

Mental Health Parity: Frequently Asked Questions

New Federal Mental Illness Insurance Parity Law Passed; Health Plans Must Now Equitably Cover Mental Illness and Substance Abuse Treatment

October 3, 2008 - President Bush signed a combined financial market rescue/tax extenders /parity package into law, P.L. 110-343.

The Senate had previously added the mental health parity compromise onto a “tax extenders” package (HR 6049) of expiring tax credits and tax breaks, which in turn was added to the \$700 billion financial markets rescue plan. And so, the Paul Wellstone-Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 became, curiously, part of the Emergency Economic Stabilization Act. **For us at NAMI, the point is that October 3, 2008, was a day to celebrate. Years of hard work had at last achieved a cherished goal.**

What does the parity law do?

The new federal parity law requires group health plans to cover treatment for mental illness on the same terms and conditions as all other illnesses. It specifically expands on a 1996 law that required parity, but only for annual and lifetime dollar limits. The new law requires parity in two particular areas:

Treatment Limits—Equity with respect to limits on inpatient and outpatient services, barring arbitrary limits on inpatient and outpatient coverage that do not also apply to medical-surgical coverage. In other words, a policy can’t impose limits on the number of days or visits for mental illness treatment unless they are the same limits placed on other medical conditions; and

Financial Limitations—Equity with respect to financial limitations, barring higher cost-sharing, deductibles, and out-of-pocket limits that do not also apply to medical-surgical coverage. This will result in most plans doing away with separate deductibles for mental illness and substance abuse.

When will the new parity law become effective?

One year after enactment; **October 3, 2009**. The law will go into effect whether or not the U.S. Department of Health and Human Services (HHS) and Department of Labor issue regulations by that date. There is, however, a special rule for collective bargaining agreements (such as union contract bargaining) stating that parity cannot go into effect until existing plan contracts expire.

What mental health and substance abuse disorders are covered under parity?

The federal law does not define what disorders are covered but defers to the state laws for this definition. The new law defines mental health and substance abuse benefits as those benefits that are “defined by the plan”—meaning that the law defers to group health plans to define mental health and substance abuse. This is the same definition that appeared in the limited 1996 federal

parity law. However, it is important to note that where state law mandates the coverage of specific treatments or services, those definitions will continue to apply to state-regulated, fully insured plans.

Does this new federal parity law preempt or supersede existing state parity laws?

No. The new law keeps in place an existing provision in federal law that specifically allows states to continue to enforce any parity requirement deemed stronger than federal law. In addition, the new law leaves in place all state mandates to offer or cover treatment for mental illness—including those that require coverage of specific mental illness. In other words, this creates a floor, above which states can regulate insurance coverage if their own laws are stronger than the federal law.

What types of health plans does parity apply to?

This law applies to group health plans sponsored by employers with 51 or more employees. It will apply to fully insured group health plans regulated by the states and ERISA self-insured plans regulated by the U.S. Department of Labor. This latter category of ERISA self-funded plans is the most important and far-reaching part of the new law. It will extend full parity to 82 million covered individuals in health plans that are exempt from the 42 state parity laws.

What types of health plans does parity NOT apply to?

This law does not apply to policies provided by businesses or firms with **50 or fewer employees** or to individual health insurance policies.

Can group health plans drop mental health benefits entirely?

Yes—just as they have been able to under the 1996 federal parity law, many of the 42 state parity laws, and the Federal Employees Health Benefits Program (FEHBP) for a decade or more. However, there is no record of group health plans reacting to a parity requirement (at the federal or state level) by dropping coverage of mental health or substance abuse coverage. The Congressional Budget Office (CBO) estimates that the new law will result in employer premiums rising by 0.4 percent on average.

Isn't there a cost-increase exemption?

Yes. The law states that health plans can seek an exemption to waive the parity requirement for one year if they can document that compliance with the law resulted in costs going up more than 2 percent for initial compliance and 1 percent thereafter. Health plans must come forward with an actuarial analysis demonstrating that increased costs were directly related to parity. Such an exemption is good only for one year, after which the plan must come back into compliance. NAMI expects few if any health plans either to qualify for, or to seek, an exemption.