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Bulletin No. 00-06

To: **Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts (BCBSMA), Health Maintenance Organizations**

From: **Marylou Sudders, Commissioner of Mental Health** Marylou Sudders
Linda Ruthardt, Commissioner of Insurance Linda Ruthardt

Re: **Mental Health Parity**

Date: **July 20, 2000**

Carriers that offer or renew any health insurance benefit plans to Massachusetts residents or insureds whose principal place of employment is in Massachusetts are advised to carefully review the contents of this bulletin.

The purpose of this Bulletin is to inform carriers of the enactment of St. 2000, c. 80 (Chapter 80), An Act Relative to Mental Health Benefits. Chapter 80, in part, amends the following Massachusetts mental health mandated benefit statutes: M.G.L. c. 175, §§47B and 108E; c. 176A, §8A; c. 176B, §4A; and c. 176G, §§4 and 4B. Chapter 80 also repeals M.G.L. c. 176A, §8A1/2; and c. 176B, §4B, and adds section 4M to chapter 176G. Please refer to these statutes for a complete description of the new mandated mental health provisions.

Chapter 80 applies to health plans issued or renewed within or without the Commonwealth on or after January 1, 2001, with the exception of small group health plans subject to M.G.L. c. 176J and nongroup health plans subject to M.G.L. c. 176M, for which Chapter 80 will apply to health plans delivered, issued or renewed within or without the Commonwealth on and after January 1, 2002.[1] Chapter 80 does not apply to self-funded single employer health plans and Taft Hartley Trusts qualified under the Federal Employee Retirement Income Security Act of 1974 (ERISA), and which are exempt from state mandated benefit laws pursuant to ERISA.

Chapter 80 directs insured health plans to provide mental health benefits on a nondiscriminatory basis to all residents of Massachusetts and to all insureds having a principal place

[1]Benefits for mental health services offered by small group and nongroup health plans prior to January 1, 2001 may not be reduced or otherwise altered after January 1, 2001 until such time as the provisions of Chapter 80 become effective for these plans. The Division further would consider it a violation of Chapter 80 if small group or nongroup carriers reduce or otherwise alter mental health benefits prior to January 1, 2001.

of employment in Massachusetts for the diagnosis and treatment of the following mental and emotional disorders:

- The following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (the DSM): schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, panic disorder, delirium and dementia, and affective disorders. The Commissioners of the Department of Mental Health and the Division of Insurance may add any biologically-based, scientifically recognized mental disorders appearing in the DSM, to the above list of mental disorders. The Commissioners will issue a bulletin to advise carriers at the time any new disorders are added to this list.

- Rape-related mental or emotional disorders for victims of rape or victims of an assault with intent to commit rape, whenever the cost of the treatment exceeds the maximum compensation awarded to the victim under M.G.L. c. 258C, the crime victim's compensation law. In the event that the rape or assault with intent to commit rape occurs in another state, the Division would consider a carrier to be in compliance with Chapter 80 if it covers services for treatment that are not compensated by any similar program offered in the state in which the rape or assault with intent to commit rape occurred.

- Non-biologically based mental, behavioral or emotional disorders described in the DSM that substantially interfere with or substantially limit the functioning and social interactions of children and adolescents under the age of 19. The interference or limitation must be documented and referred for treatment by the primary care physician, primary pediatrician or a licensed mental health professional, or be evidenced by conduct including, but not limited to: an inability to attend school as a result of the disorder, the need to hospitalize the child or adolescent as a result of the disorder, or a pattern of conduct or behavior caused by the disorder that poses a serious danger to self or others. Chapter 80 further mandates that the benefits for ongoing treatment continue beyond the adolescent's 19th birthday until the course of treatment is completed, so long as the health plan under which the benefits first became available remains in effect, or are subject to a subsequent health plan that is in effect.

- Psychopharmacological services and neuropsychological assessment services must be treated as medical benefits and must be covered to the same extent as all other medical services.

A health plan will be deemed to be in compliance with the above mandates of Chapter 80 if the health plan does not contain any annual or lifetime dollar or unit of service limitation for the treatment of the designated mental disorders that is less than that imposed for physical conditions.

Chapter 80 further mandates a minimum benefit of 60 days of inpatient treatment and a minimum benefit of 24 outpatient visits in a 12-month period for the medically necessary diagnosis and treatment of all other mental disorders described in the most recent edition of the DSM.

Chapter 80 also specifies the following:

Benefits for alcoholism services and chemical dependence found in M.G.L. c. 175, §110(H); c. 176A, §10; c. 176B, §4A1/2; and c. 176G, § 4 are not subject to those statutes' limitations when treatment is rendered in conjunction with treatment for mental disorders as mandated by Chapter 80 and may not be construed to restrict the mental health benefits mandated by this chapter.

- Benefits mandated by Chapter 80 must consist of a range of medically necessary inpatient, intermediate and outpatient services to take place in the least restrictive clinically appropriate setting. For all of the services listed below, the Division would consider a carrier to be in compliance with Chapter 80 if it provides the same services at the same facilities licensed by the state in which the services are rendered. Chapter 80 defines those services as follows:
  - **Inpatient services** may be provided in a general hospital licensed to provide services mandated by Chapter 80, a facility under the direction and supervision of the Department of Mental Health, or a private mental hospital licensed by the Department of Mental Health or substance abuse facility licensed by the Department of Public Health.
  - **Intermediate services** include, but are not limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the Department of Public Health or the Department of Mental Health.
  - **Outpatient services** may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the Department of Public Health, a public community mental health center, a professional office, or home-based services, and must be provided by one of the following licensed mental health professionals acting within the scope of his or her license: a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed mental health counselor, or a licensed nurse mental health clinical specialist.

- Consent to disclosure of information for mental health services may be required only to the same or similar extent as the consent to disclosure is required for services for other medical conditions. Until the effective date of Chapter 80 on a covered plan, carriers must continue to comply with the requirements in Bulletins 96-09 and 96-21. As of the implementation dates for Chapter 80, Bulletins 96-09 and 96-21 will no longer be in effect. As noted in footnote one on page one, small group and nongroup health plans must continue to comply with Bulletins 96-09 and 96-21 until the provisions of Chapter 80 become effective for these plans.

- Benefits mandated by Chapter 80 shall meet all other terms and conditions of the health plan that are not inconsistent with Chapter 80.

- Only licensed mental health professionals may deny services mandated by Chapter 80, unless the denial is for lack of insurance coverage or, if applicable under the health plan, because of the use of a facility or professional not under contract with the carrier.

- Coverage is not required to be provided for services that constitute educational services required to be provided by a school committee pursuant to section 5 of chapter 71B. In addition, the law provides that coverage is not required for incarcerated persons who have third party insurance.

FORM FILINGS

Chapter 80 states that all form filings implementing the above requirements are subject to the approval of the Commissioner of Insurance. Carriers should submit revised contracts, policies, certificates and evidences of coverage, or relevant riders, endorsements, or amendments which would be attached to existing documents regarding this benefit as soon as possible to the Health Unit at the Division of Insurance at the above address. For filing and fee requirements, please refer to Division of Insurance Bulletin No. SRB-96-16.

Any questions regarding this Bulletin and Chapter 80 may be directed to Mary Ellen Thompson, Assistant General Counsel, Division of Insurance at (617) 521-7364.