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From: Iris Schifeling [<mailto:ischifel@independenthealth.com>]
Sent: Monday, May 24, 2010 4:37 PM
To: EBSA, E-OHPSCA - EBSA
Cc: Lawrence DiGiulio; Tonya Azzaretto
Subject: MHPAEA Interim Final Rules

Independent Health is a not-for-profit health plan in Western New York which provides a variety of health products including HMO and PPO coverage. Independent Health has received national recognition for its customer service and its commitment to quality.

Per my conversation with Heather Mitchell, I would like to express Independent Health's concern with the application of the formula for determining equity of financial requirements which is contained in the Interim Final Rules (IFR) to the Mental Health Parity and Addiction Equity Act. I realize that the final comment period is over, however, I would appreciate a review of our concerns. The portion of the IFR which only allows consideration of six broad classification when determining parity of financial requirements does not recognize the complexity of the health care services which a health plan can cover. The result is not parity but an "absurd" result just as noted in the comments to the IFR (II.2.a Fed Register page 5413)

In particular the classification outpatient services covers a very broad range of services from a simple lab test to a complex ambulatory surgery. When health plans are designed there is generally an attempt to match the cost of the service to the financial requirement. There is also an attempt to keep the premiums affordable, which is balanced against the desire to make a wide array of benefits available. In this endeavor lab services usually have low or no financial requirements. Ambulatory surgery benefits usually have the highest financial requirements of outpatient services. Combining all these benefits in one calculation has resulted in some cases with having to eliminate any financial requirement for mental health and substance abuse services.

In other cases plans are designed with both copayments and coinsurance for in-network outpatient services. The coinsurance generally applies to the ambulatory surgery benefits, while the copayments apply to office visits. This results in a more affordable product by making the financial requirements for ambulatory surgery reflect the cost of the procedures; while encouraging office visits by making the financial requirement for office visits a predictable flat sum. The regulatory formula in the IFR requires co-payments and coinsurance to be measured separately. This leads to the result that neither financial requirement can be considered predominant. Under the IFR if a financial requirement is not predominant it cannot be applied to mental health or substance abuse. Thus outpatient mental health and substance abuse apparently cannot have any financial requirement while medical surgical benefits continue to have financial requirements. Thus those persons who have need for medical and surgical benefits will be subsidizing the mental health benefits.

It was suggested that this later problem could be solved by making all outpatient benefits subject to either co-payment or coinsurance. That suggestion does not take into account that these plans exist now in the market place and have current membership who are not expecting a

major shift in benefits and/or rates. To make such a major change cannot be reasonably accomplished in the time given for implementation of the IFR requirements. The result of making such a change would be to phase out these existing products and develop and market entirely new ones in their place. All such new products would also need to be approved by the New York Department which cannot be expected to provide instant turn around. As it is, amendments will have to be filed for many products changing the mental health and substance abuse financial requirements.

Independent Health is committed to complying with the law and we have no objection to mental health and substance abuse benefits being given parity with medical and surgical benefits. The application of the formula in the IFR however should not result in there being zero financial requirement for mental health and substance abuse benefits when medical and surgical benefits continue to carry financial requirements.

We would like to see the IFR revised to have ambulatory surgery considered as a separate classification and to allow co-payments and coinsurance to be counted together to make the determination of whether financial requirements are predominant. Thank you for your attention.

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