ABHW

ISSUE BRIEF

Mental Health Parity and Addiction Equity

Background

In October 2008, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA), P.L. 110-343, was signed into law. MHPAEA requires group health plans and health insurance issuers that provide mental health and/or substance use disorder (MH/SUD) benefits to treat those benefits comparable to medical/surgical benefits. As a result of provisions in the Affordable Care Act (ACA) and MHPAEA, parity applies to employer funded plans, individual and small group plans (including exchanges), Medicaid (managed care and Alternative Benefit Plans), and Children's Health Insurance Program Plans (CHIP). MHPAEA and its accompanying regulations require parity for financial (i.e. copayments), quantitative treatment (i.e. visit limits) and nonquantitative (NQTL) treatment (i.e. preauthorization requirements) limits as well as out-of-network benefits. MHPAEA also includes requirements related to information disclosure.

Since its inception, ABHW has been an active supporter of equitable coverage of mental health and addiction treatment. ABHW has worked closely with the Departments of Labor (DOL), Health and Human Services (HHS), and Treasury, to ensure that its member companies understand the intent of the regulations in order to properly implement MHPAEA. ABHW member companies have teams of people from multiple departments in both physical and behavioral health working diligently on the required parity analyses in order to provide a parity benefit to consumers. Health plans have made changes such as eliminating arbitrary treatment limits and aligning behavioral health copayments with medical visit copayments in order to comply with MHPAEA.

Challenges exist in the implementation and compliance assessment of MHPAEA. As federal and state governments enforce parity, a variety of interpretations of the law have developed, resulting in a lack of uniformity in the documentation required to

demonstrate compliance. Additionally, federal regulatory guidance has gone beyond the intent of the law. This has resulted in complex compliance requirements that don't necessarily benefit consumers and increase compliance burden and costs.

Recommendations

The parity analysis has become a one-way comparison between MH/SUD and medical/surgical benefits with no recognition of the differences between behavioral and physical health. It is critical to recognize these variations to ensure that the best quality, evidence-based care is provided to consumers. Suggested steps to improve understanding and compliance with MHPAEA include:

- Release de-identified information on compliance issues discovered by the regulating agencies and provide examples of parity compliance.
- Develop and implement uniform MHPAEA compliance requirements.
- Issue a model disclosure form that identifies specific documents that health plans could use to respond to enrollee requests for the information required to be disclosed under MHPAEA.
- Clarify NQTL disclosure requirements and that MHPAEA does not require a specific process, strategy, evidentiary standard, or other factor be used in applying a NQTL.
- Address important issues that weren't intended to be parity issues under the law, such as network adequacy and out-of-network usage, outside of the parity rubric.