CMS: Proposed Rule on Mental Health Parity for Medicaid and CHIP

May 6, 2015

American Hospital Association

Proposed Rule on Mental Health Parity for Medicaid and CHIP

- ✓ **Federal Register: April 10**
- ✓ **Seeks to align Medicaid Managed Care and CHIP markets with commercial markets regarding MHPAEA requirements**
- ✓ **Comment Period: June 9**

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Overview

- ✓ **Background**
- ✓ **How Proposed Rule Aligns with the MHPEA Final Rules**
- ✓ **How Proposed Rule Applies Parity to Medicaid and CHIP**
- ✓ **Key Issues**

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Background

- **MHPAEA Requirements**
  - **Group health plans that offer mental health or substance use disorder (MH/SUD) benefits to provide them at parity with their medical/surgical benefits.**
  - **Parity assessments examine financial requirements such as copays and deductibles, treatment limits such as day or visit limits and aggregate lifetime and annual dollar limits that are applied to benefits**
- **MHPAEA 2013 Final Rules**
  - **The final rules applied to group health and individual issuers in the commercial market**

Alignment with 2014 MHPAEA Final Rule

- **Where there is alignment:**
  - **General parity requirements for financial requirements and treatment limitations**
  - **Availability of information**

- **Where there are differences:**
  - **Application of parity across different care delivery arrangements**
  - **Number of benefit classifications**
  - **Cost Exemption/MCO Capitated Rate**
  - **Application to Medicaid Alternative Benefit Plan and CHIP state plans**

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How Proposed Rule Applies Parity to Medicaid and CHIP

- **Medicaid Managed Care Organizations (MCOs)**
  - **Maintains state flexibility in type and delivery of MH/SUD services**
  - **Parity standards apply to all managed care arrangements: MCO, prepaid inpatient health plans (PIHPs) and prepared ambulatory health plans (PAHPs)**
  - **MCO responsible for parity analysis when MH/SUD only delivered through MCOs**
  - **State responsible for parity analysis when MH/SUD delivered through various arrangements: MCO, PIHPs, or PAHPs**

How Proposed Rule Applies Parity to Medicaid and CHIP

- **Medicaid Managed Care Organizations (MCOs)**
  - **Financial Requirements and Treatment Limitations**
    - **Parity determined by comparing requirements and limitations within same benefit classification as medical/ surgical**
      - **4 benefit classifications: inpatient; outpatient; emergency care; prescription drugs**
      - **No Long Term Care**
      - **Intermediate care within 4 benefit classifications**
    - **"Substantially All" and "Predominate"**
      - **Substantially All = 2/3 of med/surg benefit in classification as measured by total dollar amount of health plan payments**
      - **Predominate = more than ½ of med/surg benefits subject to financial requirement or treatment limitation**

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How Proposed Rule Applies Parity to Medicaid and CHIP

- **Medicaid Managed Care Organizations (MCOs)**
  - **Non-quantitative Treatment Limitations (NTQLs) non-quantitative limitations such as prescription drug formulary design or standards for provider participation in a network that affects scope or duration of benefit.**
    - **NTQLs can be no more stringently applied for med/surg benefits.**
  - **Tiered Networks Prescription Drugs**
    - **Allows different levels of financial requirements if based on reasonable factors such as cost, efficacy, generic vs brand.**
  - **Aggregate Lifetime and Annual Dollar Limits**
    - **Applies MHPAEA aggregate lifetime and dollar limits to MCO enrollee and CHIP plan enrollees**

How Proposed Rule Applies Parity to Medicaid and CHIP

- **Medicaid Alternative Benefit Plans (ABP)**
  - **Applies parity requirements to ABP MCOs**
  - **Applies some parity requirements to ABP fee for service i.e. financial requirements and treatment limitations. Annual and lifetime dollar limits would not apply to ABP benefits.**

- **CHIP**
  - **Applies parity requirements to CHIP plans both fee-for-service and managed care.**
  - **CHIP plans providing full EPSDT services are deemed compliant**

How Proposed Rule Applies Parity to Medicaid and CHIP

- **Actuarially Sound Capitation Payment:**
  - **State will take into account cost of compliance with parity when establishing MCO capitated rate**
  - **Therefore MCO will not get MHPAEA increased cost exemption**

- **State Responsibility**
  - **States have two options of MCO benefit package does not meet parity requirements: 1. state can change state plan or 2. state could change managed care contract**
  - **State would be required to make available document of parity compliance to the general public within 18 months of the effective date of the rule.**

Key Issues

- ✓ **State Oversight?**
- ✓ **Compliance Timeline** – 18 month after publication of rule
- ✓ **Party doesn't apply to FFS**
- ✓ **Proposed classification of benefits**
  - *Inpatient, outpatient, emergency care, prescription drug use*
  - *No in- or –out of network included in classifications*
  - *LTC excluded*
  - *Intermediate Care Services*
- ✓ **Tiered Networks**
- ✓ **"Carve outs"**
  - *Apply across all managed care arrangements PIHPs, MCOs, PAHPs*
- ✓ **Other issues?**

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How Proposed Rule Applies Parity to Medicaid and CHIP

- ***Next Steps***

  Public comments are due to CMS by 5:00 p.m. on June 9. Comments can be submitted electronically to http://www.regulations.gov. Follow the ‘‘Submit a comment’’ instructions.

- ***Further Questions***

  Molly Collins Offner, director for policy development, at mcollins@aha.org

  Evelyn Knolle, senior associate director for policy, at eknolle@aha.org.

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