVE DATE

The initial effective date of the MHPAEA was the first day of the plan year on or after October 3, 2009. The new regulations will apply to plan years beginning on or after July 1, 2010. For calendar year plans the effective date will be January 1, 2011.

OVERVIEW

The MHPAEA regulations require that if an employer plan offers medical/surgical and MH/SUD benefits, the "financial requirements" and "treatment limits" applied to MH/SUD benefits can be no more restrictive than the "predominant" financial requirements applied to "substantially all" medical/surgical benefits. The key terms are defined within the interim final rule as follows:

- The regulation reaffirms that the term "financial requirements" includes deductibles, copayments, coinsurance and out-of-pocket maximums.
- The term "treatment limitations" are now separated into two categories and defined as follows:
 - A quantitative treatment limitation is a limitation that is expressed numerically and would include services based on the frequency of treatment, number of visits, or other coverage limits.
 - A non-quantitative treatment limitation is a limitation that is not expressed numerically, but otherwise limits the scope or duration of benefits for treatment such as medical management standards or determination of the usual and customary amounts.
- Under these regulations, a financial requirement or quantitative treatment limitation applies to "substantially all" medical/surgical benefits in a classification if it applies to at least two-thirds of the benefits in that classification.

- MHPAEA provides that a financial requirement or treatment limitation is “predominant” if it is the most common or frequent of a type of limit or requirement. Under these regulations, the predominant level of a type of financial requirement or quantitative treatment limitation is the level that applies to more than one-half of medical/surgical benefits subject to the financial requirement of quantitative treatment limitation in that classification.

SIX BENEFIT CLASSIFICATIONS

The “predominant/substantially all” test will apply to six classifications of benefits and coverage tiers. The six benefit classifications include:

- In-network and out-of-network inpatient services;
- In-network and out-of-network outpatient services;
- Emergency care, and
- Prescription drugs

The regulations specify that a financial requirement or treatment limitation must be compared only to financial requirements or treatment limitations of the same type within a classification. For example, copayments are compared only to other copayments, and annual visit limits are compared only to other annual visit limits; copayments are not compared to coinsurance, and annual visit limits are not compared to episode visit limits.

ADDITIONAL INFORMATION

The DOL has issued a Fact Sheet outlining the key provisions of the guidance. To access this site directly [click here](#).

CONCLUSION

Trion is providing you with this update based on available information and interpretation of the MHPAEA. Trion will work with our clients to ensure their health plans are in compliance with the requirements under the regulations and will continue to provide updates as additional information becomes available.

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