Feds Proffer New Rules for Mental Health Parity

BY JANE ANDERSON

Large group health plans must treat mental health and substance abuse services the same way they treat medical and surgical services under new government regulations that will take effect July 1.

The rules implementing the Mental Health Parity and Addiction Equity Act of 2008 will ensure that plans not impose a different, more stringent set of restrictions on mental health and substance abuse treatment.

About 150 million Americans receive health insurance coverage through large group health plans, defined in the regulations as those sponsored by employers with 50 or more workers. About 90% of these plans include mental health coverage and therefore will be affected.

The rules, published Feb. 2 in the Federal Register, will prohibit large group health plans from restricting access to mental health and substance abuse care by limiting benefits and requiring higher patient cost-sharing when compared to general medical or surgical benefits.

The regulations do not require the plans to cover mental health services.

Administration officials speaking on background at a press briefing Jan. 29 said that the rules will bar plans from imposing different financial requirements, such as copayments, deductibles, and treatment limits, on mental health and substance abuse benefits.

To fulfill the new rules, financial requirements for mental health and substance abuse services must not be more restrictive than those imposed on "substantially all" medical/surgical benefits.

For example, an administration official said, if a plan expects to pay $1 million for outpatient, in-network medical services and $750,000 of that total would be subject to a copayment, that copayment is considered to apply to "substantially all" medical and surgical benefits. The copayment for mental health and substance abuse services could not be any higher, the administration official said.

Plans also will not be allowed to implement separate deductible and out-of-pocket limits for mental health/substance abuse and medical/surgical services; instead, the categories must be combined into a single total deductible or out-of-pocket limit.

The rules also apply to medical management by group health plans. In that case, medical management rules limiting mental health/substance abuse treatment cannot be applied more stringently than are rules limiting medical/surgical treatment unless there are clinically appropriate standards of care that would support the more stringent rules.

Plans must have the same standards for providers to participate in networks for both mental health/substance abuse and medicine/surgery, and must use the same standards for paying usual, customary, and reasonable fees for out-of-network providers, the administration officials said. A plan cannot have in-network providers for medicine/surgery but have only out-of-network providers for mental health/substance abuse. Networks do not have to be comparably sized, the administration officials said.

The regulations were crafted jointly by the departments of Health and Human Services, Labor, and Treasury, administration officials said. Enforcement will occur mainly through state insurance agencies, with backup from the Centers for Medicare and Medicaid Services.

The new rules were published as interim final regulations, allowing for public comment before they take effect.

The Mental Health Parity and Addiction Equity Act of 2008 greatly expanded on an earlier law, the Mental Health Parity Act of 1996. That measure required parity between mental health benefits and medical/surgical benefits only in total lifetime and annual dollar limits.

Most states already have implemented mental health parity laws, although many are far more limited than the new federal law, according to the National Alliance on Mental Illness. Administration officials said there was no evidence that companies and organizations tended to drop their mental health coverage after the implementation of such state laws.

Comments will be accepted through May 3 at www.regulations.gov. ■