



Depression and Bipolar  
Support Alliance

June 22, 2018

## **INTRODUCTION**

The Depression and Bipolar Support Alliance submits these comments in response to the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury (collectively, the Departments) April 23, 2018 joint request for comments on “[Proposed] FAQs About Mental Health and Substance Use Disorder Parity Implementation and the 21<sup>st</sup> Century Cures Act Part XX.”

DBSA is the leading peer-directed national organization focusing on mood disorders: depression and bipolar disorder. Our mission is to provide hope, help, support and education to improve their lives and promote wellness.

We remain committed to working with the Administration on the prompt, effective implementation and enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA). We are hopeful that all sub-regulatory guidance and the Model Form to Request Documentation from an Employer-Sponsored Health Plan or an Insurer Concerning Treatment Limitations will be finalized and an enforcement strategy developed prior to the 10<sup>th</sup> anniversary of the enactment of MHPAEA on October 3, 2018.

We applaud the Departments for an excellent job in meeting the requirements of Section 13001 of the *21<sup>st</sup> Century Cures Act* (PL 114-146) (“CURES”) by issuing the Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act and Model Disclosure Form with the proposed FAQs. Together, these documents are consistent with and reinforce prior guidance released by the Departments clarifying that plans are required to conduct these types of compliance analyses for each non-quantitative treatment limitation (NQTL), both in writing and in operation, the methods for conducting such analyses, and the evidence and documentation relating to such compliance analyses that plans must disclose to beneficiaries and their authorized representatives.

Ensuring that plans are required to disclose all NQTL analyses and relevant documentation to a beneficiary or authorized representative is particularly critical as one of the primary complaints from DBSA participants is lack of disclosure on NQTL development and application by health plans and insurance issuers. Consumers and providers serving as a patient’s authorized representative are entitled to plan documents and information regarding the development and

application of NQTLs that a plan imposes to limit access to benefit coverage and how those limitations are comparable to and no more stringently applied to substance use/mental health benefits than to medical/surgical benefits. DBSA members consistently report that although they request this type of information, in particular, on appeal from denied claims, plans are either non-responsive, or respond with generic summaries of the law and regulations, or summaries that are not fact specific to the NQTL utilized to deny the claim at issue. To the extent there has been enforcement in this area from the Departments, we have yet to see evidence that plans have changed their practices. Absent this information, consumers and providers are unable to determine whether or not the plan is in compliance with the parity law and its regulations.

Considering that clear guidance for disclosure has been in place since at least the Final Rules issued in November 2013, followed up by issuance of clear sub-regulatory guidance, including several FAQs, Warning Signs, etc., we recommend immediate enforcement of the disclosure requirements with the 10 largest insurers nationwide.

As a member of the Parity Implementation Coalition (PIC) DBSA is fully supportive of the very comprehensive response they have submitted on behalf the organization. The PIC submission does an excellent job outlining the issues that parity implementation presents for those who live mood disorders and we strongly encourage your full consideration of the recommendations made.

DBSA would be pleased to discuss these recommendations in greater detail and we stand ready to serve as a resource to the Administration. I can be reached directly at [mpollock@dbsallinace.org](mailto:mpollock@dbsallinace.org) for more information.

Sincerely,



Michael Pollock  
Chief Executive Officer