

Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on

the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.275 is amended by alphabetically adding the following commodity to the table in paragraph (a)(1) to read as follows:

§180.275 Chlorothalonil; tolerances for residues.

- (a) * * *
- (1) * * *

Commodity	Parts per million
* * * *	*
Pea, edible podded	* 5

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 146

[CMS–4094–F5]

RIN 0938–AO83

Amendment to the Interim Final Regulation for Mental Health Parity

AGENCY: Centers for Medicare & Medicaid Services (CMS), DHHS.

ACTION: Amendment to interim final regulation.

SUMMARY: This document amends the interim final regulation that implements the Mental Health Parity Act of 1996 (MHPA) to conform the sunset date of the regulation to the sunset date of the statute under legislation passed on December 9, 2006.

DATES: *Effective date:* The amendment to the regulation is effective August 27, 2007.

Applicability dates: Under the amendment, the requirements of the MHPA interim final regulation apply to group health plans and health insurance coverage offered in connection with a group health plan during the period commencing August 27, 2007 through December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Adam Shaw, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, at 1–877–267–2323, ext. 61091.

SUPPLEMENTARY INFORMATION:

I. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104–204). MHPA amended the Public Health Service Act (PHS Act) and the Employee Retirement Income Security Act of 1974 (ERISA) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits and the application of dollar limits on medical/surgical benefits. Provisions implementing MHPA were later added to the Internal Revenue Code of 1986 (Code) under the Taxpayer Relief Act of 1997 (Pub. L. 105–34).

The provisions of MHPA are set forth in Title XXVII of the PHS Act, Part 7 of Subtitle B of Title I of ERISA, and

Chapter 100 of Subtitle K of the Code. The Secretaries of Health and Human Services, Labor, and the Treasury share jurisdiction over the MHPA provisions. These provisions are substantially similar, except for jurisdictional differences. See for example, the amendment to the interim final rule published July 22, 2005 (70 FR 42276).

II. Overview of MHPA

The MHPA provisions are set forth in section 2705 of the PHS Act, section 712 of ERISA, and section 9812 of the Code. MHPA applies to a large group health plan (or health insurance coverage offered in connection with a large group health plan) that provides both medical/surgical benefits and mental health benefits. MHPA's original text included a sunset provision specifying that MHPA's provisions would not apply to benefits for services furnished on or after September 30, 2001. On December 22, 1997, the Departments of Health and Human Services, Labor, and the Treasury issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

The sunset date has been extended on a yearly basis by subsequent statutory provisions, which are described in detail in the amendment to the interim final rule published July 22, 2005 (70 FR 42276). The Department has published changes to the interim final mental health parity regulations to conform the expiration date of the regulation to each new statutory sunset date. (See 70 FR 42276, (July 22, 2005); 71 FR 25092 (April 28, 2006).)

On December 20, 2006, President Bush signed The Tax Relief and Health Care Act of 2006 (Pub. L. 109-432). That legislation further extended MHPA's sunset date under the PHS Act, ERISA, and the Code so that MHPA's provisions apply to any services furnished through December 31, 2007.

This statutory amendment has not altered MHPA's scope. It continues to apply to a large group health plan (or health insurance coverage offered in connection with a large group health plan) that provides both medical/surgical benefits and mental health benefits. To assist plan sponsors, health insurance issuers, and covered individuals, the Department is publishing this amendment to the interim final regulations, conforming the regulatory sunset date to the new statutory sunset date. The Department is making the effective date of this amendment to the interim final regulations effective as of August 27, 2007. Since the extension of this sunset

date is essentially self-implementing, this amendment to the MHPA regulations is published on an interim final basis under section 2792 of the PHS Act.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

IV. Regulatory Impact Statement

Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96-354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). According to the terms of the Executive Order, it has been determined that this action is not a "significant regulatory action" within the meaning of the Executive Order. Rather, it is an amendment to the 1997 interim final regulations that makes no substantive changes to those regulations, and merely extends the regulatory sunset date to conform to the new statutory sunset date added by Pub. L. 109-432. Because it is not a major rule, we are not required to perform an assessment of the costs and savings.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the

RFA because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This rule will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule and have determined that it will not have a substantial effect on State or local governments.

We have reviewed this rule and determined that, under the provisions of Pub. L. 104-121, the Contract with America Act, it is not a major rule.

List of Subjects in 45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 45 CFR part 146 as follows:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 1. The authority citation for part 146 is amended to read as follows:

Authority: Secs. 2705, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg-5, 300gg-91, and 300gg-92).

§ 146.136 [Amended]

■ 2. In § 146.136, the following amendments are made:

■ a. The last sentence of paragraph (f)(1) is amended by removing the date "December 31, 2006" and adding in its place the date "December 31, 2007."

■ b. Paragraph (g)(2) is amended by removing the date "January 1, 2007" and adding in its place the date "January 1, 2008."

■ c. Paragraph (i) is revised to read as follows:

§ 146.136 Parity in the application of certain limits to mental health benefits.

* * * * *

(i) *Sunset*. This section does not apply to benefits for services furnished after December 31, 2007.

Dated: March 15, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: April 11, 2007.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 148

[CMS-2260-IFC]

RIN 0938-A046

High Risk Pools

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period will amend our regulations regarding grants to States for operation of qualified high risk pools to conform to provisions of the Deficit Reduction Act of 2005 and the State High Risk Pool Funding Extension Act of 2006. Those provisions extended funding for seed and operational grants for State High Risk Pools and amended section 2745 of the Public Health Service Act.

DATES: *Effective date:* These regulations are effective on August 27, 2007.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 27, 2007.

ADDRESSES: In commenting, please refer to file code CMS-2260-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS-2260-IFC, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS-2260-IFC, Mail Stop C4-26-05.00, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the "Collection of Information Requirements" section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Paul Youket, (410) 786-7528, or John Young, (410) 786-0505.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by

referencing the file code CMS-2260-IFC and the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Electronic Comments on CMS Regulations" on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

The Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107-210) added section 2745 of the Public Health Service Act (PHS Act) to provide for two types of grants to States for the promotion of "qualified high risk pools." These pools provide health coverage to high-risk individuals who may find private health insurance unavailable or unaffordable. Under this provision, a pool could meet the definition of a "qualified" high risk pool for purposes of section 2745 only if it met the definition of a qualified high risk pool in section 2744(c)(2) of the PHS Act. Section 2744 deals with how States can satisfy the requirement of section 2741 of the PHS Act to guarantee access to health coverage for individuals who meet the definition of an "eligible individual" under section 2741, as added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These individuals are commonly referred to as "HIPAA-eligible" individuals.

Under section 2744(c)(2) of the PHS Act, a qualified high risk pool must provide health coverage without a pre-existing condition exclusion to "all" HIPAA-eligible individuals. This meant that State high risk pools that did not allow all HIPAA-eligible individuals into the pool without a pre-existing condition exclusion could not meet the definition of a "qualified" risk pool.