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May 28, 2009

Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Attention: MHPAEA Comments

Dear Sir or Madam:

State Associations of Addiction Services (SAAS) and the Legal Action Center (LAC) appreciate the opportunity to submit comments to the Departments of Labor, Health and Human Services, and the Treasury on the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). SAAS is the leading national organization that advocates on behalf of state associations of addiction prevention, treatment, and recovery providers, representing thousands of providers in 42 states around the country. The mission of SAAS is to ensure the availability and accessibility of quality drug and alcohol treatment, prevention, education, and research. The Legal Action Center is a non-profit law and policy organization that works to expand treatment and prevention services for people with alcohol and/or drug addictions, people living with HIV/AIDS, and people with criminal records.

We were extremely pleased with the passage of the MHPAEA, and with it the elimination of barriers that have kept thousands of individuals with substance use disorders and mental illnesses from receiving critically important treatment services. We thank you for the opportunity to submit comments to help inform the rulemaking process going forward. **Our comments focus on the need for future rules governing the MHPAEA to ensure that people who need substance use disorder treatment are better able to receive those lifesaving services.**

In developing rules to govern the MHPAEA, we urge the Departments to ensure that:

1. Regulations governing implementation of the MHPAEA fully respect the preservation of State laws more favorable to the insured;
2. Substance use disorder treatment benefits in group health plans are managed in a way that ensures that individuals are able to access the type and duration of treatment services that treatment professionals determine are clinically appropriate;
3. The full continuum of substance use disorder treatment services is included in the definition of treatment services covered by the MHPAEA;
4. Mechanisms to enforce the statutory and regulatory requirements of the MHPAEA are established;
5. A comprehensive plan to inform and educate the public and beneficiaries about the requirements of the MHPAEA must be developed and implemented.

1. **The clear decision of Congress to protect State laws more favorable to the insured must be respected fully in the regulation process and regulations governing implementation must reiterate that stronger State laws remain in effect.**

Extensive legislative history, including Committee and floor statements by chief House and Senate sponsors, makes clear that the MHPAEA provides a “floor” of protections not a ceiling, and that stronger State laws remain in effect and are not preempted by the new federal law. Regulations governing implementation of the MHPAEA must reiterate that State laws which provide better coverage, rights, methods of access to treatment and consumer protections from the standpoint of the insured remain in effect.

2. **Substance use disorder treatment benefits in group health plans must be managed in a way that ensures that individuals are able to access the type and duration of treatment services that treatment professionals determine are clinically appropriate.**

The recently approved MHPAEA requires parity in substance use disorder and mental health treatment benefits by prohibiting group health plans from imposing annual/lifetime dollar limits, co-pays and deductibles, or day and visit limits unless similar limitations or requirements are imposed for other medical and surgical benefits. This new federal law will improve access to lifesaving substance use disorder and mental health treatment by limiting the discriminatory barriers that have kept thousands of Americans with substance use and mental health disorders from receiving the care they desperately need.

According to the National Household Survey conducted by the Substance Abuse and Mental Health Services Administration, in 2007, 23.2 million people, or 9.6 percent of the population, were classified with substance dependence or abuse. However, only 2.4 million, or just over 10 percent of those who needed treatment, received it at a specialty facility. Therefore, there were 20.8 million people, or 8.4 percent of the population, who needed treatment for an illicit drug or alcohol use problem but did not receive it. Over 40 percent of those who tried to get help for their addiction were denied treatment because of cost or insurance barriers.

Substance use disorders, like other chronic diseases, frequently require multiple episodes of treatment of varying intensity and duration. Remaining in treatment for an adequate period of time is critical for treatment success, as recovery can be a long process. In addition, no single form of substance use disorder treatment is effective for all individuals. Individuals should have choices about their substance use disorder care, just as they do for other areas of their health, that foster recovery and wellness through individualized community-based services and supports. Services that assist individuals with substance use disorders in their recovery and that improve their functioning should be available to all in need. To help individuals enter into and sustain their long-term recovery, regulations governing the MHPAEA should ensure that the full continuum of quality substance use disorder treatment is accessible to individuals and their family members.

