Mental Health Parity and Addiction Equity Act

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The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act was included in the recent Emergency Economic Stabilization Act of 2008, commonly known as the "Bailout Bill." This law permanently extends and significantly expands upon existing parity provisions in the Employee Retirement Income Security Act (ERISA), the Public Health Services Act, and the Internal Revenue Code, which were set to expire December 31, 2008.

The new law applies to group health plans (GHPs) providing coverage for medical conditions and mental health conditions and/or substance abuse disorders. The new law takes effect January 1, 2010 for GHPs operated on a calendar year basis and the first plan year starting after October 3, 2009 for other GHPs. The effective date for collectively bargained plans is based on the date of the expiration of the current collective bargaining agreement.

Federal law now requires parity between medical benefits and mental health benefits relative to annual and aggregate lifetime dollar limits only. The new law, which requires parity for substance abuse treatment also, provides that:

- limits on inpatient days and outpatient visits for the treatment of covered mental health;
- conditions and substance abuse disorders cannot be more restrictive than those applied to the treatment of medical conditions;
- the co-pays, deductibles, coinsurance, annual limits, and lifetime limits applied to the treatment of covered mental health conditions and substance abuse disorders cannot be greater than those applied to the treatment of medical conditions; and
- if a GHP provides out-of-network coverage for the treatment of medical conditions, it will have to provide a similar level of out-of-network coverage for the treatment of mental health conditions and substance abuse disorders.

The new law retains and revises existing exemptions for small employers (generally 2-50 employees during preceding calendar year based on controlled group rules) and other employers experiencing a 2% increase in actual total plan costs due to compliance with the parity requirements in the first plan year in which they apply (1% in subsequent years). The increased cost exemption requires six months of actual compliance, an actuarial determination of costs, and is only available every other plan year, all of which decreases the overall usefulness of this exemption.

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some interpretation at this point due to injection of state law into the new law's definitions of "mental health benefits" and "substance use disorder benefits." The new law directs the Department of Labor, the Department of Health and Human Services, and the Department of the Treasury to promulgate regulations by October 3, 2009, which may clarify outstanding compliance issues.

Although the new law does not directly apply to mental health and substance abuse providers, we anticipate that providers and the clients they serve may be positively impacted by its mandates. In the short term, benefit parity may increase access to care by providing greater coverage and payment for behavioral health care services. Long term, the new law may confirm the benefits of parity for behavioral health care and alleviate cost concerns related to such coverage.