



APA RUSH NOTES SPECIAL REPORT ON PARITY October 2008

The successful effort to pass a new mental health "parity" law represents twelve years of hard work by APA members and staff, other mental health groups, and patients and their family members. We are publishing this Special Report on the new law to help our members and their patients better understand how the law may impact them.

There are some important facts to keep firmly in mind when reviewing this guide:

- *The law does not take effect until January 1, 2010.* This is to allow federal agencies to propose the rules that will implement the parity law, and the public to comment on the draft rules. It also gives insurers and businesses time to prepare. *For collectively bargained health plans, the effective date may be later than January 1, 2010 depending on when the current collective bargaining agreement expires.*
- *The law does not mandate coverage.* As we have stated previously, parity legislation introduced in the House and Senate has always been an "if you offer mental health benefits, then you must meet certain standards."
- *The federal parity law protects state mental health parity laws, including state coverage mandates, provided they are stronger than federal law.* The final parity agreement was carefully designed to ensure that existing state parity laws were not disrupted where such laws do not interfere with the federal parity requirements. Thus, the federal law should be seen as a floor.
- *Federal regulations will define how the federal parity requirements will wrap around existing state parity laws.* No matter how much we would like to tell members whether specific provisions of various state laws will - or will not - stay on the books once the federal law is implemented in 2010, we cannot do so at this time. We expect this will be a major source of discussion during the regulatory process, and we will keep you fully informed of developments as they occur.
- *The new law will benefit millions of Americans.* By any standard, the new parity law is a tremendous step toward the complete elimination of insurance-based distinctions between treatment of the body and treatment of the mind. Yes there is and will be more work to be done, but APA members can be proud of their support for the new law. On behalf of the leadership and staff of the APA, your Team DGR would like to say "Thank You!!!" for your help.

Parity: Question and Answer

What is the purpose of the bill and who will be covered?

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 will end health insurance benefits inequity between mental health/substance use disorders and medical/surgical benefits for group health plans with more than 50 employees. When the law is enacted, 113 million people across the country will have the right to non-discriminatory mental health coverage, including 82 million individuals enrolled in self-funded plans (regulated under ERISA), who cannot be assisted by State parity laws.

What are the specific parity requirements?

The bill amends the Mental Health Parity Act of 1996 to require that a group health plan of 50 or more employees (or coverage offered in connection with such a plan)—that provides both medical and surgical benefits and mental health or substance use benefits—to ensure that financial requirements and treatment limitations applicable to mental health/substance use disorder benefits are no more restrictive than those requirements and limitations placed on medical/surgical benefits.

Equity coverage will apply to all financial requirements, including deductibles, copayments, coinsurance, and out-of-pocket expenses, and to all treatment limitations, including frequency of treatment, number of

visits, days of coverage, or other similar limits. A plan may not apply separate cost sharing requirements or treatment limitations to mental health and substance use disorder benefits.

What plans are exempt from the new parity law and who won't be covered?

As with the current 1996 Federal parity law, small employers of 50 or fewer employees are exempt from the requirements of the Act. State parity laws will continue to apply to these employers, as well as to individual plans.

If a group health plan (or coverage) experiences an increase in actual total costs with respect to medical/surgical and mental health/substance use benefits of 1% (2% in the first plan year that this Act is applicable), the plan can be exempted from the law. Plans may only opt out for one year, and may be under audit by the Department of Health and Human Services, the Department of Labor, and actuarial analysis to assure transparency.

When will these changes begin?

The Act will apply to plans beginning in the first plan coverage year that is one year after the date of enactment. For most plans, this will mean the effective date begins on January 1, 2010. Plans maintained under collective bargaining agreements ratified before the enactment date are not subject to the Act until they terminate (or until January 1, 2009, if this is a later date).

How will state laws be affected by this legislation?

The current HIPAA preemption standard applies. This standard is extremely protective of State law. Only a State law that "prevents the application" of this Act will be preempted which means that stronger State parity and other consumer protection laws remain in place.

What are the next steps for making sure the Act is properly implemented?

As we move forward, DGR will continue to work with the Executive branch to implement the legislation. The Act directs the Secretary of Labor to issue guidance, in conjunction with the Secretaries of Health and Human Services and Treasury, which will be widely distributed to group health plans, beneficiaries, regulatory bodies, state and local governments and insurance commissioners to ease the transition and to inform them on the details of the legislation. APA will be working with these administrative agencies in developing this guidance to ensure that the guidance is complete and accurate. We will also be following any audits conducted by the government, as well as GAO reports, to make sure that these plans adhere to the guidance issued by the government.

What are the technical details of the bill and where can I find the text?

Parity provisions were contained within H.R. 1424, the Emergency Economic Stabilization Act of 2008.

The text of this legislation can be found here:

<http://www.psych.org/MainMenu/AdvocacyGovernmentRelations/GovernmentRelations/APAontheIssues/1/MentalHealthParity/TextofmentalhealthparityprovisioninHR1424passedintolaw10308.aspx>

On October 3rd, the bill was signed by the President and enrolled into public law as PL 110-343.