

04/16/2021

Good Afternoon REDC Members,

Happy Spring! Please find your weekly policy update below.

## I. SERVE Act

- No new updates.

## II. Mental Health Parity

- Parity expert, Tim Clement formerly with The Kennedy Forum and now with the American Psychiatric Association presented to the Mental Health Liaison Group on, "Parity: Progress & Next Steps"
- **The full slide deck is attached and summarized below:**
  - End of year budget package amended the Mental Health Parity and Addiction Equity Act:
    - Added new compliance requirements
    - Added new requirements for federal agencies
    - Applies to all federally-regulated group health plans and all state-regulated insurers
  - **What are the New Requirements for Insurers and Plans?**
    - All health insurers and group health plans must perform comparative analyses about how they design and apply nonquantitative treatment limitations (NQTLs).
      - This includes prior authorization, formulary design, network design, reimbursement rate setting, and many others
    - All insurers and plans must make these comparative analyses available to the federal agencies or states upon request as of February 10, 2021
    - HHS, DOL and the Treasury issued guidance on April 2, 2021 specifying what is required from plans and insurers under the new law
  - **What are the New Requirements for Federal Agencies?**
    - HHS, DOL, and Treasury must request the analyses from health plans if:
      - There's a complaint
      - The Departments think there might be noncompliance for some reason
      - Must request analyses from no fewer than 20 plans each year
    - Plans have 45 days to correct violations; if not fixed, every beneficiary of the plan is notified within 7 days
    - Report to Congress each year about findings

- **Work in the 117th Congress to Build on this Success**
  - Legislation to send \$50M in grants to states to collect and review comparative analyses and further investigate when necessary
    - Led by Rep. Cardenas (D-CA) and Sen. Murphy (D-CT). Looking for Republican cosponsors.
  - \$25M appropriation to the DOL to implement new requirements and general enforcement
    - Reps. Cortney (D-CT) and Porter (D-CA) are leading this ask and the EDC is supporting this effort through Congressional office outreach for other members to support.
- **U.S. Department of Labor (DOL) Guidance**
  - As noted above, the full guidance can be found [here](#).
    - The required NQTL analyses by health plans and insurance issuers must include the following information:
      - A description of the NQTL, plan terms, and policies at issue;
      - Identification of the MH/SUD and medical/surgical benefits to which the NQTL applies;
      - The factors used in applying the NQTLs to MH/SUD benefits and medical or surgical benefits;
      - The evidentiary standards used for these factors;
      - The comparative analyses demonstrating that the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs to MH/SUD 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 NQTLs to medical/surgical benefits in the benefits classification; and
      - The specific findings and conclusions reached by the plan or issuer, including any results of the analyses that indicate that the plan or coverage is or is not in compliance with the MHPAEA requirements.
- **House Education Committee Hearing: “Meeting the Moment: Improving Access to Behavioral and Mental Health Care”**
  - The House Ed & Labor Committee Subcommittee on Health, Employment, Labor and Pensions held a hearing earlier this week that included testimony from the American Psychological Association's Chief, Brian Smedley, PhD.
  - The full testimony can be found [here](#).
    - Dr. Smedley's remarks included urging Congressional members to strengthen parity enforcement including:

- Enhance the federal parity law by passing the Parity Enforcement Act of 2021 (H.R. 1364), which would strengthen the Department of Labor’s authority to enforce the law;
- Increase funding to support stronger federal oversight and enforcement of insurers’ compliance with the federal parity law;
- Close the loophole that allows states to opt out of parity requirements for state employees—many of whom are frontline service providers responding to the pandemic;
- Support the Tele-Mental Health Improvement Act (H.R. 2264), to improve access to telehealth services for mental health treatment by private sector health insurance plans during the public health emergency.

• **State Parity Workgroup Monthly Call**

- See the attached slide deck for further details on state parity efforts.
- Also attached is a slide deck from the Legal Action Center (LAC) on a recent report they did detailing the lack of SUD coverage under Medicare.
  - LAC stated Medicare's current coverage design has discrimination built in and that they're advocating for mental health parity to apply to Medicare.
  - We are working on coming up with a similar analyses for mental health that will be shared with REDC membership.

**III. ACA**

- A new [Kaiser Family Foundation analysis](#) shows private insurance companies are expecting to pay out \$2.1 billion in rebates to consumers this fall.
  - This is the second highest amount ever recorded under the ACA.
- The rebates, which are calculated based on the share of premium revenues that insurance companies paid out for health care expenses and quality improvement, are roughly \$400 million lower than last year's record high of \$2.5 billion, but more than 50% higher than the \$1.4 billion insurers sent back to policyholders in 2019.

Best,  
Allison & the Center Road Solutions Team