

110 – MENTAL HEALTH PARITY

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I. PURPOSE

This Policy applies to ACC, ALTCS E/PD, DCS/CMDP (CMDP), DES/DDD (DDD), and RBHA Contractors. This Policy outlines the requirements to achieve and maintain compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) 42 CFR Part 457 and 42 CFR Part 438.

For Fee-For Service (FFS) members who are receiving part of their services through a Contractor, AHCCCS will facilitate Mental Health Parity requirements.

II. DEFINITIONS

AGGREGATE LIFETIME DOLLAR LIMIT	A dollar limitation on the total amount of specified benefits that may be paid under a Managed Care Organization (MCO), Prepaid Inpatient Health Plan (PIHP), or Prepaid Ambulatory Health Plan (PAHP).
ANNUAL DOLLAR LIMIT	A dollar limitation on the total amount of specified benefits that may be paid in a fiscal year 12-month period under a MCO, PIHP, or PAHP.
BENEFIT PACKAGE	All benefits provided to a specific population group or targeted residents (e.g. persons determined to have a Serious Mental Illness [SMI]) regardless of the Health Care Delivery System.
CUMULATIVE FINANCIAL REQUIREMENTS	Financial requirements that determine whether or to what extent benefits are provided based on accumulated amounts and included deductibles, and out-of-pocket maximums. Cumulative Financial Requirements do not include aggregate lifetime or Annual Dollar Limits because these two terms are excluded from the meaning of financial requirements.
HEALTH CARE DELIVERY SYSTEM	The Health Care Delivery System refers to the structure and organization of covered services and Benefit Packages available to Contractor's members. Delivery systems can be fully integrated (all covered services administered by a single Contractor) or partially integrated (Members enrolled with a Contractor may receive covered services by multiple Contractors and/or via fee-for-service arrangements).

**MEDICAL/SURGICAL
BENEFITS
(M/S)**

Items or services for medical conditions or surgical procedures, as defined by the State and in accordance with applicable Federal and State law, but do not include mental health or Substance Use Disorder Benefits. Any condition defined by the State as being or not being a medical/surgical condition shall be defined to be consistent with generally recognized independent standards of current medical practice. Medical/Surgical Benefits (M/S) include long-term care services.

**MENTAL HEALTH
BENEFITS**

Items or services for mental health conditions, as defined by the State and in accordance with applicable Federal and State law. Any condition defined by the State as being or not being a mental health condition shall be defined to be consistent with generally recognized independent standards of current medical practice. Mental Health Benefits include long-term care services.

**SUBSTANCE USE
DISORDER BENEFITS**

Items or services for substance use disorders, as defined by the State and in accordance with applicable Federal and State law. Any disorder defined by the State as being or not being a substance use disorder shall be defined to be consistent with generally recognized independent standards of current medical practice. Substance Use Disorder Benefits include long-term care services.

**TREATMENT
LIMITATIONS**

Limits on benefits based on the frequency of treatment, number of visits, days of coverage, days in waiting period, or other similar limits on the scope or duration of treatment. Treatment Limitations include both quantitative Treatment Limitations, which are expressed numerically (such as 50 outpatient visits per year), and non-quantitative Treatment Limitations, which otherwise limit the scope or duration of benefits for treatment under a plan or coverage. A permanent exclusion of all benefits for a particular condition or disorder, however, is not a treatment limitation for purposes of this definition.

III. POLICY

The Centers for Medicare & Medicaid Services (CMS) issued the MHPAEA final rule on March 30, 2016. The regulation, in general, prohibits the application of more restrictive limits to Mental Health/Substance Use Disorder (MH/SUD) Benefits than to M/S Benefits. MHPAEA specifically:

1. Prohibits the application of annual or lifetime dollar limits to MH/SUD Benefits unless aggregated dollar limits apply to at least one third of Medical Benefits.

2. Prohibits the application of financial requirements (e.g. copays) and Quantitative Treatment Limitations (QTLs) (e.g. day or visit limits) on MH/SUD Benefits that are more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all M/S Benefits in that same classification.
3. Prohibits the application of Non-Quantitative Treatment Limits (NQTLs) (e.g. prior authorization) on MH/SUD Benefits in any classification unless the NQTL, as written and in operation, is applied to the MH/SUD Benefits comparably and no more stringently than to M/S Benefits in the same classification.

