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Tobacco Cessation

Preventive Services • Mental Health Parity • Wellness Programs



Business Health Care Group

April 22, 2015



Preventive Services

ALL Group Health Plans MUST Cover Preventive Services

- Preventive services must be provided with no cost-sharing—for *in-network providers*
 - No copays, coinsurance, deductibles, or other cost-sharing
 - High-deductible plans may cover preventive services with no cost-sharing
- But Plans may use “reasonable medical management techniques” to determine the frequency, method, treatment, or setting to the extent not specified for that service
 - Evidence-based clinical practical guidelines can provide useful guidance

Preventive Services—Yes, It Includes/Requires Tobacco Cessation!

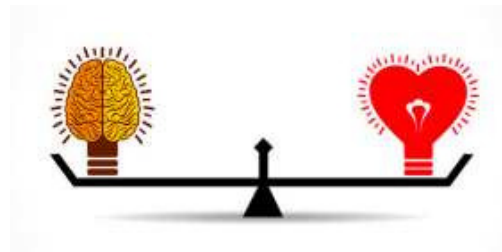
- Preventive services for adults includes:
 - More “common” screenings, such as blood pressure & cholesterol
 - Tobacco use screening and cessation intervention for users!
- A full list of preventive services can be found at <https://www.healthcare.gov/preventive-care-benefits/adults> (4/8/15)
- Penalties—excise tax of up to \$100 per day per covered member & possible lawsuits

Exactly What Screening and Services are Required?

- FAQ 19 (5/2/14) provides “safe harbor” compliance
 - Deemed to be in compliance if the following is provided without cost-sharing
 - Screening (e.g., questionnaires, blood draws, swabs) for tobacco use; and
 - For those using tobacco, at least 2 cessation attempts per year
 - 4 counseling sessions at least 10 min each (including telephone, group, and individual counseling); and
 - All FDA approved meds for a 90-day treatment regimen

Mental Health Parity

Mental Health Parity and Addiction Equity Act (MHPAEA)



- Covers mental health (MH), substance abuse disorder (SAD) benefits (which are EHB)
 - Not a requirement to provide ANY benefits for MH/SAD
- But if provided, then subject to financial & treatment parity
 - Must meet the “substantially all” requirement
- Tobacco cessation ONLY covered if a SAD benefit!
 - Make sure plan is explicit about what’s preventive & SAD
- Penalties—excise tax of up to \$100 per covered member per day & possible lawsuits

Mental Health Parity—Background 1 of 3

- SAD benefits are those defined under the terms of the plan “and in accordance with applicable Federal and State law”; but in all cases consistent with generally recognized independent standards of current medical practice:
 - Diagnostic & Statistical Manual of Mental Disorders (DSM)
 - International Classification of Diseases (ICD)
 - State guidelines
- DSM-5 lists tobacco use disorder, tobacco withdrawal & unspecified tobacco-related disorders as MH diagnoses; in addition, state health parity acts may specifically list tobacco or nicotine dependence as a covered condition

Mental Health Parity—Background 2 of 3

- Plans subject to rules
 - All group health plans (or group health insurance issuers) that pay for med/surg benefits AND that provide for MH or SAD benefits
 - If don't pay for MH and/or SAD benefits, law not applicable (but government thinks this will be nearly impossible)
 - Includes governmental and church plans

Mental Health Parity—Background 3 of 3

- Plans not subject to rules
 - Small employer plans—employer that, on average, employed 50 or fewer employees in the prior year (determined on a controlled group basis)
 - Retiree-only medical plans
 - Plans not providing MH and/or SAD benefits

Smoking Cessation Wellness Programs



- Can be participatory, activity, or outcome based
 - Smoking cessation programs are valid outcome based wellness programs
- Required to have smoking cessation as preventive care, so consider wellness program
 - Ability to increase premiums for smokers who do not enroll in & complete a smoking cessation program
 - May combine with other measures, such as biometric screening, *but be aware of proposed regulations*

Requirements for Outcome-Based Wellness Programs*

- Reasonably designed to promote health or prevent disease
- Reasonable alternative standard & notice of
- Able to qualify for reward once per year
- Rewards limited to % of applicable premium
- **Proposed regulations (additional reqt's)*
 - Must be voluntary for ADA questions or med exams, which also affect amount of rewards
 - Notice requirement if part of group health plan

Wellness Programs

Qualify for Reward Once Per Year

- If providing reward on periodic basis (e.g., per payroll period), may need to “catch up” if individual earns reward later in the year
 - Can catch-up all at once
 - Can take retro award and pro-rate over rest of year
- Many employers impose deadlines in prior years
 - If complete wellness program by September 30
 - Then earn reward for next plan year

Wellness Programs—Award Limits*

- 30% of applicable premium or 50% if tobacco a criteria
- Applicable premiums is total cost of:
 - Employee-only coverage if only involve employee
 - Other levels if dependents are eligible
- **Proposed regulations*
 - Only talk about employee-only premium
 - ADA questions or med exams cap you at 30%

Wellness Programs—Award Limits (continued)*

- Tobacco only: 50% of premium
- Combination of tobacco plus other (all or nothing): 50% of premium
- But if split out (a la carte): 20% for tobacco and 30% for all other
- **Proposed regulations*
 - ADA questions or med exams cap you at 30%

Wellness Programs--Rescissions

- What to do if you find someone has lied?
 - No guidance
 - Make clear in plan materials what will happen
 - Retroactive loss of reward/retroactive imposition of penalty

Questions?



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