Final Rule – Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act

Description: This document contains final rules implementing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which requires parity between mental health or substance use disorder benefits and medical/surgical benefits with respect to financial requirements and treatment limitations under group health plans and group and individual health insurance coverage. This document also contains a technical amendment relating to external review with respect to the multi-state plan program administered by the Office of Personnel Management.

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Major Provisions

Financial Requirements and Treatment Limitations

The final rule requires that employers and group health plans that provide both mental health (MH) and substance use disorder (SUD) services and medical/surgical benefits ensure that:

- The financial requirements applicable to such MH or SUD benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost-sharing requirements that are applicable only to MH or SUD benefits.
- The treatment limitations applicable to such MH or SUD benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only to MH or SUD benefits.
- Plans may not apply cumulative financial requirements (such as deductibles) or quantitative treatment limitations (such as visit limits) for MH/SUD benefits that accumulate separately from cumulative financial requirements or quantitative treatment limitations for medical/surgical benefits in the same category.

Exemptions

MHPAEA requirements apply to most employment-based group health plans (fully insured and self-funded) with more than 50 employees, as well as non-federal governmental health plans (e.g., plans offered to employees of state and local governments or school districts) with more than 100 employees. The final rule lists the following exemptions:

- Small employers (fewer than 50 employees)
- Non-federal governmental health plans with 100 or fewer employees
- Health plans can obtain an exemption from MHPAEA requirements if changes necessary to comply with the law raise costs by at least 2 percent in the first year the plan is offered

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- Non-applicable health plans: the final rule does not apply to Medicaid Managed Care Organizations, the Children's Health Insurance Program (CHIP) or Alternative Benefit Plans

Benefit Categories

The 2010 Interim Final Rule proposed six benefits categories:

- Inpatient, in-network
- Inpatient, out-of-network
- Outpatient, in-network
- Outpatient, out-of-network
- Emergency care
- Prescription drugs

While intermediate services do not have their own benefit categories, the final rule requires that plans apply parity between intermediate medical/surgical and MH/SUD services received in residential treatment or intensive outpatient settings.

Formulas for Determining Parity

- The formulas are applied to determine what the "predominant" medical surgical financial requirement (e.g. member cost share such as co-pays or co-insurance) is that applies to "substantially all" medical/surgical benefits within a classification.
- A financial requirement or quantitative treatment limitation applies to "substantially all" medical/surgical benefits if it applies to at least two-thirds of the benefits in a given category.
- If a single type of cost share does not occur at least 2/3 of the time within a medical/surgical classification the result is that behavioral health benefits within that classification must be covered at 100 percent without any member cost share.
- If a single type of cost share does occur at least 2/3 of the time within a medical/surgical classification, the next step is determining what the predominant cost share is within that same classification.
- These determinations must be made on a plan design specific basis.

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