

UBA Member Memorandum

August 3, 2009

Mental Health Parity & Addiction Equity Act of 2008

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 was signed into law as part of the Emergency Economic Stabilization Act. The law provides parity for medical/surgical and mental health/substance use benefits in healthcare plans that offer mental health/substance use coverage. Plans sponsored by businesses with more than 50 employees will be required to provide comparable day and visit limits, deductibles, copays, and out-of-network charges for mental health/substance use benefits.

With the first plan year beginning on or after October 3, 2009, the Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”) mandates additional mental health parity requirements for group health plans. The law seeks parity between the financial requirements and treatment limitations of employer sponsored mental health and substance abuse disorder benefits with employer sponsored medical and/or surgical benefits. These mandates apply to both insured and self-insured plans. Plan sponsors need to start planning now, and evaluate their existing benefit structures in order to timely make changes necessary for compliance with the MHPAEA.

The Act seeks to correct the imbalance between the benefits afforded mental health and substance use disorders under group health plans and general medical and surgical benefits typically afforded under such plans. Under the Act, disorders such as alcoholism, drug addiction, autism, bipolar disorder, ADHD, depression, anxiety disorders, and other commonly-diagnosed mental disorders are to be treated equitably by health insurers.

The Act does not state that qualifying health plans must offer mental health or substance use disorder benefits. No such coverage is mandated by the Act. Rather, the Act provides that group health plans that do offer such benefits must do so in parity with medical/surgical benefits.

Specifically, the Act provides that financial requirements applicable to mental health or substance use disorder benefits, such as deductibles, copayments, coinsurance, and out-of-pocket expenses, can be no more restrictive than the predominant financial requirements applied to substantially all medical/surgical benefits covered by the plan. Moreover, the Act precludes separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits.

This information is being distributed by United Benefit Advisors (UBA) with the understanding that the author, publisher, editors, and UBA are not rendering legal or other professional advice or opinions on specific matters, and accordingly, assume no liability in connection with its use. The content is prepared in this format for UBA Member reference only. Any UBA Member Firm distributing this information beyond UBA assumes full responsibility and liability for its use and interpretation.

The Act also requires parity in treatment limitations applicable to mental health or substance use disorder benefits. Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment. Under the Act, treatment limitations pertaining to mental health or substance use disorder benefits can be no more restrictive than the predominant treatment limitations applied to substantially all medical/surgical benefits. The Act also precludes separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

In the context of out-of-network providers, the Act states that if a plan makes medical/surgical benefits available through out-of-network providers, the plan must also authorize coverage for mental health or substance use disorder benefits by out-of-network providers. Although the Act creates a federal parity requirement, it does not serve to displace state laws containing stronger parity protections. Thus, plans must comply with their state's parity and protection measures if they provide greater protection than the Act.

In addition to the parity requirements, the Act also contains exemptions that group health plans can use to avoid the Act's requirements. The small employer exemption provides that the Act's requirements shall not apply to any group health plan of a small employer. The Act generally defines a small employer as an employer averaging at least two but not more than 50 employees during the preceding calendar year. Thus, employers with 50 or fewer employees may be considered exempt from the Act under the small employer exemption.

The Act also contains a cost exemption which operates to exempt a group health plan from the Act's requirements if compliance with the Act becomes too costly. Specifically, a group health plan is not required to comply with the Act if such compliance results in an increase of the actual total costs of coverage by two percent during the first year of the Act's applicability, or one percent during each subsequent year.

Before a group health plan can claim the cost exemption, a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries, must certify the increase in actual costs under a plan. Moreover, a plan cannot claim this exemption until the plan has complied with the Act's requirements for at least the first six months of the plan year.

Resource:

http://www.cms.hhs.gov/healthinsreformforconsume/04_theMentalHealthParityAct.asp

Watch for updates on:

<http://www.dol.gov>

<http://www.hhs.gov>

This information is being distributed by United Benefit Advisors (UBA) with the understanding that the author, publisher, editors, and UBA are not rendering legal or other professional advice or opinions on specific matters, and accordingly, assume no liability in connection with its use. The content is prepared in this format for UBA Member reference only. Any UBA Member Firm distributing this information beyond UBA assumes full responsibility and liability for its use and interpretation.



280 East 96th Street
Suite 250
Indianapolis, IN 46240

T 317.705.1800
F 317.660.6640
W benefits.com

This information is being distributed by United Benefit Advisors (UBA) with the understanding that the author, publisher, editors, and UBA are not rendering legal or other professional advice or opinions on specific matters, and accordingly, assume no liability in connection with its use. The content is prepared in this format for UBA Member reference only. Any UBA Member Firm distributing this information beyond UBA assumes full responsibility and liability for its use and interpretation.

Shared Wisdom. Powerful Results.SM