the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs health, Medicaid, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR Chapter IV as set forth below:

PART 433—STATE FISCAL ADMINISTRATION

■ 1. The authority citation for part 433 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 433.10 is amended by revising paragraph (c)(5) to read as follows:

§ 433.10 Rates of FFP for program services.

* * * * *

(c) * * *

(5)(i) Under section 1933(d) of the Act, the Federal share of State expenditures for Medicare Part B premiums described in section 1905(p)(3)(A)(ii) of the Act on behalf of Qualifying Individuals described in section 1902(a)(10)(E)(iv) of the Act, is 100 percent, to the extent that the assistance does not exceed the State's allocation under paragraph (c)(5)(ii) of this section. To the extent that the assistance exceeds that allocation, the Federal share is 0 percent.

(ii) Under section 1933(c)(2) of the Act and subject to paragraph (c)(5)(iii) of this section, the allocation to each State is equal to the total allocation specified in section 1933(c)(1) of the Act multiplied by the Secretary's estimate of the ratio of the total number of individuals described in section 1902(a)(10)(E)(iv) of the Act in the State to the total number of individuals described in section 1902(a)(10)(E)(iv) of the Act for all eligible States. In estimating that ratio, the Secretary will use data from the U.S. Census Bureau.

(iii) If, based on projected expenditures for a fiscal year, the Secretary determines that the expenditures described in paragraph (c)(5)(i) of this section for one or more States are projected to exceed the allocation made to the State, the Secretary may adjust each State's fiscal year 2005, 2006, or 2007 allocation, as follows:

(A) The Secretary will compare each State's projected total expenditures for the expenses described in paragraph (c)(5)(i) of this section to the State's initial allocation determined under paragraph (c)(5)(ii) of this section, to determine the extent of each State's projected surplus or deficit.

(B) The surplus of each State with a projected surplus, as determined in accordance with paragraph (c)(5)(iii)(A) of this section will be added together to arrive at the Total Projected Surplus.

(C) The deficit of each State with a projected deficit, as determined in accordance with paragraph (c)(5)(iii)(A) of this section will be added together to arrive at the Total Projected Deficit.

(D) Each State with a projected deficit will receive an additional allocation equal to the amount of its projected deficit. The amount to be reallocated from each State with a projected surplus will be equal to A x B, where A equals the Total Projected Deficit and B equals the amount of the State's projected surplus as a percentage of the Total Projected Surplus.

(iv) CMS will notify States of any changes in allotments resulting from any reallocations.

(v) The provisions of this paragraph (c)(5) will be in effect through the end of calendar year 2007.

Authority: Sections 1902(a)(10), 1933 of the Social Security Act (42 U.S.C. 1396a), and Pub. L. 105–33.)

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: January 20, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: February 14, 2006.

Michael O. Leavitt,

Secretary.

[FR Doc. 06–3981 Filed 4–27–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 146

[CMS–4094–F4]

RIN 0938–AN80

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 30, 2005.

DATES: *Effective date:* The amendment to the regulation is effective May 30, 2006.

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 May 30, 2006 through December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Mlawsky, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, at 1–877–267–2323, ext. 61565.

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).

On December 30, 2005, President Bush signed H.R. 4579 (Pub. L. 109–151). That legislation further extended MHPA's sunset date under the PHS Act, ERISA, and the Tax Code so that MHPA's provisions apply to any services furnished through December 31, 2006.

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 May 30, 2006. 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 Public Law 109–151. 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 Public Law 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 revised 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, 2005'' and adding in its place the date ''December 31, 2006.''

■ b. Paragraph (g)(2) is amended by removing the date ''January 1, 2006'' and adding in its place the date ''January 1, 2007.''

■ 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, 2006.

Dated: March 8, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 14, 2006.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

[FR Doc. 06–3972 Filed 4–27–06; 8:45 am]

BILLING CODE 4120–01–P