A. MENTAL HEALTH PARITY ANALYSIS REQUIREMENTS

The Contractor is responsible for performing the initial and ongoing parity analyses. If some MH/SUD or M/S Benefits are subcontracted through another Health Care Delivery System (e.g. CMDP members or DDD members), the Contractor (e.g. CMDP, DDD) is responsible for completing the parity analysis. AHCCCS is responsible for ensuring compliance for all Contractors.

1. Parity requirements apply to all MH/SUD Benefits provided to AHCCCS members.
2. The parity analysis shall be conducted and assessed annually.
3. The parity analysis shall be conducted for each Benefit Package regardless of Health Care Delivery System.
 - a. The Benefit Package includes the covered services to a specific population, and
 - b. A Benefit Package includes M/S and MH/SUD Benefits, including long-term care benefits.

B. STANDARD PARITY REQUIREMENTS

1. AHCCCS Benefit Packages

AHCCCS Benefit Packages and Health Care Delivery Systems are defined as Title XIX adults and children; Title XXI adults and children; Title XIX SMI adults; Title XXI SMI adults; Title XIX DDD children and adults; EPD Title XIX adults and children; Medicare cost sharing; and members that are American Indians. Title XIX and XXI members up to the age of 21 are designated as children.

The Contractor shall adhere to all applicable AHCCCS established Benefit Packages and covered services when conducting the Mental Health Parity analysis and assessing for ongoing compliance with parity requirements.

In addition to the established Benefit Packages and identified populations, AHCCCS identified the following additional special populations applicable to the analysis, which necessitated separate Benefit Packages:

- a. Transitional Medical Assistance,
 - i. Coverage to households with children who were receiving AHCCCS in the Caretaker Relative category and became ineligible due to the increased earnings of a parent or specified relative, and
 - ii. Eligibility criteria applies.
 - b. AHCCCS for Families with Children (Social Security Act Sec.1931; 42 U.S.C. 1396u-1),
 - c. Young Adult Transitional Insurance (YATI),
 - i. Transitional medical care for children leaving foster care, age 18 to 26; for those who qualify, there are no monthly premiums,
 - d. State Adoption Assistance for Special Needs Children who are being adopted,
 - e. Supplemental Security Income (SSI) ,
 - i. A needs-based program with strict asset and income guidelines
 - f. SSI Medical Assistance Only (SSI MAO),
 - i. Program for individuals who are aged 65 or older,
 - ii. Determined blind by Disability Determination Services Administration or
 - iii. Receiving Social Security benefits on the basis of blindness or disabled and unable to work due to medical, physical, or mental impairment, which is expected to result in death or last for a continuous period of 12 months or more, and
 - g. Freedom To Work (FTW)
 - i. Affordable health insurance for individuals with disabilities who are employed;
2. Defining MH/SUD and M/S Benefits

MH/SUD Benefits are items and services for MH/SUD conditions regardless of the type of Contractor or type of provider that delivers the item/service. AHCCCS defines MH/SUD and M/S conditions using the ICD-10-Clinical Modification (ICD-10). For purposes of parity, MH and SUDs are those conditions in ICD-10, chapter 5, “Mental, Behavioral and Neurodevelopmental Disorders,” sub-chapters 2-7 and 10-11.

- a. Sub-chapter 1, “Mental Disorders Due to Known Physiological Conditions,” is excluded from the MH condition definition (and included in the M/S condition definition) because the physiological condition is primary for these diagnostic codes, and
- b. Similarly, sub-chapters 8 and 9 (e.g., intellectual disabilities, specific developmental disorders of speech and language, specific developmental disorders of scholastic skills and pervasive developmental disorders) are excluded from the definition of MH conditions (and included in the M/S condition definition) because -these are neurodevelopmental conditions, which are separate and distinct from mental and behavioral conditions, as indicated by the chapter title.

Contractors shall utilize AHCCCS’ definitions for MH/SUD and M/S conditions when conducting the parity analysis and when assessing for ongoing compliance with parity requirements.

3. Mapping Benefits to Classifications

When conducting the parity analysis and when assessing for ongoing compliance with parity requirements, Contractors shall apply the AHCCCS defined classifications outlined below.

