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Office of Consumer Affairs and Business Regulation
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Filing Guidance Notice 2024-D
2023 Mental Health Parity Annual Report


TO: Health Insurance Carriers Licensed Under M.G.L. C. 175, 176A, 176B, 176G
FROM: Niels Puetthoff, Bureau of Managed Care Director 
DATE: April 24, 2024
RE: Mental Health Parity Compliance

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I. GENERAL INSTRUCTIONS

Health Insurance Carriers (Carriers) are required to submit the information and documentation contained within this Filing Guidance via an Informational Filing within the System for Electronic Rate and Form Filings (SERFF). The SERFF submission is due **no later than July 1, 2024** and covers the reporting period of January 1, 2023 through December 31, 2023. No filing fee is required for the SERFF submission. The submission will be submitted within the “Supporting Documentations” tab within SERFF. Within this tab, carriers are asked to create separate entries for each of the different documents/templates described below.

A checklist will be distributed for carriers to use to ensure that all materials have been included and submitted in their SERFF filing. This checklist can be submitted in the Checklist entry within the Supporting Documentation tab.

Carriers are required to submit a Certification of Compliance, to be signed by the carrier’s Chief Executive Officer and Chief Medical Officer. ***Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes this certification.***

Please note that for the following Section II items, it is NOT necessary to create separate entries for EACH separate NQTL category.

II. M.G.L. CHAPTER 26, SECTION 8M

Chapter 177 of the Acts of 2020 creates a new law - M.G.L. c. 26, section 8M. This section 8M requires carriers to submit to the Division the following information:

- (i) the specific plan or coverage terms or other relevant terms regarding the nonquantitative treatment limitations and a description of all mental health and substance use disorder benefits and medical and surgical benefits to which each term applies in each respective benefits classification; provided, however, that the nonquantitative treatment limitations shall include the processes, strategies, evidentiary standards or other factors used to develop and apply the carrier's reimbursement rates for mental health and substance use disorder benefits and medical and surgical benefits in each respective benefits classification;

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (ii) the factors used to determine that the nonquantitative treatment limitations will apply to mental health and substance use disorder benefits and medical and surgical benefits;

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (iii) the evidentiary standards used for the factors identified in clause (ii), when applicable, and any other source or evidence relied upon to design and apply the nonquantitative treatment limitations to mental health and substance use disorder benefits and medical and surgical benefits; provided, however, that every factor shall be defined;

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (iv) a comparative analysis demonstrating that the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to mental health and substance use disorder benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to medical and surgical benefits in the benefits classification;

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

Please note that the above comparative analysis is required for the following nonquantitative treatment limitation categories:

Prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates and geographic restrictions

- (v) the specific findings and conclusions reached by the carrier with respect to health insurance coverage, including any results of the analysis described in clause (iv) that indicate whether the carrier is in compliance with this section and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and any federal guidance or regulations relevant to the

act, including, but not limited to, 45 CFR Part 146.136, 45 CFR Part 147.160 and 45 CFR Part 156.115(a)(3);

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (vi) the number of requests for parity documents received under 29 CFR 2590.712(d)(3) or 45 CFR 146.136(d) (3) and the number of any such requests for which the plan refused, declined or was unable to provide documents;

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (vii) the additional information, if any, that a carrier is required to provide under 42 U.S.C. 300gg-26(a)(8)(B)(ii);

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (viii) any other data or information the commissioner deems necessary to assess a carrier's compliance with mental health parity requirements.

For this section (viii), please submit the information as follows: M.G.L. c. 26, Section 8M requires certain data to be collected on an annual basis. The Division will continue to work with carriers to ensure that carriers' IT systems will be able to produce the information starting with Calendar Year 2024, due July 1, 2025. For CY 2023, please submit data as follows:

1. Please use the Excel Template [MHP_Request Data_Template_07012024] to complete the data for calendar year 2023.
2. Please ensure that:
 - a. The reported information is only for requests for services for fully-insured members.
 - b. The reported information is only for requests for services for persons covered under insured health plans that were issued or renewed within Massachusetts.
 - c. The reported information does not include requests for prescription medications.

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

III. **RESPONSES TO CHAPTER 110 OF THE ACTS OF 2017**

Chapter 110 of the Acts of 2017 requires that Carriers certify whether their coverage includes the following mental health home-based and community-based services for a child. Each Carrier must include a certification using the Excel template [*MHP Template 2023_Chapter 110*].

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

- (i) **Intensive care coordination for a child with a serious emotional disturbance;**¹ service that facilitates care planning and coordination that provides a single point of accountability for assessment, and developing and implementing a plan of care ensuring that medically necessary services are accessed, coordinated, and delivered in a strength-based, individualized, family/youth-driven, and ethnically, culturally, and linguistically relevant manner, and includes, but is not limited to, the following services²:

- Comprehensive home-based assessment
- Care Planning Team (CPT) meetings
- Individual Care Plans (ICP)
- Risk management/safety plan(s)
- Care coordination, including:
 - Links and referrals for supports and services
 - Assistance with systems navigation
 - Collateral contacts (phone and face-to-face)
 - Direct time with providers (e.g., attendance at IEP, hospital discharge, and other meetings)
 - Aftercare planning
- Education, advocacy and support to youth and parent(s)/caregiver(s)
- Individualized and family-driven interventions and/or supports for the youth and parent/caregiver
- Regular contact with youth and parent/caregiver
- Telephone support for youth and parent/caregiver
- 24/7 crisis monitoring and assistance in accessing ESP/MCI services
- Member transportation provided by staff
- Member outreach (up to 30 minutes)
- Documentation (time spent completing required paperwork as outlined in the Performance Specifications)

Please certify whether your organization covers these services. If your organization does not cover these services as described above, please identify what services are covered and what is not covered.

