How Does the New Mental Health Parity Law Affect My Insurance Coverage?

In 2008, Congress passed the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act taking a great step forward in the decade-plus fight to end insurance discrimination against those seeking treatment for mental health and substance use disorders. This law requires health insurance to cover both mental and physical health equally. Under this law, insurance companies can no longer arbitrarily limit the number of hospital days or outpatient treatment sessions, or assign higher co-payments or deductibles for those in need of psychological services.

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The 2008 act closes several of the loopholes left by the 1996 Mental Health Parity Act and extends equal coverage to all aspects of health insurance plans, including day and visit limits, dollar limits, coinsurance, co-payments, deductibles and out-of-pocket maximums. It preserves existing state parity and consumer protection laws while extending protection of mental health services to 82 million Americans not protected by state laws. The bill also ensures mental health coverage for both in-network and out-of-network services.

Research shows that physical health is directly connected to mental health and millions of Americans know that suffering from a mental health disorder can be as frightening and debilitating as any major physical health disorder. Passage of this law will lead the health care system in the United States to start treating the whole person, both mind and body.

Frequently Asked Questions

What is mental health and substance use parity?

Parity means equal coverage for mental health and physical health conditions covered under health plans. The 2008 Mental Health Parity and Addiction Equity Act provides the following:

Equal benefits: Means that benefits coverage for mental health and substance use treatments must be at least equal to that coverage provided for physical health services.

Equal limits: All of the financial requirements and treatment limitations applied to mental health and substance use benefits may be no more restrictive than for physical health benefits.

Equal cost-sharing: The new law prohibits the use of higher patient cost-sharing (deductibles, co-payments, maximum-out-of-pocket costs) for mental health and substance use benefits than for physical benefits. For example, your co-payment for psychotherapy will be the same amount as your co-pay for an office visit with your family physician.

What does the Mental Health Parity and Addiction Equity Act do?

Applies to groups of more than 50 employees: The act, effective January 1, 2010, ends inequities in health insurance benefits between mental health/substance use disorders and medical/surgical

benefits for group health plans with more than 50 employees.

Creates equity: Applies to all financial requirements in health insurance plans, including:

- lifetime and annual dollar limits,
- deductibles, co-payments, coinsurance,
- out-of-pocket expenses, and
- to all treatment limitations including frequency of treatment, number of visits, days of coverage and other similar limits.

Insurance plans will no longer be able to apply a different deductible for mental health services than they do for physical health services, or more restrictive limits to the number of treatment sessions or days of hospital stays.

When does the new law take effect?

The Mental Health Parity and Addiction Equity Act will apply to most health plans beginning **January 1, 2010**. The current 1996 parity law will remain in effect through December 31, 2009.

Will my health plan have to comply with the new law?

The act applies to all group health plans with more than 50 employees, whether they are self-funded (regulated under ERISA) or fully insured (regulated under state law), that provide mental health or substance use benefits. Those health plans with 50 or fewer employees will remain subject to current state mental health parity requirements. The new law does not apply to the individual insurance market.

What diagnoses are included under parity?

The parity act covers all diagnoses for mental disorders. It goes beyond the 1996 act and some state parity and mandated benefit laws by also requiring parity for substance use disorders. There are no exclusions. In effect, whatever a plan covers must be at parity with (equal to) what is covered for physical health problems. As in the current system, a health plan may deny coverage based on medical necessity or under the terms of its coverage contract with an employer.

Can benefits for a particular diagnosis be excluded from coverage under the new parity law?

Yes, employers are not prohibited from dropping coverage for a diagnosis. The act broadly defines mental health and substance use disorder benefits to mean benefits with respect to services for mental health conditions and substance use disorders, as defined under the terms of the plan and in accordance with applicable federal and state law.

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Does the new act have any impact on benefits management and medical necessity criteria?

A health plan may manage the benefits under the terms and conditions of the plan. The act requires insurance plans to make medical necessity criteria available to current or potential participants, beneficiaries or providers upon request. A health plan must also make reasons for payment denials available to participants or beneficiaries on request or as otherwise required.

Does the new parity law apply to out-of-network services?

Yes. Under the new law, if a health plan provides both out-of-network physical and mental health/substance use disorder benefits, these services must be provided at parity.

If a plan currently provides only out-of-network physical health benefits, this new law will require it to add out-of-network mental health and substance use disorder benefits, at parity.

Can health plans drop mental health and substance use benefits completely?

Yes. The act does not require health plans to provide mental health and substance use benefits, but if the plan does provide such coverage, it must be at parity with physical health coverage.

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Elimination of these benefits would likely be very expensive to health plans. A Kaiser Family Foundation Annual Survey of Benefits showed that 97 percent of plans already provide mental health and substance use benefits. It is now well accepted these benefits are an integral part of treating most health conditions. Effective treatment of most illnesses like diabetes, asthma and congestive heart conditions requires a full recognition and treatment of co-morbid mental health and substance use disorders.

My state already has a parity law. How will this new federal law impact state law?

State laws only apply to fully insured groups. They do not apply to "self-insured" ERISA groups. Forty-three states have enacted parity laws. While some of these laws provide for strong parity protections, many are not as comprehensive as the new federal law. For those states with strong existing parity laws, the Mental Health Parity and Addiction Equity Act is protective of state law. If a provision in a state parity law provides for less protection than the federal law, it is the federal law that prevails. Conversely, if the state law provides for more protection than the federal law, state law prevails.

Does the new law apply to Medicare and Medicaid patients?

The act does not apply to Medicare patients. In July 2008, Congress provided for Medicare coinsurance parity for Medicare patients by 2014 when it enacted "phase-in parity" under the Medicare Improvements for Patients and Providers Act (MIPPA). The 2008 act, however, does apply to Medicaid managed care health plans.