

Impact of Strengthened Mental Health Parity Laws: What Employers and Health Care Providers Need to Know

Labor & Employment Law Update

By Suzannah Wilson Overholt on November 5, 2024

Insurance coverage requirements for mental health and substance use disorders ("MH/SUDs") is changing in a way that impacts group health plans, employers, and behavioral health providers. These changes are due to final rules issued in September by the federal departments of Labor, Health and Human Services, and the Treasury directed at equitable access to coverage for MH/SUDs.

Most of the provisions of the final rules apply to group health plans starting on the first day of the first plan year beginning on or after Jan. 1, 2025. The rules apply to individual health insurance coverage for policy years beginning on or after Jan. 1, 2026.

The new rules build on the Mental Health Parity Act of 1996 (MHPA) and Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). The MHPA prohibited large group health plans from imposing annual or lifetime dollar limits on mental health benefits that are less favorable than limits on medical/surgical benefits.

It was expanded by the MHPAEA, which extended the parity requirements to treatment for SUDs. In addition, financial requirements (e.g., coinsurance and copays) and treatment limitations (e.g., visit limits) imposed on MH/SUD benefits cannot be more restrictive than or separate from those that apply to substantially all medical/surgical benefits in a classification.

However, the MHPAEA does not require group health plans to cover MH/SUD benefits. Under it, health plans are required to provide access to and payment structures for such services in the same manner as other medical services. Provider networks have not been large enough to meet demand, so patients continue to pay more for MH/ SUD care than other medical services because they have to seek care from out-of-network providers.

The new rules focus on the use of limitations such as authorization requirements, other medical management techniques, network composition, and methods for determining out-of-network reimbursement rates that disfavor access to MH/SUD benefits.

The rules require health plans to collect and evaluate data related to benefit limitation and take reasonable action to address material differences. Plans are also prohibited from using information or standards that systematically disfavor access to MH/SUD benefits.

The impact of the new rules is likely to be felt in multiple ways:

- Insurance networks may need to add more mental health and substance use professionals to their networks or eliminate obstacles for providers to deliver care.
- MH/SUD providers may see a greater demand for their services as members of group health plans are able to access care more affordably. Providers who wish to expand their network access should contact area health plans and inquire about being added to their networks.
- Employers will likely see expanded coverage for MH/SUD as they negotiate with their group plans if they offer such a benefit to their employees, which could result in an additional expense for employers. Employers should ask their health insurance carriers about the status of coverage for MH/SUD benefits and, if coverage exists, a comparison of those benefits and medical/surgical benefits.

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