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Welcome!

Banyan Consulting LLC is pleased to present our monthly newsletter. We hope the articles in this and future editions will provide insight into an array of employee benefits topics.

We appreciate your feedback! If you have a topic for future discussion, please let us know.

Expanded Parity Regs: No Separate Mental Health/Substance Abuse Deductible Permitted

Since passage of the Mental Health Parity Act of 1996, employer group health plans have been prohibited from imposing annual or lifetime dollar limits on mental health benefits that are more restrictive than the limits for other medical or surgical benefits. Legislation enacted in 2008 and effective for plan years beginning on or after October 3, 2009, expanded these parity requirements to include substance abuse benefits, and in other ways. We are now providing an update to supply clarification on the published Regulations and what the law means for employer group health plans.

Key provisions in the regulations include the following:

- All cumulative cost-sharing requirements that apply to employees, such as deductibles and out-of-pocket limits, must integrate both mental health and substance use disorder benefits. In other words, plans cannot impose a separate deductible or out-of-pocket limit on mental health or substance use disorder benefits.
- Parity requirements apply separately to six benefits classifications: inpatient in-network, outpatient in-network, inpatient out-of-network, outpatient out-of-network, emergency room and prescription drugs. This means that for mental health and substance use disorder benefits, each of these coverage provisions must be no more restrictive than the corresponding coverage

provision that is most predominant for substantially all medical/surgical benefits. So, for example, if a plan provides for out-of-network medical/surgical benefits, it must also provide for out-of-network mental health and substance use disorder benefits.

- In addition to the prohibition on differences in quantitative treatment limits (such as visit limits and day limits), a plan cannot impose a nonquantitative treatment limit on mental health or substance use disorder benefits in any benefit classification, if that limit is not comparable to or is more stringent than how it is applied to other medical/surgical benefits. Nonquantitative limits include plan provisions such as those regarding medical management, step therapy, preauthorization and formulary design. So, for example, a plan cannot require employees to exhaust their employee assistance plan (EAP) benefits before accessing mental health/substance use disorder benefits, unless a similar requirement applies for medical/surgical benefits.

As with the original mental health parity law, group health plans with 50 or fewer employees are exempt from the requirements. Larger plans may apply for an exemption based on the cost of providing mental health and substance use disorder benefits. Qualifying for this exemption has become more difficult under the expanded law: A group health plan sponsor must demonstrate that compliance with the parity requirements will result in increased claims of at least 2% in the first year, or 1% in subsequent years, and this demonstration must be made through a certified actuarial report.

Neither the original parity law, or the law providing for the expansion, requires plans to provide mental health or substance use disorder benefits. The regulations are effective for plan years beginning on or after July 1, 2010 (2011 plan years for calendar year plans).

Employer plans that provide mental health and substance abuse benefits should examine plan provisions to assure compliance with the new regulations. Some provisions in the regulations were unexpected—such as the prohibition on separate deductibles and out-of-pocket limits for mental health and substance use disorder benefits—so a review of current plan provisions is a prudent and important course of action now.

Individual Behavior Costs Billions in Health Care Annually

A recent report from a leading pharmacy benefit manager suggests behavioral factors are a cause of hidden costs in prescription drugs. According to Express Scripts' Drug Trend Report approximately \$163 billion dollars is needlessly spent on health care because of the bad habits of the American consumer.

Express Scripts released its findings during a two-day conference hosted by the St. Louis pharmaceutical manager. Express Scripts, one of the largest pharmacy benefits management (PBM) companies in the United States, handles an estimated 750 million prescriptions a year through a network of over 60,000 retail pharmacies.

Their latest findings disclosed that Americans would save a tremendous amount of money if they took their drugs as prescribed, chose generic over brand name prescriptions and ordered their prescriptions by mail.

Dr. Steven Miller, the company's chief medical officer stated that Americans spend almost twice as much as other countries on health care and if patients would follow the guidelines offered by Express Scripts, the savings would be in the neighborhood of \$163 billion.

The states named as having the highest percentage of wasteful drug prescription costs per capita are California, Illinois, New York and Texas.

Another point made by Miller is that pharmaceutical managers have to engage the physicians in order to hold down the high cost of prescription drugs. He feels that physicians need to encourage patients to change their behavior and thinking about prescriptions in a cost-saving manner.

Miller believes the advantages of home delivery of medication also helps eliminate errors in filling the prescriptions. Apparently, there is a lower percentage of error from mail order pharmacies than from retail drug stores. He also stated that patients are more likely to follow and complete their prescription protocol if medications are ordered by mail and delivered directly to the individual.

Express Scripts has specific goals in reaching a saving platform. One suggestion offered is having kiosks installed in physician offices for the purpose of educating patients about generic drugs and home delivery.

Human behavior patterns that are being targeted by Express Scripts are procrastination and forgetfulness. The breakdown of costs suggests that \$106 billion is wasted through non-compliance with prescribed protocol. Moreover, an additional \$51 billion is wasted by ordering brand name drugs instead of their generic equivalent. The remaining \$6 billion is lost through higher-end options for drug delivery.

Overall, drug spending in America increased by 6.4% in 2009, reversing the trends of slower prescription cost growth in prior years. Diabetes and influenza vaccinations were the two biggest cost drivers cited for the increase in cost last year.

2011 HSA Contribution Limits to Remain Unchanged

The IRS has announced that the 2011 limits for health savings accounts (HSAs) and for high-deductible health plans (HDHPs) will remain unchanged from 2010.

For 2011, the contribution limit for an individual with self-only coverage under a qualifying high deductible health plan will remain at \$3,050. For an individual with family coverage, the limit remains \$6,150.

A qualifying high deductible health plan, for 2011, is defined as a health plan with an annual deductible greater than or equal to \$1,200 for self-only coverage or \$2,400 for family coverage. The limit on annual out-of-pocket expenses is \$5,950 for self-only coverage or \$11,900 for family coverage.

The current limits and corresponding 2011 limits for self-only and family coverages are compared in the chart below.

2010	2011
<i>Self-only coverage minimum deductible</i>	
\$1,200	\$1,200
<i>Self-only coverage maximum out of pocket</i>	
\$5,950	\$5,950
<i>Self-only coverage maximum HSA contribution</i>	
\$3,050	\$3,050
<i>Family coverage minimum deductible</i>	
\$2,400	\$2,400
<i>Family coverage maximum out of pocket</i>	
\$11,900	\$11,900
<i>Family coverage maximum HSA contribution</i>	
\$6,150	\$6,150
<i>Catch-Up Contributions (age 55 or older)</i>	
\$1,000	\$1,000

Banyan 10th Annual Conference A Success

Banyan Consulting's 10th Annual Leadership, Finance & HR Conference took place at the Hershey Country Club in Hershey, PA on May 19, 2010. The high quality presentations, enthusiastic participation of speakers and attendees and the engaging dialogue between HR professionals all helped to make this event truly remarkable.

Click Here to View the [PowerPoint presentations from the conference](#)