- (ii) **Mobile crisis intervention;**

¹ For further reference, please see Massachusetts Behavioral Health Partnership at: <https://www.mass.gov/files/documents/2016/07/nh/ps-tcm-icc-ps.pdf>

² For further reference, please see Massachusetts Behavioral Health Partnership at: <https://www.masspartnership.com/pdf/TCM-ICC%20service%20definition12-23-08.pdf>

“Mobile crisis intervention”, a short-term, mobile, on-site, face-to-face therapeutic response service that is available 24 hours a day, 7 days a week to a child experiencing a behavioral health crisis to identify, assess, treat and stabilize a situation and reduce the immediate risk of danger to the child or others; provided, however, that the intervention shall be consistent with the child’s risk management or safety plan, if any.

Please certify whether your organization covers this service. If your organization does not cover this service as defined, please identify what services are covered and what is not covered.

(iii) **Family support and training;**

“Family support and training”, a service provided to a parent or other caregiver of a child to improve the capacity of the parent or caregiver to ameliorate or resolve the child’s emotional or behavioral needs and to parent; provided, however, that such service shall be provided where the child resides, including in the child’s home, a foster home, a therapeutic foster home or another community setting.

Please certify whether your organization covers this service. If your organization does not cover this service as defined, please identify what services are covered and what is not covered.

(iv) **In-home therapy;**

“In-home therapy”, therapeutic clinical intervention or ongoing training and therapeutic support; provided however, that the intervention or support shall be provided where the child resides, including in the child’s home, a foster home, a therapeutic foster home or another community setting.

Please certify whether your organization covers this service. If your organization does not cover this service as defined, please identify what services are covered and what is not covered.

(v) **Therapeutic mentoring services; and**

“Therapeutic mentoring services”, services provided to a child designed to support age-appropriate social functioning or to ameliorate deficits in the child’s age-appropriate social functioning; provided, however, that such services may include supporting, coaching and training the child in age-appropriate behaviors, interpersonal communication, problem solving, conflict resolution and relating appropriately to other children and adolescents and to adults in recreational and social activities; and provided further, that such services shall be provided where the child resides, including in the child’s home, a foster home, a therapeutic foster home or another community setting.

Please certify whether your organization covers this service. If your organization does not cover this service as defined, please identify what services are covered and what is not covered.

(vi) **In-home behavioral services.**

“In-home behavioral services”, a combination of behavior management therapy and behavior management monitoring; provided, however, that such services shall be provided where the child resides, including in the child’s home, a foster home, a therapeutic foster home or another community setting.

Please certify whether your organization covers this service. If your organization does not cover this service as defined, please identify what services are covered and what is not covered.

In addition, please note that the following terms are also defined in Section 23 of Chapter 110 of the Acts of 2017 and are restated below.

“Child”, a person under the age of 21.

“Behavior management monitoring”, monitoring of a child’s behavior, the implementation of a behavior plan and reinforcing implementation of a behavior plan by the child’s parent or other caregiver.

“Behavior management therapy”, therapy that addresses challenging behaviors that interfere with a child’s successful functioning; provided, however, that “behavior management therapy” shall include assessment, development of a behavior plan and supervision and coordination of interventions to address specific behavioral objectives or performance, including the development of a crisis-response strategy; and provided further, that “behavior management therapy” may include short-term counseling and assistance.

“Ongoing therapeutic training and support”, services that support implementation of a treatment plan pursuant to therapeutic clinical intervention that shall include, but not be limited to, teaching the child to understand, direct, interpret, manage and control feelings and emotional responses to situations and assisting the family in supporting the child and addressing the child’s emotional and mental health needs.

“Therapeutic clinical intervention”, intervention that shall include: (i) a structured and consistent therapeutic relationship between a licensed clinician and a child and the child’s family to treat the child’s mental health needs, including improvement of the family’s ability to provide effective support for the child and promotion of healthy functioning of the child within the family; (ii) the development of a treatment plan; and (iii) using established psychotherapeutic techniques, working with the family or a subset of the family to enhance problem solving, limit setting, communication, emotional support or other family or individual functions.

IV. FEDERAL SELF-COMPLIANCE TOOL FOR THE MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT (MHPAEA)

Please review the Federal Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA). All carriers are required to respond to each of the 8 listed questions using the Federal Self-Compliance Tool document. In doing so, carriers are required to follow each of the analyses indicated for each question. Carriers will be required to certify that all analyses in the tool were used in determining the answer to each question.

Please create a separate entry within the Supporting Documentation tab of your SERFF filing that includes the information requested above.

Please note that any documents/templates that are referenced within this Filing Guidance Notice as needing to be completed and/or filled out will be distributed separately to each carrier.

If you have any questions, please contact Niels Puetthoff at niels.puetthoff@mass.gov.