

October 2, 2017

Massachusetts Compliance with Mental Health Parity as applied to Medicaid and CHIP

Introduction

Under the final Medicaid/CHIP parity rule (“the rule”), which applies most provisions of the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) to Medicaid and CHIP, states are required to do a parity analysis and to document their findings, along with a compliance plan to address any necessary follow-up activities. Below is a description of Massachusetts’ parity analysis process, findings and compliance plan for its Medicaid and CHIP programs, known collectively as MassHealth.

The rule requires states to categorize benefits as either medical/surgical or mental health/substance use and to further categorize benefits into four classifications – Inpatient, Outpatient, Prescription Drugs and Emergency. Please see the Attachment labeled “*MassHealth Benefits Categorization and Classification*” to see how Massachusetts classifies the MassHealth benefits.

Under the rule, a plan may not apply any financial requirement or quantitative treatment limitation (QTL) to mental health or substance use disorder (“MH/SUD”) benefits that is more restrictive than the predominant financial requirement or QTL of that type applied to substantially all medical/surgical benefits in the same classification.

Also under the rule, a plan cannot impose a non-quantitative treatment limit (NQTL) on MH/SUD benefits in any classification unless the processes, strategies, evidentiary standards, or other factors used in applying the NQTL to MH/SUD benefits in the classification are comparable to and are applied no more stringently than those used in applying the limitation to medical/surgical benefits in the same classification. NQTL may include but are not limited to medical management strategies, formulary design and network admission standards.

The rule requires states to do a parity analysis on all services for which the following populations are eligible:

- Members in managed care organizations (“MCOs”);
- Members in Alternative Benefit Plans (“ABPs”), regardless of delivery system; and
- Members in the Children’s Health Insurance Program (“CHIP”), regardless of delivery system.

Financial Requirements

MassHealth members have the same financial requirements, regardless of delivery system. MassHealth reviewed its financial requirements and found no financial requirements applied to MH/SUD services that are more stringent than those applied to medical/surgical benefits.

QTL and NQTL review for the populations listed above:

Members in MCOs

MassHealth worked closely with its contracted MCOs (“plans”) on the parity analysis. MCOs were sent a questionnaire asking them to describe any differences in financial requirements, QTL or NQTL between MH/SUD and medical/surgical benefits and to explain the rationale for any differences (see Attachment “*Mental Health Parity Rule - Letter to Plans*”). Additionally, MCOs were sent the “*MassHealth Benefits Categorization and Classification*” document so that all plans would all be using the same categorizations and classifications. Since some of the plans do not cover Long Term Services and

Supports (LTSS), we gave all of the plans information about the QTL and NQTL for the LTSS that MassHealth provides as wrap services for managed care members (see Attachment “*LTSS Services NQTL and QTL*”). MassHealth staff reviewed the responses from the MCOs. As a result of the process described above, MassHealth confirms that it is in compliance with MHPAEA for its members enrolled in MCOs.

Members in ABPs

ABP Plans serve the following eligible members in one of two ABP Plans: Standard and CarePlus. Standard ABP is provided to all 19-20 year old childless adults with income up to 133% of the Federal Poverty Level (FPL) and to individuals ages 21-64 with income up to 133% FPL who are HIV positive, who have breast or cervical cancer, who are medically frail, who are receiving services from the Massachusetts Department of Mental Health, or who are on a waiting list to receive such services. Members in the Standard ABP receive the full Medicaid Standard benefit. CarePlus ABP is provided to all other childless adults ages 21-64 with income up to 133% FPL. Members in the CarePlus ABP receive a benefit package that is similar to Standard except that they are not eligible for most long term services and supports (LTSS).

Members in both ABPs may enroll in either an MCO or the Primary Care Clinician (PCC) plan. Members in the PCC plan receive their medical/surgical benefits directly from MassHealth and their MH/SUD benefits through a contracted MIHP, currently the Massachusetts Behavioral Health Partnership (MBHP). In some cases, such as dual eligibility, enrollment with MassHealth for payment of premium assistance for Employer Sponsored Insurance or during the 14 day period before enrollment in an MCO, ABP members may receive some or all of their benefits through Fee-for-Service (FFS)

Parity review and compliance for ABP members deemed compliant or enrolled in MCOs

- MassHealth is able to deem compliance with MHPAEA under the Medicaid Mental Health Parity rules for the 19 and 20 year olds in Standard ABP because they are eligible for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) which allows for coverage of all medically necessary services, without limitation.
- MassHealth confirms parity compliance for all ABP Standard and CarePlus members aged 21-64 enrolled in MCOs, based on the parity analysis conducted as described above for all members receiving services through an MCO.

