

American Psychiatric Association

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October 21, 2011

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
Washington, DC 20210

Attention: RIN 1210-AB52 Electronic Submission

To Whom It May Concern:

The American Psychiatric Association (APA), a national specialty society comprised of over 37,000 psychiatric physicians, appreciates the opportunity to comment on 76 Fed Reg. 52475, a rule which establishes summaries of benefits and coverage under the Patient Protection and Affordable Care Act (ACA). The APA has long been an advocate in addressing the issue of insurance coverage discrimination based on health status. This issue has been a matter of great concern for persons with mental illness who have, in our view, been adversely affected by health plan and insurer coverage exclusion practices.

The APA is significantly concerned that the proposed rule's definition of "medical necessity" is too limiting. By narrowly defining medical necessity as including "illnesses and injuries," the federal government has opened the door for insurers to discriminate against persons with mental health disorders. Omission of the word "conditions" in the definition of medical necessity could prompt insurers to reclassify mental health disorders as "conditions," rather than "illnesses" or "injuries" which do fall within the scope of the "medical necessity"

definition. For many years, the APA has advocated for insurers to cover persons with mental health disorders as they would cover persons with physical health disorders. The government's definition of "medical necessity" should not provide a means for insurers to deny coverage to persons with legitimate mental health disorders that in common parlance may not be referred to as "illnesses" or "injuries." Amending the definition of "medical necessity," to encompass "conditions" in addition to "injuries" and "illnesses," helps achieve the mental health parity the spirit and letter of the ACA expands.

We believe the intent of the ACA's nondiscrimination provisions was to insure that discriminatory coverage practices based on health status were prohibited. Without the addition of "condition" to the definition of "medical necessity," the meaning of the ACA will fail. The APA thanks DOL for the opportunity to comment. Any further inquiries regarding the APA's comments should be addressed to Julie A. Clements, J.D., the APA's Deputy Director of Regulatory Affairs, at (703)-907-7842.

Sincerely,

A handwritten signature in black ink, reading "James H. Scully, Jr., MD". The signature is written in a cursive style with a large, sweeping initial "J".

James H. Scully, Jr., MD
Medical Director and Chief Executive Officer