



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

DIRECTIVE 216

TO: ALL HEALTH INSURANCE ISSUERS AND HEALTH MAINTENANCE ORGANIZATIONS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: MENTAL HEALTH PARITY REPORTING REQUIREMENTS FOR HEALTH INSURANCE ISSUERS

DATE: SEPTEMBER 9, 2020

The purpose of this Directive is to advise all health insurance issuers and health maintenance organizations (collectively referred to as "issuers") of the establishment of reporting requirements pertaining to mental health parity.

Pursuant to the Enforcement Agreement entered into with the Centers for Medicare and Medicaid Services ("CMS"), the Louisiana Department of Insurance ("LDI") has agreed to regulate the market reforms of the Patient Protection and Affordable Care Act, Pub. L. 111-148, 124 Stat. 119 through 124 Stat. 1025, as amended by the Health Care and Education Reconciliation Act, Pub. L. 111-152, 124 Stat. 1029 through 124 Stat. 1084 (collectively referred to as the "Affordable Care Act" or "ACA"), and the Mental Health Parity and Addiction Equity Act of 2009 ("MHPAEA"), as enacted by Pub. L. 110-343, 122 Stat. 3765 through 122 Stat. 3933. Final rules under MHPAEA were published at 45 C.F.R. Parts 146 and 147, on November 13, 2013. The requirements of MHPAEA apply generally to group and individual health insurance markets pursuant to the ACA and MHPAEA laws and regulations. Grandfathered small group plans are exempt from both the ACA and the MHPAEA.

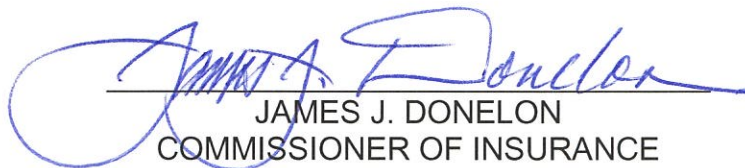
Under the Enforcement Agreement with CMS, the LDI is responsible for the regulation of the ACA and the MHPAEA and any regulations promulgated thereunder. To assist the LDI in its regulatory responsibilities with regard to the Enforcement Agreement, issuers will be required to submit to the Commissioner an annual report regarding mental health parity. Beginning on January 31, 2021, and no later than January 31 of each year thereafter, all non-exempt issuers shall submit an annual report to the Commissioner that contains the following information:

1. A description of the process used to develop or select the medical necessity criteria for mental health and substance abuse benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits.
2. Identification of all non-quantitative treatment limitations (NQTLs) that are applied to both mental health and substance abuse benefits and medical and surgical benefits within each classification of benefits.
3. The results of an analysis that demonstrates that for the medical necessity criteria described in item (1) and for each NQTL identified in item (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental health and substance abuse benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of benefits. At a minimum, the results of the analysis shall:
 - a. Identify the factors used to determine that a NQTL will apply to a benefit, including factors that were considered but rejected.
 - b. Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL.
 - c. Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to design each NQTL, as written, and the as-written processes and strategies used to apply the NQTL to mental health and substance abuse benefits are comparable to, and are applied no more stringently than, the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to medical and surgical benefits.
 - d. Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to apply each NQTL, in operation, for mental health and substance abuse benefits are comparable to, and applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits.
 - e. Disclose the specific findings and conclusions reached by the issuer of a health coverage plan that the results of the analyses above indicate that the issuer of a health coverage plan is in compliance with this Directive and the Mental Health Parity and Addiction Equity Act of 2008 and its implementing and related regulations, which includes 45 C.F.R. 146.136, 45 C.F.R. 147.160, and 45 C.F.R. 156.115(a)(3).

Please be governed accordingly.

If there are questions regarding this directive, please contact the Deputy Commissioner of Health, Life and Annuity electronically at public@ldi.la.gov.

Baton Rouge, Louisiana, this 9th day of September, 2020.



JAMES J. DONELON
COMMISSIONER OF INSURANCE