

## New Mental Parity Rules Sweep In

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Federal agencies are using temporary regulations to implement the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008.

An older parity act, the Mental Health Parity Act of 1996, has required plans that offer mental health benefits to use the same total lifetime and annual benefits limits for mental health care and general medical care.

The MHPAEA goes further. The new act will prohibit employer-sponsored health plans with more than 50 participants that offer mental health benefits from “applying any financial requirement or treatment limitation to mental health or substance abuse disorder benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation applied to substantially all medical/surgical benefits in the same classification.” Deductibles, co-payments and other plan features may be no more restrictive for mental health care than for other types of care.

The Internal Revenue Service, the Employee Benefits Security Administration (EBSA) and the Centers for Medicare and Medicaid Services (CMS) published a joint request for information about ideas for implementing the act about a year ago, and they announced in interim final rules released in January that the rules would take effect July 1. EBSA alone has received more than 5,000 comments on the interim rules.

If federal agencies stick with the current schedule, employers with plan years that match the calendar year will have to start incorporating the rules in their plans Jan. 1, 2011.

The federal agencies say they have to use interim rules to implement MHPAEA provisions to comply with the statutory deadlines built into the act.

Many of the carriers and behavioral care managers responsible for implementing the rules asked the agencies for more time.

“The implementation of a new and comprehensive regulation in such a timeframe is a difficult proposition at best,” Dawn Owens, the chief executive officer of the OptumHealth division at UnitedHealth Group Inc., Minnetonka, Minn., has written in a comment sent to CMS. The federal agencies have not left enough time to fix interim rules problems that could lead to big increases in employers’ bills and patients’ out-of-pocket costs, Owens says.

Some plans, for example, now offer a lower deductible for access to mental health



services; the new rules probably will force those plans to increase the mental health care deductible to the level of the general medical care deductible, Owens says.

In June, a U.S. District Court judge in the District of Columbia blocked efforts by the Coalition for Parity Inc., Washington, a group supported by behavioral health organizations, to keep federal agencies from applying the interim rules July 1.

<p style="text-align: center;"><b>The Old Law</b></p> <p><b>The Mental Health Parity Act of 1996</b></p> <ul style="list-style-type: none"><li>■ Applies to employer plans with more than 50 employees.</li><li>■ Requires affected group health plans that offer mental health benefits to use the same total lifetime and annual benefits limits for mental health care and general medical care.</li><li>■ Does not apply to services related to substance abuse or chemical dependency.</li></ul> <p style="text-align: center;"><b>The New Law</b></p> <p style="text-align: center;"><b>The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008</b></p> <ul style="list-style-type: none"><li>■ Applies to employer plans with more than 50 employees.</li><li>■ Prohibits affected group health plans that offer mental health benefits from applying any financial requirement or treatment limitation to behavioral health care that is "more restrictive than the predominant financial requirement or treatment limitation applied to substantially all medical/surgical benefits in the same classification."</li><li>■ Prohibits affected plans from making deductibles, co-payments and other plan features more restrictive for behavioral health care than for other types of care.</li><li>■ Applies to treatment of substance abuse disorders.</li></ul>
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John Littel, an executive vice president at Amerigroup Corp., Virginia Beach, Va., a company that runs government health plans, such as Medicaid plans, says CMS officials have been responsive to Amerigroup, given the enormous workload they face. He says how agencies go about applying the new MHPAEA rules could shed light on how they will implement the new federal Affordable Care Act (ACA) health reform rules.

"Everyone is anxious to see how the feds are going proceed," Littel says. "Will there be a lot of give and take?"

For now, ACA implementation is overshadowing the arrival of the MHPAEA rules.

Samuel Fleet, president of AmWINS Group Benefits, Warwick, R.I., says the MHPAEA rules appear to be having only a minimal effect on employers and benefits advisors. During the age of a soft economy and ACA implementation, "there are many more things these plans have to worry about," he says.

Dr. Jack Gorman, chief scientific officer at Care Management Technologies Inc., White Plains, N.Y., a company that helps plans with

matters such as treating patients who overuse opioids, notes that New Jersey has had good luck with a parity law that is similar to MHPAEA. "It turned out to have almost no effect whatsoever on expenditures," he says. "And the payoff is potentially so great."

Erich Goplerud, an alcoholism treatment researcher at George Washington University, says relatively inexpensive treatment methods, such as brief programs of carefully structured counseling, can be as effective for patients fighting many behavioral health conditions as general medical treatments are for conditions such as diabetes. Today, he says, in too many cases, "people drop out of care, or they don't get a sufficient amount of care."

Patients with behavioral health problems often use more general medical services than other patients, and treating the behavioral health problems can help reduce the patients' use of general medical services, Goplerud says.