

MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008

(Eff. Date: Plan years beginning on or after 10/3/2009)

On October 3, 2008 the Mental Health Parity and Addiction Equity Act of 2008 was signed into law as Subtitle B of the Emergency Economic Stabilization Act of 2008. The Act amends the original Mental Health Parity Act of 1996 expanding its protections to include benefits for substance abuse and to require true equality between medical/surgical benefits and mental health and substance abuse benefits.

Like the Mental Health Parity Act of 1996, the provisions of this Act are placed in ERISA, PHS (Public Health Service Act) and the Internal Revenue Code effectively covering all fully insured and self funded group health plans.

A copy of the Emergency Economic Stabilization Act of 2008, including the Mental Health Parity and Addiction Equity Act of 2008 can be downloaded from the Internet at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h1424enr.txt.pdf. Section number references from the Act have been provided below to assist you in finding the provisions in the Act for more detail.

PARITY IN BENEFITS

While leaving the original provisions of the Mental Health Parity Act of 1996 intact (prohibits group health plans that offer mental health benefits from applying dollar based annual or lifetime maximums to mental health benefits unless the maximums apply equally to all benefits under the plan), the Act adds to the existing requirements as outlined below.

Inclusion of Substance Use Disorder Benefits

The existing Mental Health Parity Act exclusion of substance abuse and chemical dependency treatment has been removed and the Act expanded to provide protection for both mental health and substance use disorder treatment. (*Mental Health Parity and Addiction Equity Act - Section 512(a)(4), (7) & (8) for ERISA; Section 512(b)(4), (6) & (7) for PHS; Section 512(c)(4), (6) & (7) for IRC*)

Financial Requirements

A Financial Requirements provision was added which:

- Prohibits the use of separate cost sharing requirements (i.e. deductibles, copayments, coinsurance and out-of-pocket expenses) for mental health and substance use disorder benefits.
- Requires that the cost sharing requirements for mental health and substance use disorder treatment be the same or better than the most common cost sharing requirement for medical/surgical benefits.

(*Mental Health Parity and Addiction Equity Act - Section 512(a)(1) & (2) for ERISA; Section 512(b)(1) & (2) for PHS; Section 512(c)(1) & (2) for IRC*)

Treatment Limitations

A Treatment Limitations provision was added which:

- Prohibits the use of separate treatment limitations (i.e. limits on frequency of treatment, number of visits, days of coverage or similar limits on the scope or duration of treatment) for mental health and substance use disorder benefits.
- Requires that the treatment limitations applied to mental health and substance use disorder treatment be the same or better than the most common treatment limitation that is applied to medical/surgical benefits.

(*Mental Health Parity and Addiction Equity Act - Section 512(a)(1) & (2) for ERISA; Section 512(b)(1) & (2) for PHS; Section 512(c)(1) & (2) for IRC*)



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TRANSPARENCY IN PLAN DECISIONS

Upon request from any current or potential covered person, or a contracting provider, a group health plan must provide its criteria for making medical necessity determinations related to mental health or substance use disorder benefits.

(Mental Health Parity and Addiction Equity Act - Section 512(a)(1) & (2) for ERISA; Section 512(b)(1) & (2) for PHSA; Section 512(c)(1) & (2) for IRC)

OUT OF NETWORK BENEFITS

If group health plan provides out of network benefits for medical/surgical treatments, it must also provide out of network benefits for mental health and substance use disorder treatment.

(Mental Health Parity and Addiction Equity Act - Section 512(a)(1) for ERISA; Section 512(b)(1) for PHSA; Section 512(c)(1) for IRC)

EXCEPTIONS TO COMPLIANCE

The following exceptions to complying with the Act exist:

- ❑ **Small Employer Exemption.** Group health plans of employers that employed 50 or fewer employees on business days during the prior calendar year are not required to comply with the Act during the current calendar year. *(Mental Health Parity and Addiction Equity Act - Section 512(a)(3)(A) for ERISA; Section 512(b)(3)(A) for PHSA; Section 512(c)(3)(A) for IRC)*
- ❑ **Cost Exemption.** If compliance with the requirements of this Act results in a total cost increase to the plan of more than 1% (2% during the first year of compliance), a group health plan may elect to be exempt from complying with the Act in the following plan year. Exemption requires that the cost increase be documented and certified by an actuary in good standing with American Academy of Actuaries and based on data from at least 6 months of compliance by the plan. Group health plans that qualify and elect not to comply with the Act are required to provide notice of the election to the Secretary of Labor or Health and Human Services as applicable and to all plan participants. *(Mental Health Parity and Addiction Equity Act - Section 512(a)(3)(B) for ERISA; Section 512(b)(3)(B) for PHSA; Section 512(c)(3)(B) for IRC)*
- ❑ **Governmental Plan Exemption.** Non-federal, governmental plans are allowed to opt out of compliance with the Act subject to a requirement to provide an annual notice of the opt out to the Secretary of Health and Human Services and all plan participants. *(42 USC 300gg-21(b))*
- ❑ **Exclusion of Mental Health and Substance Use Disorders.** The Act does not require a group health plan to provide benefits for the treatment of mental health and substance use disorders. *(29 USC 1185a(b), 42 USC 300gg-5(b), 26 USC 9812(b))*

EFFECTIVE DATE

In general, changes made by the Mental Health Parity and Addiction Equity Act of 2008 are effective on the first plan year beginning on or after 10/3/2009.

For group health plans that are subject collectively bargained agreements the Act is effective on the first plan year beginning on or after the later of 10/3/2009 or the date the last collective bargaining agreement relating to the plan is extended, renewed or terminated.

(Mental Health Parity and Addiction Equity Act - Section 512(e))



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