In order to conduct the analysis, each service is assigned to one of four classifications: inpatient, outpatient, emergency care, and prescription drug. Contractors shall apply AHCCCS' established benefit mapping when conducting the parity analysis. Refer to Attachment A for the benefit mapping. Each of the above classifications are defined by AHCCCS based on the setting in which the services are delivered. General definitions for each of the classifications include:

- a. Inpatient: Includes all covered services or items provided to a member in a setting that requires an overnight stay including behavioral health placement settings,
- b. Outpatient: Includes all covered services or items provided to a member in a setting that does not require an overnight stay, which does not otherwise meet the definition of inpatient, prescription drug or emergency care services,
- c. Emergency care: Includes all covered emergency services or items to treat an emergency medical condition delivered in an emergency department (ED) setting, and
- d. Prescription drugs: Covered medication, drugs and associated supplies and services that require a prescription to be dispensed, which includes drugs claimed using the NCPDP claim forms.

Parity requirements for financial requirements, quantitative treatment limits, and non-quantitative treatment limits apply by classification (e.g., as inpatient, outpatient, emergency and pharmacy).

Contractors shall apply AHCCCS defined classifications when conducting the parity analysis and when assessing for ongoing compliance with parity requirements.

4. Testing MH/SUD Financial Requirements, Quantitative Limits, Annual Dollar Limits, and Non-Quantitative Treatment Limits

- a. When applicable, Contractors shall conduct limit testing as part of the initial parity analysis and shall re-assess compliance when changes may impact parity compliance. Testing limits includes:
 - i. Identifying and evaluating financial requirements and quantitative treatment limits using a 2-part, claims-based test (if applicable). AHCCCS determined that the 2-part, claims-based test is not necessary when performing and/or overseeing the initial Mental Health Parity,
 - ii. Identifying and testing aggregate lifetime and Annual Dollar Limits (if applicable) using a multi-part claims-based test. AHCCCS did not identify any of these limits applicable to any MH/SUD services and as a result, no review or testing is necessary, and
 - iii. Identifying NQTLs and applying the NQTL information-based test to each NQTL.

- b. Financial requirements include copays, coinsurance, deductibles, out of pocket maximums (does not include aggregate lifetime or Annual Dollar Limits),
 - i. The Contractor shall ensure that Cumulative Financial Requirements (e.g. deductibles) do not accumulate separately for MH/SUD Benefits,
 - ii. Individuals eligible for AHCCCS may be charged nominal copays, unless they are receiving a covered service that is exempt from copays or the individual is in a group that cannot be charged copays. Nominal copays are also referred to as optional copays. If a member has a nominal copay, then a provider cannot deny the service if the member states that s/he is unable to pay the copay. There are specific populations that are exempt from any nominal copayments,
 - iii. During the initial Mental Health Parity analysis (Contract Year (CY) 2017) and presently (Fiscal Year (FY) 2019), AHCCCS requires all outpatient office visits in all Benefit Packages to have a copayment (with the exception of members and services exempted from copayments). Because all outpatient office visits have a copayment, AHCCCS concluded without testing that these are the respective predominant limits. Similarly, for prescription drugs, a copayment applies to all prescription drugs for both M/S and MH/SUD conditions. This is considered the predominant limit, and
 - iv. The Contractor shall adhere to ACOM Policy 431 regarding copayment requirements, including the populations subject to a copayment, the amount of the copayment, populations and services exempt from copayments, as well as the out-of-pocket maximum.
- c. Quantitative treatment limits are numerical limits on benefits based on the frequency of treatment, number of days, days of coverage, days in a waiting period, or similar limits on treatment scope or duration,
 - i. In accordance with this Policy, the Contractor shall not apply quantitative treatment limits to any MH/SUD services in any classification in any Benefit Package, with the exception of those limits noted below:
 - 1) AHCCCS has determined that hour limits currently applied to respite services (600 hours/year) and visit limits (15 visits per Contract Year) currently applied to occupational therapy services in the outpatient classification are permissible under the parity requirements.
- d. NQTLs are limitations that are not expressed numerically, but otherwise limit the scope or duration of benefits,
 - i. Examples of NQTLs published in the Final MHPAEA Rule include:
 - 1) Medical management standards (e.g. medical necessity criteria and processes or experimental/investigational determinations),
 - 2) Prescription drug formulary,
 - 3) Admission standards for provider network,
 - 4) Standards for accessing out-of-network providers,
 - 5) Provider reimbursement rates (including methodology),
 - 6) Restrictions based on the location, facility type, or provider specialty,
 - 7) Fail-first policies or step therapy protocols, and
 - 8) Exclusions based on failure to complete a course of treatment.
 - ii. AHCCCS identified the following NQTLs as part of the initial MHPAEA compliance determination:

- 1) Utilization management NQTLs,
 - 2) Medical necessity NQTLs,
 - 3) Documentation requirements NQTLs, and
 - 4) Out-of-network/geographic area coverage NQTLs.
- iii. Contractors shall not impose NQTLs for MH/SUD services in any classification unless, under the policies and procedures of the Contractor as written and in operation, any processes, strategies, evidentiary standards or other factors used in applying the NQTL to MH/SUD services in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards or other factors used in applying the NQTL to M/S Benefits in the classification, and
 - iv. Once NQTLs are identified, the Contractor shall collect and analyze information about the processes, strategies, evidentiary standards and other factors applicable to each NQTL, in writing and in operation, relative to M/S and MH/SUD Benefits in each classification.

