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Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

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General Comment

My firm, CuraLinc Healthcare, is a national provider of employee assistance programs and behavioral health management services. We're looking for additional clarification regarding the Interim Final Rules of the Mental Health Parity and Addiction Equity Act of 2008, published on 2 February 2010.

We're concerned that the narrow definition of an EAP or mental health gatekeeper is not consistent with some providers' processes for managing members with mental health or substance abuse conditions. Specifically, all references to this model use the word "exhaust" or "exhausting" to describe how forcing members to exhaust EAP sessions before accessing the MH/SA component of the plan would constitute a nonquantitative treatment limitation, assuming the same requirement isn't in place for outpatient medical/surgical benefits. If the process does not force members to "exhaust" EAP sessions before accessing MH/SA and the plan administrator can demonstrate medical necessity, can an EAP act as an additional layer of advocacy by guiding members to the most appropriate type of provider at the point of intake? If not, the legislation may cause members with short-term mental health or substance abuse conditions to unknowingly seek the wrong type of provider - or the wrong level of care entirely.