

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 114. Mental Health Parity

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 2. Authority and Scope

This regulation is promulgated pursuant to the authority granted to the Arkansas Insurance Commissioner ("Commissioner") by Ark. Code Ann. §§ 23-99-510, 23-61-108 and 25-15-201 et seq."

"Section 3. Effective Date

The provisions of this regulation shall be effective August 1, 1998, upon statutory filing per Arkansas law."

"Section 5. Severability

Any section or provision of this regulation held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this regulation."

Subpart 1. Generally

23 CAR § 114-101. Purpose.

The purpose of this part is to set forth standards for eligible healthcare insurers to follow in certifying that the application of the Arkansas Mental Health Parity Act, Acts 1997, No. 1020 (codified at Arkansas Code § 23-99-501 et seq.), to a particular health benefit plan, will result in an increase in the cost under the plan of at least one and one-half percent (1.5%).

Authority. Arkansas Code § 23-99-510.

23 CAR § 114-102. Scope.

This part is intended to apply to health benefit plans as defined under Arkansas Code § 23-99-503(4).

Authority. Arkansas Code § 23-99-510.

23 CAR § 114-103. Increased cost exemption requirements.

(a) State requirements.

(1)(A) Pursuant to Arkansas Code § 23-99-505, the provisions of the Arkansas Mental Health Parity Act shall not apply to health benefit plans if the act's application to such plans will result in an increase in the cost under the health benefit plan of at least one and one-half percent (1.5%).

(B) In order for a health care insurer to seek this increased cost exemption, it must provide the State Insurance Department an actuarial certification, with supporting documentation, that costs will increase one and one-half percent (1.5%) or more.

(C)(i) This actuarial certificate and accompanying documentation may be based on either a retrospective or prospective basis.

(ii) It shall consider all Actuarial Standards of Practice, including, but not limited to, Actuarial Standards of Practice 5, 8, 16, and 23.

(2)(A) This actuarial certificate and documentation shall be provided at the time of filing of individual policy forms and group policy forms or certificates, and/or the filing of rates, rate increases, and rate certifications as required in the small group market.

(B) In addition, all domestic healthcare insurers shall make the actuarial certifications available to department examiners at the time of a financial examination, for all products that are sold in the State of Arkansas.

(C) **Note.** If the actuarial certificate and documentation that are filed with the department demonstrate that costs exceed one and one-half percent (1.5%), offers of coverage need not be made.

(b) **Federal requirements.**

(1) Pursuant to the federal Mental Health Parity Act of 1996, its provisions shall not apply to:

(A) Small employers who have between two (2) and fifty (50) employees;

or

(B) Any group health plan whose costs increase one percent (1%) or more due to its application.

(2)(A) Therefore, upon the filing of a group policy or certificate applicable to more than fifty (50) lives, the department will seek verification of whether mental health benefits will, in fact, be offered.

(B) If they are offered, the department will seek verification that the annual and lifetime limits are equal to those provided for medical coverage.

(C) If mental health benefits are offered and annual and lifetime limits are not equal to similar medical coverage limits, then the healthcare insurer shall provide an actuarial certification that the cost, calculated retrospectively, has increased by one percent (1%) or more, with supporting documentation based on the appropriate Actuarial Standards of Practice, including, but not limited to, those referenced in subsection (a) of this section.

Authority. Arkansas Code § 23-99-510.

Codification Notes. The Mental Health Parity Act of 1996 was enacted as Title VII of Pub. L. No. 104-204.