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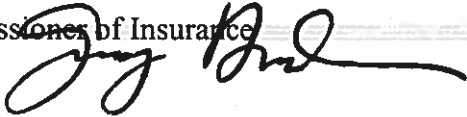
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COMMISSIONER OF INSURANCE

BULLETIN 2023-05

To: All Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc.,
and Health Maintenance Organizations

From: Gary D. Anderson, Commissioner of Insurance 

Date: January 4, 2023

Re: Behavioral Health Wellness Examinations

The Division of Insurance (“Division”) issues this Bulletin 2023-05 to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations (“Carriers”) to identify the Division’s expectations regarding Carriers’ requirement to provide annual mental health wellness examinations. The Division issues this Bulletin pursuant to Sections 51, 55, 58, and 61 of Chapter 177 of the Acts of 2022, which amend Massachusetts laws to add M.G.L. c. 175, §47TT; M.G.L. c. 176A, §8UU; M.G.L. c. 176B, §4UU; and M.G.L. c. 176G, §4MM (“Statutes”). The Statutes are effective as of November 8, 2022.

Behavioral Health Wellness Examinations

Individual or group insured health coverage “that is issued or renewed within or without the commonwealth shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of [the] annual preventive visit.”

The Division expects that Carriers will cover all initial annual mental health wellness examinations as well as subsequent examinations, provided that Carriers may require that subsequent examinations be covered if they occur at least 12 months following the most recent annual mental health wellness examination. Carriers are encouraged to provide defined adjustability for timing of such subsequent examinations under the law, with the suggestion that the 12-month timeframe have some limited flexibility for providers and members. As an example, Carriers could provide for coverage of any subsequent annual mental health wellness examination that occurs on or after the beginning of the 12th month following the previously covered annual mental health wellness examination.

The Statutes provide that “mental health wellness examination” means a “screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports, and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person’s mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.”

The Statutes also provide that a “licensed mental health professional” is “a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.”

The Statutes also state that a “primary care provider” is a “health care professional qualified to provide general medical care for common health care problems, who (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.”

The annual mental health wellness examination shall be covered with no patient cost-sharing, provided however, that cost-sharing shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service. For those plans impacted by federal Internal Revenue Code rules, where the health plan applies patient cost-sharing to the annual mental health wellness examination, the Carrier issuing such insured plan should forward a notice to covered persons. Any notice provided should notify the consumer that cost-sharing is part of the health plan because the plan would lose its tax-exempt status and, consequently, if cost-sharing were not applied to the annual mental health wellness examination benefit, the consumer could be subject to certain federal taxation.

Information contained herein may be amended or updated as further information regarding annual mental health wellness examination standards, coding, or other claim submission requirements, etc. are developed. Carriers will be expected to perform any and all needed updates and modifications, including those to enrollment and reimbursement systems, as necessary, to enable payment for such services. Carriers are also directed to take all appropriate steps to update websites and coverage materials to notify covered persons of coverage for the annual mental health wellness examination.

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Carriers Acting as Administrators

When Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of this Bulletin 2022-05.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.