

May 3, 2010

Submitted through Federal eRulemaking Portal

The Honorable Hilda Solis
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Kathleen Sebellius
Secretary of Health and Human Services
7500 Security Boulevard,
Baltimore, MD 21244-1850

The Honorable Timothy Geithner
Secretary of Treasury
1111 Constitution Ave., NW
Washington, DC 20224

Attention: MHPAEA Interim Final Rule Comments
RIN 1210-AB30 (EBSA)
CMS-4140-IFC (HHS)
REG-120692-09 (Treasury)

Dear Secretaries Solis, Sebellius and Geithner,

The National Committee for Quality Assurance (NCQA)—a leading evaluator of health care quality and accreditor of health plans—commends DOL, HHS, and Treasury on their work in drafting the Interim Final Rule relating to the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008*.

NCQA has a broad interest in the quality of mental health coverage Americans receive. We require reporting of several mental and behavioral health measures in the HEDIS data set. For six years now, we have served as an accreditor of Managed Behavioral Health Organizations (MBHOs), requiring that members have adequate access to mental health providers and that the accredited MBHO document a utilization review process that is consistent and based on clinical evidence. We also emphasize that many chronic illnesses are behavioral conditions, and that many chronic medical conditions are exacerbated by lack of behavioral health treatment or management. Evidence shows that serious mental health conditions that go untreated can lead to poor physical and mental health, lower worker productivity, higher absenteeism, and eventually higher health care costs.

Plans that provide both medical and mental health benefits should enforce “nonquantitative” coverage limitations using the best evidence available in a transparent process. As the IFR describes, nonquantitative coverage limitations may refer to “medical management standards;

prescription drug formulary design; standards for provider admission to participate in network; determination of usual, customary, and reasonable amounts...”

With particular regard to medical management standards—or utilization review—each medical or mental health intervention, treatment, or office visit is unique, and there is no practicable way to compare whether a single coverage decision to remit payment for a mental health event is arrived at in a fashion that is no more restrictive than a corresponding medical or surgical one. The Departments clearly acknowledge this in providing for an exception to direct parity requirements: “...to the extent that recognized clinically appropriate standards of care may permit a difference [between nonquantitative restrictions applied to medical and mental health benefits].”

We submit that this narrow exception should be expanded into a safe harbor for plans that use a documented utilization management review process that

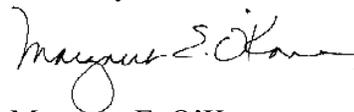
- is presided over by a mental health practitioner;
- requires that coverage decisions be objectively based on clinical evidence where possible;
- is applied consistently;
- and renders timely decisions that are subject to appeal by members and practitioners.

The Departments should work with mental health experts and plan administrators to clearly define criteria that a mental health utilization review process would have to meet in order to achieve the safe harbor, along the above lines. A review of NCQA’s Standards and Guidelines for the Accreditation of Managed Behavioral Health Organization may be helpful. Plans should then be required to demonstrate compliance to the satisfaction of the Departments with these written standards, or be certified as having done so.

This would ensure that nonquantitative coverage limitations are applied in an evidence based manner, not capriciously in order to limit mental health utilization. This achieves the intent of the law and such a process would ensure the outcome described in Example 4 under (c)(4) of the amended rules.

We thank you for the opportunity to comment, and stand ready to discuss any of the above recommendations with the Departments, or assist in any other way we are able.

Sincerely,



Margaret E. O’Kane

President