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May 3, 2010

The Honorable Timothy Geithner
Secretary, U.S. Department of the Treasury

The Honorable Kathleen Sibelius
Secretary, U.S. Department of Health and Human Services

The Honorable Hilda Solis
Secretary, U.S. Department of Labor

By Electronic Mail

**Re: Comments on Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008
RIN 1210-AB30**

Dear Mr. and Mmes. Secretary:

Blue Cross Blue Shield of Minnesota appreciates the opportunity to provide comments to the Departments of Labor, Treasury and Health and Human Services regarding the Interim Final Rules (the "Regulation") under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the "Act").

Blue Cross Blue Shield of Minnesota (BCBSMN) is a non-profit health plan that provides coverage to over 2.7 million persons in all market segments. BCBSMN has participated in the development of the comment letters of both BCBSA and AHIP and incorporates those comment letters by reference. The scope of this letter will be limited to the issues related to the "Substantially All" and predominant tests included in the Regulation.

Minnesota state law has required mental health parity since 1995. This law requires that if a contract provides coverage for alcoholism, mental health or chemical dependency services, the cost-sharing requirements for these outpatient services must be the same as the cost-sharing requirements for outpatient medical services. This requirement also applies for inpatient services. BCBSMN anticipated that the requirements of the Act would be met by applying this type of analysis to all affected groups.

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However, as BCBSMN has applied the Regulation's "Substantially All" test to its benefit plans, over 60% fail. This is despite the fact that these plan designs meet Minnesota's equal treatment by type of service parity requirement. BCBSMN's analysis has found that benefit plans that have only deductible/co-insurance generally pass the test. However, benefit plans that use a combination of co-payments and co-insurance, generally fail to meet the requirements of the Regulation. This means that benefit plan changes will be necessary for more than 100,000 members in fully insured plans and more than 700,000 members in self-insured plans.

The benefit changes that will be required to make our plans compliant often involve a choice of either 1) covering MH/CD less richly than under the equal treatment by type of service standard in order to meet the Regulation; or 2) covering MH/CD at 100%, causing overall health care and premiums costs to increase with no ability to control utilization. From BCBSMN's perspective, neither of these alternatives is desirable.

The following is an example of the results we are finding for one of our most common plan types (inpatient and outpatient services subject to deductible coinsurance with \$25 office call co-pays and preventive services covered at 100%). This type of plan fails the "Substantially All" test based upon our evaluation and interpretation of the Regulation's test. For simplicity, only testing of the inpatient and outpatient categories for in-network coverage of a single contract type is displayed.

Benefit Summary

Overall Deductible:	\$300
Overall Coinsurance:	80%
Preventive Care:	100%
Office Visits:	\$25 Co-pay
Ancillary Svcs Assoc with Office Visits:	Subject to Deduct/Coins
PT/OT/ST/Chiro Office Visit:	\$25 Co-pay
PT/OT/ST/Chiro Therapy:	Subject to Deduct/Coins
Lab and X-ray:	Subject to Deduct/Coins
MH/CD IP/OP Services:	Subject to Deduct/Coins
MH/CD Office Visit:	\$25 Co-pay
MH/CD Ancillary Svcs Assoc with Office Visit:	Subject to Deduct/Coins

Substantially All Test:

Inpatient:	<u>% of Projected Claims</u>
\$300 Deduct =	99.9%
80% Coins =	99.9%
100% Coins =	0.1%
Outpatient/Professional:	<u>% of Projected Claims</u>
\$300 Deduct =	84.3%

80% Coins =	86.0%
100% Coins =	14.0%
\$25 Co-pay =	10.3%

Summary of Results for Sample Plan:

- Passes “Substantially All” test for IP Services, because the deductible/coinsurance covers 99.9% of all IP services, and all IP MH/CD are subject to deductible/coinsurance.
- Passes “Substantially All” test for OP/PR Ancillary Services Subject to Deduct/Coins, because deductible/coinsurance covers 84.3%/86.0% of all OP/PR services.
- Fails “Substantially All” test for OP/PR Office Visits, because OP/PR copays cover only 10.3% of projected claims which is less than the required 2/3.

BCBSMN has more than 300 fully and self-insured groups that renew in July. A large portion of these groups will fail the “Substantially All” test. For BCBSMN’s total book of groups renewing in July, 48% of the groups will fail. This will affect more than 30,000 members. Again, these benefit plans meet Minnesota’s equal treatment by type of service parity requirement.

Based on this analysis, the benefit plan design of the failing groups will have to be changed significantly. As noted earlier, it appears that benefit plans that include both co-payments and co-insurance will need to be eliminated. Given the March 23, 2010 effective date for the grandfathering provisions of the Patient Protection and Affordable Care Act of 2010 (PPACA), BCBSMN is extremely concerned that the significant benefit plan design modifications required under the Regulation will eliminate the grandfather status for the affected groups and members.

BCBSMN believes that the market disruption that will occur due to the application of the substantially all test is an unanticipated consequence of the Regulation. Blue Cross Blue Shield of Minnesota respectfully requests that the implementation of the Regulation be delayed for six months so that these consequences can be more fully understood and addressed.

Thank you for your consideration of these comments. If you have any questions please contact Lois Wattman at Lois_Wattman@bluecrossmn.com.

Sincerely,



Kathleen A. Mock
Vice President
Public and Health Affairs