

bracket correctly, the submitter may file a corrected version or portion of the confidential document at the same time as the nonconfidential version is filed. No changes to the document other than bracketing and deletion of confidential business information are permitted after the deadline. Failure to comply with this paragraph may result in the striking of all or a portion of a submitter's document.

(b) *Service.* Any party submitting a document for the consideration of the Commission in the course of an investigation to which this part pertains shall, in addition to complying with § 201.8 of this chapter, serve a copy of the public version of such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter. If a document is filed before the Secretary's issuance of the service list provided for in § 201.11 of this chapter, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available, upon request, to all parties to the investigation a copy of each document, except transcripts of hearings, confidential business information, privileged information, and information required to be served under this section, placed in the docket file of the investigation by the Commission.

(c) *Certification.* Any person submitting factual information on behalf of the petitioner or any other interested party for the consideration of the Commission in the course of an investigation to which this part pertains, and any person submitting a response to a Commission questionnaire issued in connection with an investigation to which this part pertains, must certify that such information is accurate and complete to the best of the submitter's knowledge.

#### § 208.7 Determinations and reports.

(a) *Determinations.* When relevant information is not available on the record or any party withholds information that has been requested by the Commission, the Commission will make its determination on the basis of the facts available. When the Commission relies on information submitted as facts available, it will, to

the extent practicable, corroborate the information from independent sources that are reasonably available to the Commission.

(b) *Time for determinations and reports.* The Commission will make its determinations under section 112(c)(2)(A) and (B)(i) of AGOA and transmit its reports to the President by September 25, 2007, with respect to petitions received on or before March 28 and accepted on or before April 11, 2007, and will make its determinations by August 1 of subsequent years with respect to petitions received on or before January 15 and accepted on or before February 1 of those years.

(c) *Contents of report.* The Commission will include in its report to the President the following:

(1) The determination made with respect to whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use in lesser developed beneficiary sub-Saharan African countries, and an explanation of the basis for the determination;

(2) If the determination in paragraph (c)(1) of this section is affirmative, a determination with respect to the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period beginning after the determination is made;

(3) Any dissenting or separate views by members of the Commission regarding such determinations.

(c) *Public version of report.* Upon making its report to the President, the Commission will make such report public (with the exception of information which the Commission determines to be confidential), and publish a summary thereof in the **Federal Register**.

#### § 208.8 Confidential business information; furnishing of nonconfidential summaries thereof.

(a) *Nonrelease of information.* In the case of an investigation under this part, the Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6 of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. When appropriate, the Commission will include confidential business information in reports transmitted to the President (and/or the United States

Trade Representative); such reports will be marked as containing confidential business information, and a nonconfidential version of such report will be made available to the public.

(b) *Nonconfidential summaries.* Except as the Commission may otherwise provide, a party submitting confidential business information shall also submit to the Commission, at the time it submits such information, a nonconfidential summary of the information. If a party indicates that the confidential business information cannot be summarized, it shall state in writing the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.

By order of the Commission.

Issued: February 21, 2007.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7-3387 Filed 2-26-07; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2590

#### RIN 1210-AA62

### Mental Health Parity

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Interim final amendment to regulation.

**SUMMARY:** This document contains an interim final amendment to modify the sunset date of interim final regulations under the Mental Health Parity Act (MHPA) to be consistent with legislation passed during the 109th Congress.

**DATES:** *Effective date.* The interim final amendment is effective December 31, 2006.

*Applicability dates.* The requirements of the interim final amendment apply to group health plans and health insurance issuers offering health insurance coverage in connection with a group health plan beginning December 31, 2006. The MHPA interim final amendment extends the sunset date from December 31, 2006 to December 31, 2007. Pursuant to the extended sunset date, MHPA requirements apply

to benefits for services furnished before December 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Beth Gelman, Employee Benefits Security Administration, Department of Labor, at (202) 693-8335.

*Customer Service Information:* Individuals interested in obtaining additional information on the Mental Health Parity Act and other health care laws may request copies of Department of Labor publications concerning changes in health care law by calling the EBSA Toll-Free Hotline at 1-866-444-EBSA (3272), or access the publications on-line at <http://www.dol.gov/ebsa>, the Department of Labor's Web site. Information on the Mental Health Parity Act and other health care laws is also available on the Department of Labor's interactive Web pages, Health Elaws (<http://www.dol.gov/elaws/ebsa/health>).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104-204, 110 Stat. 2944). MHPA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits with 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, 111 Stat. 1080).

The provisions of MHPA, as originally enacted, are set forth in Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act.<sup>1</sup> The MHPA provisions in ERISA generally apply to all group health plans other than governmental plans, church plans, and certain other plans. These provisions also apply to health insurance issuers that offer health insurance coverage in connection with such group health plans. Generally, the Secretary of Labor enforces the MHPA provisions in ERISA, except that no enforcement action may be taken by the Secretary against issuers. However, individuals may generally pursue actions against issuers under ERISA and, in some circumstances, under state law.

##### B. Overview of MHPA

The MHPA provisions set forth in section 712 of ERISA apply to a group

health plan (or health insurance coverage offered by issuers in connection with a 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 applied to benefits for services furnished before September 30, 2001. On December 22, 1997, the Departments of Labor, the Treasury, and Health and Human Services issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107-116, 115 Stat. 2177), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education. This legislation extended MHPA's original sunset date under ERISA, the Code, and the PHS Act, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2002.

On March 9, 2002, President Bush signed H.R. 3090, the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147, 116 Stat. 21), that included an amendment to section 9812 of the Code (the mental health parity provisions). This legislation further extended MHPA's original sunset date under the Code to December 31, 2003.

