

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



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SEP 26 2017

Ms. Nancy Smith-Leslie  
Director, Medical Assistance Division  
State of New Mexico, Department of Human Services  
PO Box 2348  
Santa Fe, NM 87504-2348

Dear Ms. Smith-Leslie:

Thank you for your September 8, 2017 letter requesting an extension of the compliance deadline for requirements under the Medicaid and Children's Health Insurance Program (CHIP) mental health and substance use disorder parity final rule until January 1, 2018.

The Centers for Medicare & Medicaid Services' (CMS) Medicaid and CHIP mental health and substance use disorder parity final rule<sup>1</sup> was promulgated with a compliance deadline of October 2, 2017. States and managed care plans are expected to comply with these regulations, and any modifications and changes to the Medicaid and CHIP parity rule.

However, CMS recognizes that certain circumstances in a state can lead to administrative challenges associated with updating states' managed care contracts and operational procedures by the fixed date in the final rule to achieve compliance with mental health and substance use disorder parity requirements may be compromised. CMS may consider enforcement discretion when evaluating a set of state specific facts and working with a state to achieve compliance when the state is unable to implement the requirements of the rule by the compliance deadline. When reviewing any request, CMS will consider factors such as CMS resources to engage in enforcement, the scope of potential non-compliance, length of the extension requested, the anticipated impact of the delivery system changes the state is facing, and other factors bearing on parity analysis and implementation, as well as the demonstration of the state's progress on the parity analysis and commitment to achieving full compliance.

In New Mexico, CMS recognizes that the state's recent decision to no longer submit a state plan amendment to eliminate all copayments for mental health/substance use disorder services will require the state to conduct additional financial requirement analyses to assess the permissibility of existing copayments. CMS also recognizes that New Mexico has significant parity analysis and implementation efforts underway to comply with the parity requirements.

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<sup>1</sup> Medicaid and Children's Health Insurance Programs; Mental Health Parity and Addiction Equity Act of 2008; the Application of Mental Health Parity Requirements to Coverage Offered by Medicaid Managed Care Organizations, the Children's Health Insurance Program (CHIP), and Alternative Benefit Plans; Final Rule, 81 FR 18389 (May 31, 2016); available at: <https://www.federalregister.gov/documents/2016/03/30/2016-06876/medicaid-and-childrens-health-insurance-programs-mental-health-parity-and-addiction-equity-act-of>.

Based on the New Mexico's request and commitment to working toward compliance, CMS will not take any action against the state for contracts that are out of compliance with the mental health parity requirements in 42 CFR Part 438, subpart K between October 2, 2017 and January 1, 2018. For further information regarding the key steps of the parity analysis and implementation process, please refer to the Parity Compliance Toolkit<sup>2</sup> and Implementation Roadmap.<sup>3</sup>

For any questions, please contact Kirsten Beronio, Senior Advisor for Behavioral Health, at (443)821-4236 or [kirsten.beronio@cms.hhs.gov](mailto:kirsten.beronio@cms.hhs.gov). Technical assistance will also continue to be available upon request, and can be initiated by contacting the parity resource mailbox at [parity@cms.hhs.gov](mailto:parity@cms.hhs.gov).

Sincerely,



Brian Neale  
Director

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<sup>2</sup> <https://www.medicaid.gov/medicaid/benefits/downloads/bhs/parity-toolkit.pdf>

<sup>3</sup> <https://www.medicaid.gov/medicaid/benefits/downloads/bhs/parity-roadmap.pdf>