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LINDA RUTHARDT
COMMISSIONER OF INSURANCE

Bulletin 00-10

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

From: Commissioner Linda Ruthardt

Re: **Certain Issues Regarding Mental Health Benefits Required by C. 80 of the Acts of 2000**

Date: September 8, 2000

The purpose of this bulletin is to address two issues related to certain benefits under the Mental Health Parity Law, Chapter 80 of the Acts of 2000, which was the subject of Division of Insurance Bulletin 00-06.

- **Cost Sharing for Mental Health Benefits**

The Division has reviewed allowable limits and cost-sharing features for those mandated mental health benefits which are not for (1) biologically-based mental disorders, (2) rape-related mental or emotional disorders for victims of rape or victims of an assault with intent to commit rape or (3) non-biologically based mental, behavioral or emotional disorders described in the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM) that substantially interfere with or substantially limit the functioning and social interactions of children and adolescents under the age of 19. While the sections describing the foregoing mental health benefits state that the benefits are to be provided on a non-discriminatory basis, M.G.L. c. 175, §47B(e); c. 176A, §8A(e); c. 176B, §4A(e); and c. 176G, §4M(e), as amended by Chapter 80 require that:

> "[insured health plans] shall also provide medically necessary benefits for the diagnosis and treatment of all other mental disorders not otherwise provided for . . . and which are described in the most recent edition of the DSM during each 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits."

Although these other mandated mental health benefits can be capped according to the number of days of inpatient treatment or outpatient visits, no other limitations, coinsurance, copayment,

deductibles or other cost-sharing may be applied toward these benefits except as are applied to covered medical services within the plan.

- **Continuation of Treatment for Adolescents**

As noted in Bulletin 00-06, Chapter 80 mandates non-discriminatory coverage of 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 carriers:

> "shall continue to provide such benefits to any adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's treatment plan, is completed and while the benefit under which such benefits first became available remains in effect, or subject to a subsequent benefits contract which is in effect."

Carriers must therefore continue to provide non-discriminatory mental health benefits which meet Chapter 80's criteria to any such adolescent who continues coverage under any other subsequent contract.

Relative to a carrier's responsibility to continue to provide the mandated benefit for such an adolescent when he/she turns 19 and, in certain cases, ceases to qualify as a dependent under his/her parent's health plan, carriers must continue to provide the mandated mental health benefits. In this case, carriers may charge the affected person his/her usual premium in order to qualify for the continuation of this mandated benefit or offer the person the option to pay for continuation of the health plan coverage under federal (COBRA) or state continuation provisions

While Chapter 80 does not require it, the Division suggests that carriers make clear that if COBRA coverage is selected then all plan benefits will be available. If COBRA coverage is not selected, any premium paid to continue the mental health benefits beyond age 19 will continue Chapter 80 benefits <u>only</u> and COBRA eligibility will not be extended.

Any questions regarding this Bulletin should be directed to Kevin Beagan, Director, Health Unit of the State Rating Bureau at the Division of Insurance, at (617) 521-7347, or faxed to (617) 521-7773.