On September 27, 2002, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (67 FR 60859). The interim final amendment included the new statutory sunset date under H.R. 3061, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2002. The Department made the effective date of this interim final amendment to the regulations September 30, 2001.

On December 2, 2002, President Bush signed H.R. 5716, the Mental Health Parity Reauthorization Act of 2002 (Pub. L. 107-313, 116 Stat. 2457), an amendment to section 712 of ERISA and Section 2705 of the PHS Act. This legislation further extended MHPA's original sunset date under ERISA and the PHS Act to December 31, 2003. On April 14, 2003, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (68 FR 18048). The interim final amendment included the new statutory sunset date under H.R. 5716, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2003.

On December 19, 2003, President Bush signed S. 1929, the Mental Health

Parity Reauthorization Act of 2003 (Pub. L. 108-197, 117 Stat. 2998), an amendment to section 712 of ERISA and Section 2705 of the PHS Act. This legislation further extended MHPA's original sunset date under ERISA and the PHS Act to December 31, 2004. On January 26, 2004, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (69 FR 3815). The final rule included the new statutory sunset date under S. 1929, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2004.

On October 4, 2004, President Bush signed H.R. 1308, the Working Families Tax Relief Act of 2004 (Pub. L. 108-311, 118 Stat. 1166), an amendment to section 712 of ERISA, Section 9812 of the Code, and Section 2705 of the PHS Act which extended MHPA's original sunset date under ERISA, the Code, and the PHS Act to December 31, 2005. On December 17, 2004, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (69 FR 75798). The interim final amendment included the new statutory sunset date under H.R. 1308, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2005.

On December 30, 2005, President Bush signed H.R. 4579, the Employee Retirement Preservation Act (Pub. L. 109-151, 119 Stat. 2886) which amends ERISA, the Code, and the PHS Act to further extend MHPA's original sunset date to December 31, 2006. On March 20, 2006, the Department of Labor issued an interim final amendment for mental health parity in the **Federal Register** (71 FR 13937). The interim final amendment included the new statutory sunset date under H.R. 4579, so that MHPA's provisions would apply to benefits for services furnished before December 31, 2006.

On December 20, 2006, President Bush signed H.R. 6111, the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432, 120 Stat. 2922) which amends ERISA, the Code, and the PHS Act to further extend MHPA's original sunset date to December 31, 2007. Like MHPA, this amendment to MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits.<sup>2</sup> As

<sup>1</sup> Part 7 of Subtitle B of Title I of ERISA, Chapter 100 of Subtitle K of the Code, and Title XXVII of the PHS Act were added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104-191.

<sup>2</sup> The parity requirements under MHPA, the interim regulations, and the amendment to the interim regulations do not apply to any group health plan (or health insurance coverage offered in connection with a group health plan) for any plan

a result of this statutory amendment, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department of Labor has developed this amendment of the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the new statutory sunset date. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date.

Since the extension of this sunset date is not discretionary, this amendment to the MHPA regulations is promulgated on an interim final basis pursuant to Section 734 of ERISA. This interim final amendment is also promulgated pursuant to Section 553(d)(3) of the Administrative Procedure Act, allowing for regulations to become effective immediately for good cause.

### C. Executive Order 12866

Under Executive Order 12866, the Department must determine whether a regulatory action is “significant” and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as “economically significant”); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant 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. This action is an amendment to the interim final regulations and merely extends the regulatory sunset date to conform to the

year of a small employer. The term “small employer” is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

new statutory sunset date added by H.R. 6111.

### D. Paperwork Reduction Act

This action does not impose any new or revised information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30. Therefore, no submission for OMB approval is being made in connection with this interim final amendment.

### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Because this amendment to the interim final regulations is being published on an interim final basis, without prior notice and a period for comment, the Regulatory Flexibility Act does not apply.

### F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), as well as Executive Order 12875, this interim final amendment does not include any federal mandate that may result in expenditures by state, local, or tribal governments, and does not include mandates that may impose an annual expenditure of \$100 million or more on the private sector.

### G. Congressional Review Act

This interim final amendment is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA), and has been transmitted to Congress and the Comptroller General for review. This amendment to the interim final regulations is not a major rule, as that term is defined by 5 U.S.C. 804.

### H. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires the adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the states, the relationship between the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This interim final amendment does not have federalism implications as it only

conforms the regulatory sunset date to the new statutory sunset date added by H.R. 6111.

### List of Subjects in 29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

### Employee Benefits Security Administration

■ 29 CFR part 2590 is amended as follows:

### PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 1. The authority for part 2590 continues to read as follows:

**Authority:** 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c, sec. 101(g), Pub. L. 104–191, 101 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); Secretary of Labor’s Order 1–2003, 68 FR 5374 (Feb. 3, 2003).

### § 2590.712 [Amended]

■ 2. Amend § 2590.712 (f)(1), (g)(2), and (i) by removing the date “December 31, 2006” and add in its place the date “December 31, 2007” wherever it appears in these paragraphs.

Signed at Washington, DC this 21st day of February, 2007.

**Bradford P. Campbell,**

*Acting Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. E7–3278 Filed 2–26–07; 8:45 am]

BILLING CODE 4510–29–P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 63

[EPA–HQ–OAR–2004–0357; FRL–8281–9]

RIN 2060–AO03

### National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair (Surface Coating) Operations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule; notice of reopening of public comment period.

**SUMMARY:** Because EPA received adverse comments, we are withdrawing the direct final rule for the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations