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To: [e-ohpsca-faq39 - EBSA](#)
Subject: Comments on Proposed FAQs
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The American Psychological Association Practice Organization submits these comments in response to the “[Proposed] FAQs About Mental Health and Substance Use Disorder Parity Implementation and the 21st Century Cures Act Part XX.” We appreciate the opportunity to provide feedback to the Departments on this important matter.

We fully support the recommendations in the comments provided by the Parity Implementation Coalition (PIC). Our organization has worked closely with PIC on various parity issues and we particularly share PIC’s concerns regarding reimbursement parity and network adequacy. Our comments here are limited to these two issues.

The examples in the proposed FAQs on these two issues (Q7 and Q8, respectively) provide obvious examples of how plans do not meet MHPAEA requirements. In practice, however, we find that the scenarios around these NQTLs are not as clear cut. We suggest that the Departments develop FAQs that cover the more common nuanced issues.

As we have said to DOL and HHS, a major barrier we have encountered on reimbursement parity is the difficulty in finding information on what a plan actually pays for common services on the medical/surgical side and how it develops those rates. This information is closely guarded as proprietary information, particularly since we understand that many medical/surgical practices are able to privately negotiate their rates well above a plan’s scheduled rates.

We believe that insurance companies unfairly discriminate against mental health providers by reducing, or by failing to increase, rates for the most commonly-billed CPT codes (for example, 90834 and 90837). This kind of discrimination leads to shortages of mental health providers in the plans and impairs patient access to care. We urge the Departments to require plans to provide information on rates for commonly billed codes on the medical/surgical side, including the processes and analyses used to determine the rates.

Similarly, we are concerned that the example for network adequacy is too obvious. We encourage the Departments to provide FAQs that discuss other factors, including: outreach efforts companies use to attract providers, negotiation of rates on the medical/surgical side v. the MH/SUD side, and how far patients have to travel to seek care.

We are committed to continuing our work with the Departments to promote compliance with and enforcement of MHPAEA.

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