

## EMPLOYEE BENEFITS ALERT

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### MENTAL HEALTH PARITY ACT REQUIRES CHANGES TO MANY GROUP HEALTH PLANS

Congress recently added new rules to ERISA that will require changes to many group health plans that provide mental health or substance abuse benefits. To the extent such plans provide both medical and surgical benefits, the new rules require parity for mental health and substance abuse benefits.

#### Financial And Treatment Parity

The new rules state that the financial requirements and treatment limitations for mental health and substance abuse benefits may not be more restrictive than the requirements and limitations imposed on substantially all medical and surgical benefits. In addition, there may not be separate cost sharing requirements or separate treatment limitations applicable only to mental health or substance abuse benefits. The rules also provide that if the plan covers out-of-network medical and surgical services, the plan must also cover out-of-network mental health and substance abuse services. The new rules do not require that plans provide mental health or substance abuse coverage, but where such coverage is provided, the foregoing parity rules apply.

#### Disclosure Requirements

The new rules require that plans make the criteria for medical necessity determinations (which relate to mental health and substance abuse benefits) available to current and potential participants, beneficiaries, or contracting providers upon request. Plans must also disclose the reason for any benefit denial to participants or beneficiaries upon request or as may be required in further guidance.

#### Exemption from the Rules

If the new rules cause an increase in the plan's actual total costs of coverage by more than 2 percent in the first plan year (or 1 percent in subsequent plan years), the plan may apply for an exemption from these requirements in the following year.

#### Effective Date

The new rules are generally effective for plan years beginning after October 3, 2009. For collectively bargained plans, the effective date is the later of January 1, 2010 or the first plan year beginning after the expiration of the last collective bargaining agreement that was ratified by October 3, 2008.

*If you have any questions about this alert or any other issues relating to employee benefits, please contact **Kathryn English** at 412.566.1226, **Michael Herzog** at 412.566.6130, **Sandra Mihok** at 412.566.1903, **Brandon Richards** at 412.566.1263, or **Paul Yenerall** at 412.566.1944.*