

Benefit Brief



SUBJECT: Mental Health Parity and Addiction Equity Act of 2008

DATE: August 26, 2009

This Benefit Brief applies to employers with 51 or more employees in the prior calendar year with insured and self-funded group health plans that include mental health and substance use disorder benefits.

This federal law becomes effective for renewals and new policies issued after October 3, 2009 (January 1, 2010 for calendar year plans). For employers with collective bargaining agreements, parity requirements will become effective on January 1, 2010 or upon expiration of the collective bargaining agreement in place on October 3, 2008, whichever is later. The Act does not require employers to offer mental health and substance use disorder benefits, but if they do, they must be equal to medical and surgical benefits. The greatest change in benefits will be the elimination of the visit, day, and dollar limits that previously existed on many mental health and substance abuse benefits.

What is Mental Health Parity?

Financial requirements and treatment limits for mental health benefits may not be more restrictive than those applied to all medical and surgical benefits covered under the plan. Financial requirements include deductibles, copays, coinsurance, and out-of-pocket expenses. Treatment limits are restrictions on the frequency of treatment, number of visits, days of coverage, or other limits on the range or duration of treatment. Plans may not have separate cost-sharing arrangements that apply only to mental health benefits.

Addition of Substance Use Disorder Benefits

The equality of financial requirements and treatment limits discussed above now apply to treatment of substance abuse and chemical dependency.

Out-of-Network Providers

Plans are not required to provide out-of-network coverage. However, if a plan provides coverage for out-of-network medical or surgical benefits, then coverage must also be provided for out-of-network mental health or substance use disorder benefits. Financial requirements and treatment limits for mental health or substance use disorder benefits obtained from out-of-network providers must be equal to those applied to medical and surgical benefits obtained from out-of-network providers.

Carrier Disclosure Requirement

The criteria for medical necessity determinations for mental health and substance use disorder benefits must be made available by plan administrators or insurance carriers to current or potential participants, beneficiaries, or contracting providers upon request. Also, the reason for denial of any claim or reimbursement request for mental health or substance use disorder benefits must be available to participants or beneficiaries upon request.

Opt-Out Provisions

If as a result of applying the parity requirements, the cost of coverage for medical, surgical, mental health, and substance use disorder benefits increases more than two percent in the first year, and one percent annually thereafter, the plan may file for an exemption with the Secretary of Labor. The in-

creased-cost exemption is available only if the plan has complied with the parity requirements for the first six months of the plan year involved. The cost exemption lasts only for one year, and means that the parity requirements shall not apply to the plan during the following plan year. More information on this process is expected from the DOL.

Pennsylvania Mental Health Parity Laws

If a plan is fully insured, it already must comply with Pennsylvania mandates that require benefits to be provided for serious mental illnesses, alcohol abuse and dependency, and autism spectrum disorders for groups of more than 50 employees. Annual or lifetime dollar limits for those benefits must be no different than limits applied to any other illnesses. Deductibles, copays, and/or coinsurance cannot prohibit access to care.

What Do Producers and Employers Need to Do?

Employers should determine if they are affected by the law, and if so, when they need to comply. If mental health and substance abuse benefits do not comply with the requirements, changes should be made. Employers should contact their producer or insurance representative to discuss benefit design options.

Insurance carriers have been sending information to producers, employers, and participants on how the parity requirements affect benefits and quoting procedures. Producers and employers should promptly respond to any requests for information from their insurance carrier, such as the number of employees.

If Benecon prepared your plan documents and you are affected by the law, we will send you a plan amendment before the effective date.

If you have questions about the Mental Health Parity Act, please contact Danielle Omans at The Benecon Group at domans@benecon.com or the number below.

This Benefit Brief is provided for informational purposes only and does not constitute legal advice. The Benefit Brief contains only a summary of the applicable legal provisions and does not purport to cover every aspect of any particular law, regulation or requirement. Depending on the specific facts of any situation, there may be additional or different requirements. Please use this Benefit Brief as a guide and not as a definitive description of your compliance obligations.