

## **Federal Mental Health Parity Act**

### **Overview:**

The Emergency Economic Stabilization Act of 2008, HR 1424, included provisions that amend the existing federal mental health parity requirements. The existing law required parity between medical/surgical and mental health benefits in annual and lifetime dollar limits. The new law requires that the same treatment and financial limits that apply to medical and surgical benefits also apply to mental health and substance abuse benefits.

This legislation is effective on or after October 3, 2009. Group health plans that are maintained pursuant to collective bargaining agreements (union groups), are effective the latter of January 1, 2010 or the date the last collective bargaining agreement for the plan terminates.

### **Application of Mental Health Parity**

The new law applies to group health plans with 51 or more employees for fully-insured or self-funded groups. This legislation applies to groups identified below:

- ⇒ Private-sector employers;
- ⇒ Non-federal governmental employers (cities, counties, school districts, etc.), except if the plan is self-funded and the employer opts out of providing the coverage required by Federal Mental Health Parity Act;
- ⇒ Religious organizations (a plan established and maintained for its employees by a church or by a convention or association of churches that is exempt from tax under IRS Code § 501);
- ⇒ Employee organizations, for example a union.

A self-funded, non government plan can opt out of the law, but must do the following:

- ⇒ File an election with CMS prior to the beginning of each plan year;
- ⇒ Notify employees in writing, on an annual basis and at enrollment of the opt-out election.

### **Coverage Requirements**

The following coverage requirements apply; however, employers and/or group health plans are not required to provide mental health or substance abuse coverage. The requirements are as follows:

#### Financial:

- ⇒ Cannot be more restrictive than the predominant financial requirements applied to substantially all medical/surgical benefits;
- ⇒ No separate cost sharing requirements applicable only to mental health and substance use disorder benefits.

### Treatment:

- ⇒ Cannot be more restrictive than the predominant treatment limitations applied to substantially all medical/surgical benefits;
- ⇒ No separate treatment limitations that apply only to mental health and substance use disorder benefits.
- ⇒ Plans are permitted to define mental health conditions, taking into account any applicable state or federal law such as those mandating coverage for serious mental illness or biologically based mental illness.
- ⇒ Existing state mental health laws that prevent the application of the new federal requirements are preempted and no longer apply. State laws that do not prevent the application of the federal requirements are not preempted and continue to apply.

### **Key Provisions**

- ⇒ Reason for denials and the criteria for determining medical necessity must be made available, upon request and in accordance with regulations, to current and potential members and contracting providers.
- ⇒ If out-of-network benefits apply to medical/surgical benefits, they must also apply to mental health/substance abuse benefits.
- ⇒ Small employer groups are exempt from this legislation; thus, only groups of 51 or more employees are required to comply. Federal law determines group size by adding all full time employees, plus part time employees, plus COBRA/state continuation individuals, which equates the total group size. Individual coverage is exempt.
- ⇒ Penalties are enforced under ERISA and/or PHSa and equate to \$100 per day, per covered individual for noncompliance.
- ⇒ If these plans are offered as separate plans, they are not subject to mental health parity. They are: disability income, long term care, and Medicare Supplement.
- ⇒ New business groups of 51 or more employees will need to be compliant on November 1, 2009. Humana's existing employer groups of 51 or more employees will need to be compliant upon their renewal.

### **Cost Exemptions**

- ⇒ Costs must increase at least 2% the first year and 1% in subsequent years, in order to qualify for this cost exemption.
- ⇒ The increased cost determination must be prepared by a qualified and licensed actuary and must be based on actual claims data. Further, the determination may be made after a plan has compiled six months worth of data.
- ⇒ Humana has completed an actuarial analysis and concluded that actual cost to implement the new law will not meet the 2% cost exemption threshold. For Humana's fully insured business, we do not intend to file for any cost exemption.

- ⇒ For self-funded/Administrative Services Only groups who are interested in filing for a cost exemption, they will be required to seek outside Actuarial support.

## Humana Business Changes

- ⇒ For fully insured , large group employers (as defined by the federal government), Humana has made a business decision that new and current groups health plans will be required to provided mental health and substance abuse coverage that meets the amended federal and existing state law coverage requirements.
- Humana will not allow new or current fully insured business to carve out mental health or substance abuse out of their group health plan due to the concerns of establishing compliance with the new law.
  - As a broker/agent, you may be contacted by one of your employer groups with 51 or more employees, because they do meet the federal definitions of a large employer (see “Key Provisions” section noted above); thus, they are required to meet this legislation. **If you are contacted by one of your employer groups, who meet this criteria, please assist them in changing to a Humana group health plan that adds these coverage requirements.**
- ⇒ For small group employers with 50 or fewer employees (as defined by the federal government) who do **not** meet the definition of a large group employer, their current Humana group health plan products will **not** change.
- ⇒ Rating:
- 51-99 case size groups will be calculated in their experience rating at their next renewal.
  - 100+ case size groups will have a minimal charge added initially. The groups following renewal will include the actual cost used for experience rating.
  - Administrative Service Only group’s administration fees will not increase with the exception of vendor carve outs.

## Humana Communications

### New Business:

- ⇒ In September, Humana will communicate to our broker/agent partners, reminding them that November new business groups, that meet the requirements of Federal Mental Health Parity, will have this automatically added to their medical product selection.

### Existing Business:

- ⇒ Small Employer Groups: Upon renewal, our existing business groups will receive their renewal packet, either electronically or paper. Enclosed in this packet will be a notification regarding Federal Mental Health Parity. In order to review this notification, please [click here](#).
- ⇒ Large Employer Groups: Upon renewal, a communication will be included with the group's renewal information regarding Mental Health Parity. Based on the group, the communication may be customized.
- ⇒ Administrative Service Only Groups: Communications will be customized and delivered individually.

### **LifeSynch**

LifeSynch, Humana's behavioral and behavior change subsidiary focuses on reducing healthcare costs through specialized behavioral health services. Their utilization management processes are applied to behavioral health conditions to produce better outcomes and cost-effective care.

LifeSynch's behavioral health expertise, nationwide network and superior customer service statistics ensure employees receive the high-quality care they need. At the same time, employers are assisted by managing the reduction of unnecessary behavioral healthcare expenses.