**Mental Health Parity**

The Mental Health Parity and Addiction Equity Act is one of several federal laws that are creating an immediate impact on employers. The legislation prohibits group health plans that provide mental health and/or substance use disorder benefits from applying “financial requirements” or “treatment limits” that are more restrictive than the “predominant” financial requirement or treatment limit that applies to “substantially all” medical/surgical benefits. We are working to ensure the health plans we offer fully comply with the provisions contained in the act.

Regulations issued by the federal government on February 2 and with clarifying guidance issued on July 1, 2010, interpret and provide additional guidance on mental health parity, and may result in changes to your health plans. The guidance issued, considered as “interim final rules,” suggests that mental health parity may result in additional regulations and legislative direction still to come. We will continue to provide you updates as additional information is available.

**Mental Health Parity Basics**

**Whom does mental health parity apply to?**
Mental health parity applies to all employer groups with more than 50 total employees. This includes all fully insured and self-funded employer plans, governmental plans, union plans and church plans. Self-funded governmental plans may opt out and should contact their legal counsel if they are interested in investigating this further.

**When does mental health parity take effect?**
The new regulations apply to group plan years beginning on or after July 1, 2010. As you may remember from our earlier communications of the statute, we do not track a group’s plan year. Accordingly, we will use the group’s renewal date as the effective date for a group unless we are told otherwise. Employers who renewed between November 2009 and June 2010 are in compliance with the regulations based on the original interpretation of the law but may need to make additional changes at their next renewal (or plan year).

**What is required for compliance?**
Mental health parity specifically requires the following to be in parity between medical and mental health/substance abuse services: deductibles, copayments, coinsurance, out-of-pocket expenses, and limits on frequency of treatment, number of visits and number of days of coverage.

We implemented a number of changes necessary to comply with the initial October 3, 2009, effective date, including mapping mental health cost shares to the appropriate medical cost share, removing visit and day limits on most mental health benefits, and releasing guidelines for mental health carve out groups. Regulations issued in February and effective July 1, 2010, required additional changes to many mental health and substance abuse benefits. We will use the July 1, 2010, guidance relating to how to test outpatient benefits, and which is described in more detail below, for the majority of new sales and renewals beginning with October effective dates.

**Key Changes**

**Benefit Design and Parity Testing**

To ensure financial parity between mental health/substance abuse and medical and surgical benefits, we are evaluating plan designs using prescribed formulas required by the regulations. Plans are evaluated under a “substantially all” and “predominant” three-step evaluation to determine the availability and level of cost sharing (types of cost sharing include copays, coinsurance or deductibles) that can be applied to mental health/substance abuse services.

- **Step 1:** Benefits are classified into one of six benefit categories: inpatient, in network; inpatient, out of network; outpatient, in network; outpatient, out of network; emergency care; and prescription drugs. In addition, on July 1, 2010, the federal government issued a “safe harbor option” that
allows plans to further split outpatient benefits into two sub-classifications: (1) office visits and (2) all other outpatient items and services.

- **Step 2:** Within each benefit category as specified in Step 1, a two-thirds (“substantially all”) rule is applied for each type of cost share feature employed:
  - A cost share feature can be applied to mental health/substance abuse services if it applies to at least two-thirds of all medical benefits within that benefit category.
  - A cost share feature cannot be applied to mental health/substance abuse services if it does not apply to at least two-thirds of all medical benefits.
  - Note: The evaluation criteria for the tiering of prescription drug benefits differs and is based on reasonableness factors including cost, efficacy, generic versus brand name, and mail order versus pharmacy pick-up. Our current pharmacy practices comply with the new regulations.

- **Step 3:** If cost sharing can be applied, the cost sharing amount is determined using the 50% (“predominate”) rule. The cost share amount is that which applies to more than half of the benefits in that category.

Following evaluation of our standard plans using the methodology above, we can offer the following guidance:

- All HSA/HRA plans comply and will not require plan changes.
- Most Non-HSA/HRA plans using the “safe harbor” approach will be able to apply the primary care physician cost share for outpatient mental health/substance abuse office visit services. Other outpatient mental health/substance abuse services (for example, outpatient hospital services) will typically apply a coinsurance or no cost-sharing; results vary by product.

Non-standard plans will be evaluated during the renewal process. Please contact your broker or sales representative for additional information.

**Administration of mental health/substance abuse benefits through a third-party vendor**

We believe that our mental health/substance abuse benefit administration provides the same high level of quality and service that an external vendor can provide. Groups opting to carve out mental health benefits to be administered by a vendor are subject to all Mental Health Parity Act regulations, including an accumulated deductible and out-of-pocket maximum, and compliance with the three-part test outlined above.

Please contact your broker or sales representative if you are using a third-party mental health and substance abuse vendor to discuss your benefit plans and integration required to comply with the regulations.

**Definition of Mental Health and Substance Abuse Conditions**

Under the regulations, whether a condition is considered a mental health/substance abuse condition is to be determined “consistent with generally recognized independent standards of current medical practice.” Examples of such standards in the regulations include the Diagnostic & Statistic Manual of Mental Disorders, the International Classification of Diseases, and state guidelines (Note: Standards listed as examples may include conditions not covered by a plan). Our review indicates no changes are needed as a result of this provision.

**Utilization Management**

Under the regulations, the processes, strategies, evidentiary standards and other factors applied to utilization management programs must be comparable and applied no more stringently than those applied to medical or surgical benefits. An exception applies where recognized clinically appropriate standards of care permit a difference. We will continue to review for medical necessity, and experimental and investigational services.

**Opting Out**

Mental health parity calls for all plans to comply during the first year, with no exceptions (except for self-funded governmental plans). In following years, the regulations provide an exemption clause for increased
cost if compliance with mental health parity causes a plan’s total cost of coverage (medical, surgical and mental health and/or substance abuse disorder combined) to increase by 2% or more in year one, or 1% or more in each subsequent year. This exemption applies for the following year, applies for only one year, and may only be claimed for alternating years. The regulations indicate the federal government will offer further guidance on qualifying for the cost exemption.

Additional Information

If you would like to read more about how mental health parity regulations will affect your health plans, additional information can be found via the Questions & Answers document.

We will continue reviewing mental health parity’s impact and how its implementation will interact with other pending health care reform legislation, and will make additional information available as soon as possible to help keep you informed.