

Top-Line Summary of the Interim Final Rule on Implementing the Wellstone-Domenici Parity Law

Feb. 2, 2010

On January 29, 2010, the Departments of Health and Human Services, Education, and Labor released an interim final rule (IFR) providing guidance on how the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act must be implemented. The IFR is available online at http://www.federalregister.gov/OFRupload/OFRData/2010-02167_PI.pdf

Following is a brief summary of the provisions of major interest to mental health and substance use disorder providers. The National Council will issue a more detailed summary in the next two weeks.

Effective Date: This IFR goes into effect on Apr. 5 and applies to insurance plans with plan years starting on July 1 or later.

Plans that Must Comply with the IFR: The IFR applies to group insurance plans of more than 50 people. Although the Wellstone-Domenici law also applies to Medicaid managed care plans, these plans are NOT included in the IFR. Additional guidance on how parity will apply to Medicaid managed care will be released by the Department of Health and Human Services in the future.

Scope of Service: The IFR divides benefits into six classifications:

1. Inpatient, in-network
2. Inpatient, out-of-network
3. Outpatient, in-network
4. Outpatient, out-of-network
5. Emergency care
6. Prescription drugs

Within each classification, if a plan provides MH/SU benefits, those benefits must be provided at parity with the medical/surgical benefits provided in that classification.

In addition, the Departments are encouraging public comments on whether and to what extent the Parity Act addresses scope of services or continuum of care provided by insurance plans (information about how to submit public comments is included in the IFR).

Medical Management: The IFR distinguishes between two types of limits on services: “quantitative limits” (for example, limits on dollar amounts or number of sessions), and “non-quantitative limits.” The IFR expressly prohibits plans from making use of the following non-quantitative limits, unless similar restrictions exist for medical/surgical benefits: medical management, prescription formulary design, “fail-first” or step therapies, and prior authorization.

Cumulative Financial Requirements: The IFR prohibits plans from instituting separate deductibles, copayments, and out-of-pocket limits for MH/SU and medical/surgical benefits. Any deductibles, copayments, and out-of-pocket limits required by the plan must be integrated and cumulative for all services.

Exemptions: The statute allows for health insurance plans to be granted a 1-year exemption from the parity requirements if they experience total increased costs of 2% in the first year after implementation and 1% in subsequent years. The criteria for this exemption are not included in this IFR. They will be released in the future.

Comments: Public comments on the IFR will be accepted through May 3, 2010. Instructions for how to comment are included in the official notice, to be published in the Federal Register on Tues, Feb. 2. The National Council will be working with the Parity Implementation Coalition to create model comments for our members to use as a resource. We encourage you to send us any comments that you have. Please email Chuck Ingoglia (chucki@thenationalcouncil.org).