

May 3, 2010

VIA ELECTRONIC SUBMISSION

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210
Attention: RIN 1210-AB30

Re: Interim Final Rules under the Paul Wellstone and Pete
Domenici Mental Health and Addiction Equity Act of
2008

To Whom It May Concern:

The New Jersey Association of Mental Health and Addiction Agencies (NJAMHAA) appreciates the opportunity to comment on the interim final rules (the “Interim Final Rules”) related to the Paul Wellstone and Pete Domenici Mental Health and Addiction Equity Act of 2008 (“MHPAEA” or “Act”), which were published in the February 2, 2010 issue of the Federal Register. NJAMHAA is grateful for the efforts put forth by the Departments of Labor, Health and Senior Services and the Treasury and commends the Departments for their work and analysis to ensure the Act is implemented consistent with the intent of Congress.

NJAMHAA supports the comments submitted by the National Council for Community Behavioral Healthcare, Mental Health America, the National Alliance on Mental Illness and the other members of the Parity Implementation Coalition. The comments that follow build upon those submitted by the Parity Implementation Coalition and represent NJAMHAA’s priority recommendations.

The MHPAEA requires parity with respect to scope of services and makes clear that the parity requirements apply both quantitative and non-quantitative treatment limitations. The Interim Final Rules state that the “regulations do not address the scope of services issue,” and request comment “on whether and to what extent MHPAEA addresses the scope of services or continuum of care provided by a group health plan or health insurance coverage.” NJAMHAA believes that the clear language of the MHPAEA requires that the scope of mental health and substance use disorder (MH/SUD) services be no more restrictive than the scope of services for medical and surgical services.

In addition, the MHPAEA permits an exception to the mental health parity requirements for plans that experience a cost increase of over one percent as a result of the Act. The Act is clear that actual costs incurred, not actuarial cost projections, must form the basis of a cost exemption application. Such an interpretation is consistent with the implementation of prior mental health parity laws. NJAMHAA respectfully requests that the Departments reject any argument to allow plans to use actuarial cost projections to establish an exception to the Act.

Moreover, many states, including New Jersey, have already implemented their own mental health parity laws. Many of the existing state laws impose restrictions on the same subjects and requirements included in the MHPAEA. NJAMHAA strongly supports the Interim Final Rules' interpretation that state parity laws with stronger protections than those contained in the MHPAEA will not ordinarily be preempted by the Act.

Finally, a timeline for the completion and publication of Final Rules related to the MHPAEA is unclear. Health insurance plans have already begun to implement the Act, often with differing interpretations of various provisions. In order to ensure that the Act is implemented effectively for the tens of millions of children and adults with mental health and addictions disorders, the Departments should issue formal guidance related to the issues currently contained in the regulations. Such guidance is especially important because of the very inequities that the MHPAEA was enacted to remedy continue to be pervasive. Specifically, the financial restrictions and treatment limitations on access to mental health and substance abuse treatment services continues to be greater than those imposed on medical and surgical conditions.

On behalf of NJAMHAA and our 150 member organizations, I thank you for the opportunity to comment on the Interim Final Rules. NJAMHAA appreciates the work completed thus far by the Departments in developing the Interim Final Rules and we look forward to working with the Departments to ensure that the final rules appropriately reflect Congressional intent related to the enactment of the MHPAEA Thank you for your consideration of our views. I may be reached at (609) 838-5488, ext. 292, if you require additional information.

Sincerely,

Debra L. Wentz, Ph.D.
Chief Executive Officer