



HR & BENEFITS UPDATE

New Mental Health Parity Regulations Likely To Require Plan Changes

January 29, 2010

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Employer and union-sponsored group health plans and insurers generally must update their group health plans to comply with expanded federal “mental health parity” regulations (MHP Regulations) published on Friday, January 29, 2010 will require changes to most covered group health plans to comply with the new rules and to adjust broader benefit provisions as appropriate to mitigate potential cost implications no later than the first plan year beginning after June 30, 2010.

Jointly published by the Treasury, Health & Human Services and Labor Departments and available for review under “*Law Links*” section of this website, the MHP Regulations interpret and implement federal rules prohibiting group health plans and their insurers from imposing certain special limits on benefits provided for mental health and substance abuse treatments not applicable to general medical or surgical benefits.

The Paul Wellstone and Pete Domenici Mental Health Parity and Addition Equity Act of 2008, Public Law 110-343 (MHPAEA) expands the scope of prohibited restrictions on mental health benefits beginning after June 30, 2010. Under the MHPAEA amendments, any covered group health plan that includes mental health and substance use disorder benefits along with standard medical and surgical benefits generally cannot apply more limited benefit limits, out-of-pocket cost limitations, prior authorization and utilization review or other benefit restrictions than apply to medical or surgical benefits. In addition, group health plan utilization review, medical necessity and appropriateness and other rules and procedures used to decide mental health and substance abuse benefits generally must be based on the same level of scientific evidence used by the group health plan or insurer to determine medical and surgical benefits.

Before the MHPAEA amendments took effect, the Mental Health Parity Act of 1996 (MHPA) generally only prohibited group health plans from applying more restrictive aggregate lifetime and annual dollar limits on mental health benefits than applied to general medical or surgical benefits and did not extend these restrictions to substance use disorder benefits.

The MHP Regulations generally apply to group health plans of employers with 50 or more workers that offer mental health or substance use disorder benefits for plan years beginning on or after July 1, 2010. Until then, covered group health plans and their insurers generally must continue to comply with the more limited mental health parity requirements imposed under the MHPA, as well as other federal group health plan mandates.

Federal law increasingly is curtailing the significant latitude that employers and unions once enjoyed in deciding the benefits, eligibility and other terms and conditions of their group health plans, including many significant changes that took effect or will take effect during 2009 and 2010. You can learn more about some of these developments by reviewing the 2009 Health Plan Update presentation posted in the “*Training and Presentations*” section of this website.

If your organization needs assistance with monitoring, assessing, managing or defending these or other health or other employee benefit, labor and employment, or compensation practices, please contact the

author of this article, Curran Tomko Tarski LLP Labor & Employment Practice Group Chair Cynthia Marcotte Stamer or another Curran Tomko Tarski LLP attorney of your choice. Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization and Chair of the American Bar Association RPTA Employee Benefits & Other Compensation Group and a nationally recognized author and speaker, Ms. Stamer is experienced with assisting employers and others about compliance with health and other employee benefit, labor and employment laws, safety, compensation, insurance, and other laws. She also advises and defends employers and other plan sponsors, fiduciaries, employee benefit plans and others about litigation and other disputes relating to these matters, as well as charges, audits, claims and investigations by the IRS, Department of Labor and other federal and state regulators. She has counseled and represented employers on these and other workforce matters for more than 22 years. Ms. Stamer also speaks and writes extensively on these and other related matters. For additional information about Ms. Stamer and her experience or to access other publications by Ms. Stamer see [here](#) or contact Ms. Stamer directly. For additional information about the experience and services of Ms. Stamer and other members of the Curran Tomko Tarski LLP team, see [here](#).

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