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# FEHB Program Carrier Letter

## All FEHB Carriers

U.S. Office of Personnel Management  
Healthcare and Insurance

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**Letter No. 2013-24**

**Date: December 3, 2013**

Fee-for-Service [20]    Experience-rated HMO [20]    Community-rated [22]

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**SUBJECT: Mental Health and Substance Abuse Parity**

Over the past few years, we have implemented the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. The Department of Health and Human Services, Department of Labor, and Department of Treasury released final regulations on November 13, 2013 (<http://www.gpo.gov/fdsys/pkg/FR-2013-11-13/pdf/2013-27086.pdf>) that implement the Act. Under these rules, health plans cannot have separate deductible and out-of-pocket maximum requirements that are applicable only with respect to mental health or substance use disorders. This means Plans must accrue member expenses toward the same deductibles and out-of-pocket maximums for both medical and surgical benefits and mental health and substance use disorder benefits. In addition, if a health plan has a lower copayment for Primary Care Physician visits, the Plan must use the same copayment level for outpatient visits to providers of mental health or substance use disorder services.

The rules apply to intermediate services provided under the Plan. Plans must assign covered intermediate mental health and substance use disorder benefits to the existing six benefit classifications in the same way that they assign comparable intermediate medical/surgical benefits to these classifications. For example, if a Plan classifies care in skilled nursing facilities or rehabilitation hospitals as inpatient benefits, then the Plan must likewise treat any covered care in residential treatment facilities for mental health or substance use disorders as an inpatient benefit. In addition, if a Plan treats home health care as an outpatient benefit, then any covered intensive outpatient mental health or substance use disorder services and partial hospitalization must be considered outpatient benefits as well.

The final regulations also include additional examples illustrating the application of the non-quantitative treatment limitations (NQTL). They prohibit discrimination in the application of NQTLs, such as medical management standards, prescription drug formulary design, determinations of usual, reasonable and customary amounts, step therapy, and requiring benefits be subjected to a condition such as completing a course of treatment. Any elements used in non-quantitative treatment limitations for mental health benefits must be comparable to those used for medical and surgical benefits. For example, Plans would not be permitted to require concurrent review of mental health care but not medical surgical care. However, exceptions may apply to the extent that clinically appropriate standards of care permit a difference.

The final regulations take effect for plan changes on or after July 1, 2014. We are bringing this to your attention now so that you can begin to review your benefits coverage to prepare for compliance with additional mental health parity requirements. We will be glad to work with you on this as we prepare for the 2015 contract term.

Thank you for your cooperation and assistance over the years in equalizing coverage of mental health, substance abuse, medical and surgical care.

Sincerely

John O'Brien  
Director  
Healthcare and Insurance