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BULLETIN 2009 – 04

TO: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., Health Maintenance Organizations

FROM: Nonnie S. Burnes, Commissioner of Insurance
Barbara A. Leadholm, Commissioner of Mental Health

DATE: March 24, 2009

RE: Changes to State and Federal Mental Health Parity Laws

The purpose of this Bulletin is to inform carriers of changes to mandated mental health benefits as required by Chapter 256 of the Acts of 2008, *An Act Relative to Mental Health Benefits*, and the federal Mental Health Parity and Addiction Equity Act of 2008.

Changes to Massachusetts Mental Health Parity Laws

Chapter 256 applies to fully-insured health plans issued or renewed within or without the Commonwealth on or after July 1, 2009 and requires health plans to provide mental health benefits, as indicated below, for all residents of Massachusetts and all insureds having a principal place of employment in Massachusetts.

Chapter 256 amends M.G.L. c. 175, §47B; M.G.L. c. 176A, §8A; M.G.L. c. 176B, §4A; and M.G.L. c. 176G, §4M by adding **eating disorders, post traumatic stress disorder, substance abuse disorders** and **autism** to the list of "biologically-based mental disorders" identified within these statutes. Health plans must provide mental health benefits on a nondiscriminatory basis for the diagnosis and treatment of biologically-based mental health disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association ("DSM"). "Nondiscriminatory basis" means that copayments, coinsurance, deductibles, unit of service limits (e.g., hospital days, outpatient visits), and/or annual or lifetime maximums are not greater for mental disorders than those required for physical conditions, and office visit copayments are not greater than those required for primary care visits.

The complete list of biologically-based mental disorders now consists of the following:

(1) schizophrenia;
(2) schizoaffective disorder;
(3) major depressive disorder;
(4) bipolar disorder;
(5) paranoia and other psychotic disorders;
(6) obsessive-compulsive disorder;
(7) panic disorder;
(8) delirium and dementia;
(9) affective disorders;
(10) eating disorders;
(11) post traumatic stress disorder;
(12) substance abuse disorders; and
(13) autism.

The list may also include any additional mental disorders as approved by the Commissioner of Mental Health.

Chapter 256 does not change the current requirements for coverage of medically necessary mental health services. Health plans are required to continue to adhere to all provisions of the existing Mental Health Parity Law, Chapter 80 of the Acts of 2000. This includes provisions for children and adolescents under the age of 19 with non-biologically-based disorders. It also includes provisions for medically necessary mental health services for all other mental disorders described in the most recent edition of the DSM, but not otherwise provided for as biologically-based disorders, for a minimum of 60 days of inpatient treatment and 24 outpatient visits during each 12 month period. The current requirements continue to include a range of medically necessary inpatient, intermediate and outpatient mental health services, provided in the least restrictive clinically appropriate setting. For a complete description of existing requirements, please see Chapter 80 of the Acts of 2000. *See also* Division of Insurance Bulletins 2000-10, 2002-07 and 2003-11.

Chapter 256 rescinds M.G.L. c. 175, §110(H); M.G.L. c. 176A, §10; M.G.L. c. 176B, §4A1/2; and M.G.L. c. 176G, §4, which mandated alcoholism treatment at certain minimum levels. Chapter 256 mandates that health plans must now provide mental health benefits on a nondiscriminatory basis for all substance abuse disorders described in the DSM, including the treatment of alcoholism.

Changes to Federal Mental Health Parity Law

The federal Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343, Subtitle B) goes into effect for large group health plans (51 or more employees) issued or renewed on or after October 3, 2009. In summary, the federal law includes the following:

- A health plan may not apply annual or lifetime limits for mental health or substance use disorders that are lower than those for medical/surgical benefits
- A health plan may not have higher deductibles, copayments, coinsurance, out-of-pocket expenses or more restrictive treatment limits (limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment) for mental health or substance use disorders than those for medical/surgical benefits
- A preferred provider plan may not require that mental health or substance use disorder services be available solely from network providers

The federal Departments of Labor, Treasury and Health and Human Services are responsible for implementation and enforcement of the federal mental health parity law.

Form Filing

Carriers should submit revised contracts, policies, certificates and evidences of coverage, or relevant riders, endorsements, or amendments that would be attached to existing documents regarding benefit changes as soon as practical to meet the July 1, 2009 effective date. Form filings should be filed via SERFF with the appropriate form filing fees. *See* Division of Insurance Bulletins 2008-8 and 2008-19 for form filing and fee information.

If you have any questions regarding this bulletin or the filing of materials, please call Nancy Schwartz at (617) 521-7347.