C. EVENTS WARRANTING A PARITY ANALYSIS AND CONTRACTOR SPECIFIC REQUIREMENTS

1. Contractors responsible for administering a fully integrated contract shall perform a parity analysis when there is a change in the Contractor's operations that may affect parity compliance including but not limited to:
 - a. Changes to Financial Requirements (FRs) or QTLs,
 - b. Changes to Benefit Packages, utilization requirements, covered services, or service delivery structures (e.g. change in subcontractors performing administrative functions),
 - c. Substantive changes to policies or procedures of the Contractor (or subcontractors performing administrative functions on the Contractor's behalf) that impact benefit coverage, access to care for provider contracting.

If the Contractor identifies any changes or deficiencies noted in the above, the Contractor is required to attach the Mental Health Parity analysis for those FR/QTLs and NQTLs impacted by the changes. Utilizing Attachment C and shall include:

- a. Any actual Parity issues identified,
 - b. The FR/QTLs or NQTLs associated with the Mental Health Parity concern,
 - c. The applicable Benefit Package (s) and affected classification(s),
 - d. The nature of the Mental Health Parity compliance issue and the actions taken to address the parity issue.
2. Contractors that are new or newly responsible for the delivery of integrated M/S and MH/SUD services in a Benefit Package shall perform and document a comprehensive parity analysis prior to initiation of services. The results of the analysis shall be submitted as requested by AHCCCS.

3. The Contractor shall also report as specified in Contract, utilizing AMPM Policy 1020 Attachment F, a description of the self-monitoring activities for parity compliance in operation, ensuring that FR/QTLs and NQTLs are, in operation applied no more stringently to MH/SUD Benefits than for M/S Benefits.
4. In the event of a contract modification, amendment, novation, or other legal act changes, limits, or impacts compliance with the Mental Health Parity requirement, the Contractor shall conduct an additional analysis for Mental Health Parity in advance of the execution of the contract change. Further, the Contractor shall provide documentation of how the parity requirement is met, with the submission of the contract change, and how sustained compliance will be achieved. The Contractor shall certify compliance with parity requirements prior to the effective date of the contract changes.
5. The Contractor shall report Mental Health Parity deficiencies as specified in Contract and develop a corrective action plan to be in compliance within the same quarter as the submission.
6. All financial requirements, AL/ADLs, QTLs, and NQTLs shall be evaluated as part of the Contractor's parity analysis.
7. The Contractor may utilize any data collection and documentation template for the parity analysis; however, the following elements shall be clearly documented:
 - a. Methodology, processes, strategies, evidentiary standards and other factors applied,
 - b. All financial requirements, AL/ADLs, QTLs and identified NQTLs Contractors shall minimally report NQTL analysis results for prior authorization, concurrent review, medical necessity, outlier, documentation and out of area criteria, but shall also assess and document for the presence of other potential NQTLs,
 - i. Monitoring mechanisms and aggregated results as applicable (e.g. denial rates),
 - ii. Findings,
 - iii. Components of the analysis that are determined to be non-compliant with parity along with a detailed plan to resolve identified deficiencies, and
 - iv. In addition, the Contractor shall analyze and document all delegated functions that may apply to limit MH/SUD Benefits in policy and in operation.
8. If there have been no changes that affect the Contractor's Benefit Package, utilization, or Health Care Delivery Systems, the Contractor shall submit an annual attestation (Attachment B) certifying ongoing compliance with Mental Health Parity requirements as specified in Contract.
9. The Contractor shall make available upon request to members and contracting providers the criteria for medical necessity determinations with respect to MH/SUD Benefits. Contractors shall also make available to the member the reason for any denial of reimbursement or payment for services with respect to MH/SUD Benefits.

10. The Contractor may be required to respond to inquiries from AHCCCS and/or an AHCCCS contracted consultant. Inquires may include Contractor policies and procedures requiring review to determine compliance with Mental Health Parity regulations.