



Legal Alert: Interim Final Regulations (Finally) for the Mental Health Parity Act

2/1/2010

Three months ago, we asked: "Where 'O Where are the Regulations for the Mental Health Parity Act?" (Legal Alert, 10/9/2009) On January 29, 2010, the Departments of Health and Human Services, Labor, and Treasury finally heard our call.

Interim final regulations for the Mental Health Parity Act have finally been released. The final rules will go into effect on April 5, 2010 and will be applicable to health plan years that begin on or after July 1, 2010.

To recap the new law, the Mental Health Parity Act does not require health plans to cover treatment for substance abuse or mental illness, but requires that plans which do include such benefits treat these conditions on par with other illnesses.

The interim final rules passed last week set forth the framework for the Mental Health Parity Act. The rules explicitly state that parity applies across the board. This means that group health plans may not impose higher deductibles or caps on hospital room stays for mental health or substance abuse treatment. Nor can they impose more stringent preauthorization requirements for such treatment.

The interim final rules affect benefits in six categories: inpatient in-network; inpatient out-of-network; outpatient in-network; outpatient out-of-network; emergency care; and prescription drugs. The rules specify that if a group health plan provides coverage for substance abuse and/or mental health services in any one or more of these six categories, it must be on par with the medical and surgical benefits offered in that category.

The Mental Health Parity Act applies to both public and private group plans with 50 or more employees. It also applies to Medicaid managed-care plans, but the interim final rules do not cover Medicaid.

The Bottom Line

Employers should review their plan documents to ensure that they comply with the new interim final rules. To the extent that plans decide now to drop their mental health or substance use disorder coverage, Summaries of Material Reduction must be provided, and revisions will need to be made to the Summary Plan Descriptions, benefit booklets, and other benefit communications.

If you have any questions regarding the Mental Health Parity Act or other

employee benefits questions, please contact the author of this Alert, Joelle Sharman, jsharman@fordharrison.com, 404-888-3975 or any member of Ford & Harrison's Employee Benefits practice group.