



Federal Mental Health Parity (FMHP)

This fact sheet summarizes the key provisions of the Federal Mental Health Parity (FMHP) Interim Final Rule that was issued on February 2, 2010 (the Rule) and outlines the approach that Blue Cross Blue Shield of Massachusetts is taking to testing and compliance.

What is FMHP?

Generally, the Rule prohibits group health plans from applying financial requirements or treatment limitations to mental health or substance use disorder benefits that are more restrictive than financial requirements or treatment limitations placed on medical and surgical benefits.

Who Will Be Affected?

Beginning July 1, 2010, the Rule will be fully applied on renewal to both insured and self-insured accounts and employer groups with more than 50 employees. Accounts with a collective bargaining arrangement that was in effect on October 3, 2008 *may* be able to defer implementation until the collective bargaining arrangement terminates.

How Will FMHP Compliance Be Determined?

Among its many requirements, the Rule outlines two specific tests that are applied to determine parity. Further, the Rule separates out three categories that require detailed analysis: quantitative treatment limitations, financial requirements, and non-quantitative treatment limitations:

- Measuring quantitative treatment limitations and financial requirements
 - Substantially all test
 - ◆ The type of quantitative treatment limitation (e.g., annual visit limit) or financial requirement (e.g., copayment) applied to mental health/substance use benefits within a certain classification (e.g., outpatient, in-network) meets the parity requirement if it applies to “substantially all” medical/surgical benefits within the same classification. The Rule defines “substantially all” as at least 2/3 of all benefits in that classification based on projected plan cost. For example, to pass this first test, a copayment may only be applied to outpatient, in-network mental health services if a copayment is also applied to 2/3 of all outpatient, in-network medical/surgical services.
 - Predominant test
 - ◆ If the “substantially all” test is met, then the plan must pass the “predominant” test. For a level of treatment limitation (e.g., annual limit of 50 visits) or financial requirement (e.g., a \$20 copayment) to be applied to mental health/substance use benefits within a certain classification (e.g., outpatient, in-network), the limitation or requirement must be predominant, which means the same level of limitation or requirement must apply to at least 50 percent of all medical/surgical benefits within the same classification. (If there is not a single payment level that applies to 50 percent of benefits, complex aggregation rules apply.)

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- Measuring non-quantitative treatment limitations

- The non-quantitative parity rule applies to limitations that affect the scope or duration of benefits including but not limited to medical management, prescription drug formulary design, standards for determining provider admission to a network, and fail-first or step-therapy protocols.
- Any processes, strategies, or other factors used in applying these non-quantitative treatment limitations to mental health/substance use benefits must be comparable to and applied no more stringently than the processes or other factors used in applying the limitation to medical/surgical benefits in the same classification.

How Is Blue Cross Blue Shield of Massachusetts Testing for FMHP Compliance?

Since the issuance of the Rule, Blue Cross Blue Shield of Massachusetts has worked toward establishing a model that supports compliance testing for all benefit plans and variations. We have worked internally, as well as within national workgroups at the Blue Cross and Blue Shield Association, to ensure that our approach is consistent with the requirements.

Our actuaries have completed compliance testing for our standard insured plans, and our underwriting team is expediting testing for account-specific insured plans, beginning with July 2010 renewals and new business.

So far, testing has revealed that most of our standard plans will need to be changed with regard to outpatient copayments because outpatient, in-network mental health/substance use services include a member copayment, while “substantially all” medical/surgical services in these plans do not. We expect to see the same results in our custom plans since many do not include copayments for many outpatient medical services.

Are We Supporting ASC Customers with Testing?

ASC accounts are responsible for ensuring their compliance. We are finalizing our approach to support self-insured customers, as appropriate, without necessitating undue administrative services or financial exposure.

What Will Happen If a Plan Fails to Meet Compliance?

Given the scale of these parity regulations and the short timeline for achieving compliance, we are taking the following approach:

- For July, August, and September 2010 renewals and new sales (up to September 25, 2010)—If a plan fails to achieve compliance due to outpatient cost-sharing, we will modify the benefits to have a \$0 member cost share for outpatient mental health/substance use services, effective on the plan renewal date. Rates for July and August accounts will be adjusted prospectively, beginning September 1. We will also permit July, August, and September accounts to further modify their medical/surgical benefits off-anniversary beginning September 1, in order to achieve compliance.
- For renewals and new business as of September 25, 2010—We will modify our standard plans and customized plans with medical/surgical benefit changes to meet the test for compliance, wherever feasible. For example, in order for many plans to meet parity standards without resorting to a \$0 copayment for mental health/substance use services, we will need to add a copayment for a medical/surgical service such as outpatient laboratory services. If this cannot be achieved, or if a customer prefers not to modify medical/surgical benefits, we will default to a \$0 copayment for mental health/substance use services.

