TOWERS WATSON

Rx Collaborative Contemporary Pharmacy Topics

Mental Health Parity Legislation and the Impact on Pharmacy Management

2010 update and employer considerations

Overview of the Act

For plan years starting after June 30, 2010, health plans are subject to the Mental Health Parity and Addiction Equity Act of 2008 and its accompanying interim final rules, which align mental health/substance use disorder (MH/SUD) and medical/surgical (M/S) benefits for group health plans with more than 50 employees.

The Act amends the Employee Retirement Income Security Act and the Public Health Service Act to prohibit employer group health plans from applying more restrictive quantitative and nonquantitative treatment limitations or financial requirements to MH/SUD than to M/S benefits.

The Act does not *require* employers to provide MH/SUD benefits, but it does require that any MH/SUD benefits provided must meet the parity requirements.

The Treasury Department, the U.S. Department of Labor, and the U.S. Department of Health and Human Services issued the interim final rules on February 2, 2010. The rules address six classifications of benefits, including those for prescription drugs. The other classifications are:

- Inpatient, in-network care
- Inpatient, out-of-network care
- Outpatient, in-network care
- Outpatient, out-of-network care
- Emergency care

Each of these classifications must be analyzed separately under the rules to determine if the parity requirements are being satisfied.

General Provisions

The Act and the interim rules require that quantitative treatment limitations, nonquantitative treatment limitations and financial requirements that apply to MH/SUD benefits be no more restrictive than those applied to M/S benefits.

- **Quantitative treatment limitations:** Limits on benefits based on the frequency of treatment, number of visits, days of coverage, waiting period, etc.
- **Nonquantitative treatment limitations:** Medical management standards, prescription drug formulary design, and determination of usual, customary and reasonable amount requirements for using fail-first policies, etc.
- **Financial requirements:** Deductibles, copayments, coinsurance, out-of-pocket maximums, etc.

For both MH/SUD and M/S, a plan can require clinical cost and quality management protocols (e.g., utilization review, adherence to practice guidelines and medical necessity criteria) under the same terms and conditions applied to both in-network and out-of-network providers.

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Classification of Pharmacy Benefits

The special rule for prescription drug benefits permits plans to divide prescription drug coverage into tiers and apply the parity requirements separately to each tier based upon reasonable factors — e.g., cost, efficacy, generic versus brand name and mail order versus retail distribution channels.

If a plan follows a distinctly different approach to formulary management, or a unique coverage policy for MH/SUD treatments compared to other covered medications, the Act requires a change.

Rx Collaborative Management Considerations

In 2006, Towers Watson developed the Rx Collaborative Clinical Management Guiding Principles™ and applied them consistently to formulary and other utilization management strategies. Strategy recommendations are overseen by our own Pharmacy and Therapeutics Committee to ensure that parity requirements are met. Like our recommendations for proton pump inhibitors for ulcers and statins for high cholesterol, Towers Watson's management recommendations for MH/SUD therapies include approaches such as:

- Formulary status
- Step therapy
- Prior authorization
- Dose optimization
- Quantity limits

Employer Strategies for Managing MH/SUD Treatments: Selected Rx Collaborative Recommendations

- Formulary status (Tier 1 copay) for generic antidepressants such as fluoxetine (Prozac®) and sertraline (Zoloft®), and nonformulary status (Tier 3 copay) for their brand counterparts
- Step therapy edits, which enable relatively unmanaged access to generics as a prerequisite before covering costly brand medications like Lexapro® and Cymbalta®
- Prior authorization for Provigil® or Nuvigil® to reduce the risk of misuse and abuse
- Quantity limits for zolpidem (Ambien®) for insomnia or methylphenidate (Concerta®) for ADHD

Impact of Legislation on Employer Approaches to Pharmacy Management

The Mental Health Parity and Addiction Equity Act of 2008 and its accompanying interim final rules require that management for MH/SUD medications follow the same development approach and rules as medications for other conditions. While employers will want to verify that their pharmacy benefits comply with the law, the legislation should not dissuade employers from taking steps to effectively manage this component of total drug spend.

Towers Watson's Reference Formulary System is managed for compliance, so Rx Collaborative members that participate in this program can be confident that their program, now and going forward, meets the requirements of the Act. Beyond compliance, employers can also look to our well-honed utilization strategies and recommendations for correcting suboptimal drug mixes.

To learn more about the Act and how to better manage your pharmacy benefit plan, contact RxCollaborative@towerswatson.com.

About Towers Watson

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. With 14,000 associates around the world, we offer solutions in the areas of employee benefits, talent management, rewards, and risk and capital management.

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