Parity review and compliance for all other ABP members

- For the ABP Standard and CarePlus members aged 21-64 enrolled in the PCC plan and MBHP, MassHealth worked with MBHP on the parity analysis. MassHealth sent MBHP a questionnaire (see Attachment “*Email to MBHP on parity*”) and compared the QTL and NQTL on the MH/SUD services that MBHP provides to those that MassHealth applies to medical/surgical services provided through the PCC plan, including LTSS services provided through FFS.
- Similarly, for the ABP members aged 21-64 receiving all of their services through MassHealth FFS, MassHealth reviewed the QTL and NQTL for MH/SUD and medical/surgical covered through FFS, all of which are provided directly by MassHealth.

- As part of the analysis for PCC/MBHP and FFS, MassHealth reviewed recent and proposed changes to limitations for certain SUD services. In response to the opioid epidemic, through recent legislative, regulatory and sub-regulatory actions, Massachusetts has taken steps toward eliminating prior authorization and treatment limits for select SUD services paid for through MassHealth and its managed care entities (MCOs and MBHP). For example, MassHealth required its contracted managed care entities to cover all medically necessary SUD acute treatment services and clinical stabilization services without requiring prior authorization. Additionally, MassHealth now requires managed care entities to remove prior authorizations for all covered substance use disorder treatment services, as well as prior authorization for the initiation or re-initiation of a buprenorphine/naloxone prescription of 32 mg/day or less, for either brand formulations generic formulations. MassHealth has also recently proposed changes to its SUD regulations to remove limits on case consultation and counseling services. The proposed revisions were posted for public comment on August 2, 2017 and have a proposed effective date of November 17, 2017.
- After this review, MassHealth confirms that it is in compliance with MHPAEA for its ABP members enrolled in the PCC plan and FFS with one exception. Currently, there is a limit of a maximum of 6 acupuncture treatments for treatment of SUD at SUD treatment clinics per member per week after the first two weeks and a maximum of three treatments per member per week thereafter. MassHealth confirms that this is the only remaining quantitative limit on BH/SUD that prevents complete compliance with MHPAEA. There was no utilization for acupuncture services at SUD treatment clinics for SFY16 or SFY17, and these services are available to members in other settings with prior authorization to exceed any limits. Nevertheless, MassHealth is taking steps to remove the limit as discussed below.

Members in CHIP

MassHealth confirms that it is in compliance with MHPAEA for its members in CHIP. In Massachusetts CHIP children are either enrolled in Medicaid Expansion CHIP or in separate CHIP, depending on their age and income. Medicaid expansion CHIP children are eligible for EPSDT and MassHealth is therefore able to deem compliance with MHPAEA for such children.

Separate CHIP children are either enrolled in MCOs, in the PCC plan with MBHP, or, as described above for adults, may have some or all of their benefits covered through FFS. The parity analysis for all of these delivery systems is described above.

Compliance Plan and Follow-Up activities to Accomplish Complete Compliance

As noted above, MassHealth confirms that the acupuncture limits are the only remaining quantitative limit on MH/SUD that prevents complete compliance with MHPAEA for ABP members enrolled in the PCC plan or in FFS. Although there was no utilization for acupuncture services at SUD treatment clinics for SFY16 or SFY17, and these services are available to members in other settings with prior authorization to exceed any limits, MassHealth intends to propose regulatory revisions to remove these limits, with a target effective date of March 1, 2018.

Once the proposed regulatory revision has been approved by state leadership, MassHealth will submit amendments to its state plans, including the ABP state plans, to remove the limit. In addition, as required by the rule, MassHealth will submit an amendment to its CHIP state plan to confirm compliance

with MHPAEA, and will submit an amendment to its Medicaid state plan to indicate the standard used for defining “medical/surgical benefits”, “mental health benefits”, and “substance use disorder benefits” in the state plan. Both amendments would be effective October 2, 2017.

Conclusion

With the exception of the limit on acupuncture for SUD treatment at SUD treatment clinics described above, MassHealth confirms its compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) for its Medicaid and CHIP programs. MassHealth will continue to strive to achieve full parity compliance and to address any parity issues that arise in the future.