NATIONAL COUNCIL FOR BEHAVIORAL HEALTH
STATE ASSOCIATIONS OF ADDICTION SERVICES
Stronger Together.

On Tuesday, the Centers for Medicare and Medicaid Services (CMS) published final regulations outlining how the 2008 Mental Health Parity and Addiction Equity Act applies to state Medicaid and Children's Health Insurance programs. This final rule extends parity to more than 23 million Americans covered by these important programs.

CMS reiterated that the broader goal of this long-awaited final rule was to create consistency between public and private health insurance markets, as well as parity between mental and physical health treatment services. As outlined in our initial write-up for the proposed rule, the regulation preserves the general parity rule that prohibits health plans from applying financial requirements or treatment limitations to mental health and substance use disorder benefits that are more restrictive than those imposed on substantially all medical/surgical benefits of a similar kind.

Key provisions of the final rule include:

- **Parity Applies to Both Carve-In and Carve-Out Arrangements** – Thanks in part to the hundreds of comments

submitted by National Council members, CMS maintained the proposed language of ensuring parity applies to Medicaid managed care beneficiaries even in states where behavioral health services have been carved out of managed care contracts. In such cases, states are responsible for ensuring that the entire package of Medicaid services for managed care enrollees complies with the parity law, regardless of whether the services are delivered in a managed care organization, fee-for-service Medicaid or other delivery arrangement.

- **Plans Must Meet Disclosure Requirements** – CMS finalized its proposal requiring Medicaid managed care plans, alternative benefit plans and CHIP plans to make their criteria for medical necessity determinations available to enrollees or contracting providers upon request. Plans must also make available to enrollees the reason for any denial of services. Additionally, states must publicly post documentation of their compliance with the parity requirements outlined in the rule.

- **States, Managed Care Entities Share Responsibility for Compliance** - In states where all services are fully included within managed care contracts, managed care organizations are now responsible for ensuring their compliance with parity, even if doing so means covering services beyond the scope of those outlined in the state Medicaid plan. Managed care organizations may include the cost of these services in their calculations of actuarial soundness when contracting with Medicaid, meaning that any additional cost of covering services needed to comply with parity falls squarely on the state.

- **Effective Date** – States will have up to 18 months to comply with the finalized provisions.

The National Council thanks the hundreds of advocates that submitted comments on this proposed regulation. We will continue to review the text of the final rule and will keep readers updated with our latest analyses on Capitol Connector.

For more information on the final rule, click here.

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