

Mental Health Parity

Texas Department of Insurance Proposed Rule Amending 28 TAC Sections 21.2401-21.2407

<http://www.sos.state.tx.us/texreg/index.shtml>

The Texas Department of Insurance (TDI) proposes amendments to Subchapter P, 21.2401-21.2407, concerning requirements for parity between mental health or substance use disorder benefits and medical/surgical benefits. The amendments are necessary to implement the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which was enacted October 3, 2009. The Act preempts state law regarding mental health and substance use disorder coverage to the extent that such state law prevents the application of a requirement of the MHPAEA. Moreover, the Act requires full parity if coverage is included in a health benefit plan. The Act does not, however, require that such coverage be included in a health benefit plan.

For plans that offer mental health or substance use disorder benefits, MHPAEA requires group health plans and group health plan issuers to ensure that financial requirements such as copayments or deductibles and treatment limitations such as visit limits applicable to mental health or substance use disorder benefits are no more restrictive than the predominate financial requirements or treatment limitations applied to substantially all medical/surgical benefits. The term substantially means at least two-thirds of all medical benefits covered by the group health plan.

Proposed amendments to 21.2403 add a new section (e) to require that regardless of whether a large employer group health plan provides both medical and surgical benefits and mental health or substance use disorder benefits, it must nonetheless provide coverage for treatment of serious mental illness, based on medical necessity, for no fewer than 45 days of inpatient treatment and no fewer than 60 visits for outpatient treatment in accordance with the Insurance Code Chapter 1355 and subsection (b)(1) of the section, a large employer group health plan must provide coverage for the necessary care and treatment of chemical dependency in accordance with minimum standard requirements set forth in 1368.004-1368.006(a) and 1368.007 and chapter 3, subchapter HH of this title.

Proposed amendments to 21.2405 add a new subsection (a) to provide that a health plan issuer's coverage is not subject to the large-employer parity requirements described in 21.2403 if such issuer demonstrates an increase in the cost for such coverage of a least two percent in the first plan year in which it was applied and at least one percent in subsequent years.

Proposes amendments to 21.2407 provide that a health plan issuer may not sell coverage that does not meet the large-employer parity requirements described in 21.2403 unless such coverage meets the small employer parity requirements addressed in 21.2404, or the criteria to the cost-of-coverage exemption set forth in 21.2405.

The fundamental purpose of the MHPAEA is to achieve substantial parity between medical/surgical benefits and mental health/substance use disorder benefits for group health plans with more than fifty (50) employees.