Prohibiting Additional Treatment Limitations. Under the MHPAEA, group health plans cannot limit the number of substance use disorder treatment episodes or visits or annual limits if those same restrictions are not imposed for treatment of other health conditions. The law makes clear that these requirements apply both to in- and out-of-network benefits, where group plans offer out-of-network benefits for medical/surgical benefits and cover substance use disorder treatment services. Rules governing the MHPAEA should clearly reinforce those requirements of the MHPAEA. In addition,

regulations governing the MHPAEA should state that determinations about who needs what services, levels of care, and lengths of stay should be made by qualified treatment professionals, and where medical management is in use, tools including utilization review, criteria for review and approval of evidence-based treatment services, preferred provider networks and preauthorization should not be used to deny needed care as determined by a treating professional.

Prohibiting Additional Financial Requirements. With the passage of MHPAEA, insurers are precluded from imposing additional financial requirements that are more restrictive than requirements for other health conditions. This provision applies to both in- and out-of-network benefits, where group plans offer out-of-network benefits for medical/surgical benefits and cover substance use disorder treatment services. Lifetime caps and annual limits for mental health and substance use disorder benefits are now equal to those for medical/surgical benefits. Rules governing the MHPAEA should clearly state that additional financial requirements not applied to benefits for other health conditions cannot be applied to substance use or mental health disorder treatment benefits.

Requiring Additional Disclosure. The MHPAEA requires that insurers make medical necessity criteria and reasons for any denials of reimbursement available to participants and beneficiaries upon request. Regulations governing the MHPAEA should ensure that disclosure requirements are improved. Rules should make clear that limitations and restrictions on coverage under group health plans should be disclosed in a timely manner to group health plan sponsors and communicated in a timely manner to participants and beneficiaries under such plans in a form that is easily understandable. Rules should also clearly state that criteria and reasons for denial must be disclosed and subject to a meaningful, independent review process that accesses plan benefit utilization patterns and enables individuals to effectively challenge a denial.

3. The full continuum of substance use disorder treatment services must be explicitly included in the definition of treatment services covered by the MHPAEA.

The MHPAEA makes clear that, where mental health or substance use disorder treatment benefits are offered in group insurance plans, they must be offered at parity with benefits for other medical and surgical conditions. Individuals with substance use disorders should have access to the full array of services appropriate for recovery from these chronic health conditions. Recognizing that no one type of substance use disorder treatment is effective for all individuals, the scope of substance use disorder treatment services should be comprehensive.

The rules governing MHPAEA should be clear that the full range of substance use disorder treatment services must be covered fully, equitably, and at parity with other health conditions in all group health insurance plans. Regulations on the MHPAEA should clearly state that the full continuum of quality substance use disorder treatment services are covered including assessment services, detoxification, residential care, therapeutic communities, half-way houses, hospitalization, outpatient treatment, medication-assisted treatment, case management, skills training and other rehabilitation services, recovery support services, primary medical services, family counseling, family unification, and continuing care.

4. Mechanisms to enforce the statutory and regulatory requirements of the MHPAEA must be established.

In order for the MHPAEA to effectively eliminate discriminatory barriers to treatment for people with substance use and/or mental health disorders, enforcement mechanisms governing the new law must be

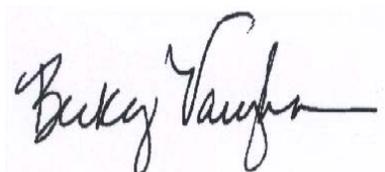
established. Adherence to the MHPAEA statutory and regulatory requirements must be tracked. There must be clear, meaningful penalties for those who fail to comply with the statutory and regulatory requirements of the MHPAEA and these penalties should be imposed when insurers are non-compliant.

5. A comprehensive plan to inform and educate the public and beneficiaries about the requirements of the MHPAEA should be developed and implemented.

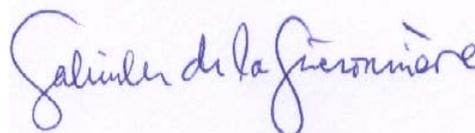
In order to successfully eliminate the historically discriminatory barriers that have prevented people with substance use and mental health disorder treatment needs from receiving critically important treatment services, consumers must be informed about the new requirements of the MHPAEA. The regulations governing the MHPAEA should include a discussion of the outreach effort needed to inform and educate consumers about the specific provisions and requirements of the new federal law and requirements for that plan's implementation.

We appreciate this opportunity to give comments on the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. Please feel free to contact us if you have any questions or need additional information. Thank you for your careful consideration.

Sincerely,



Becky D. Vaughn
Executive Director
State Associations of Addiction Services
(SAAS)



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