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Steve Vance
CCC Systems
1940 Hwy 33, Ste A
Pelham, Alabama 35124

Comment Regarding:

Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Document ID EBSA-2009-0010-0409)

Dear Sirs:

My name is Steve Vance and I own a small billing company that specializes in Behavioral Health Care providers. We do billing for 20 providers including Psychiatrists, Psychologists and LPC's. In addition my wife is a psychologist. I would like to thank you for your work in preparing the Proposed Rules for the above stated Act. I would also like to give you an actual example of how the largest health insurance carrier in our state, Blue Cross and Blue Shield of Alabama, plans to twist the spirit of the bill, if not the letter of the law. It is our hope that perhaps you can add language in the final rules to prevent this type of manipulation. I was very gratified to see your addition of the language regarding quantitative versus non-quantitative treatment limitations and this example involves what we feel are very tangible non-quantitative treatment limits.

I will do my best to make this succinct, but some background is required….

Blue Cross of Alabama is one of the most successful and dominant health insurance carriers in the Blue Family and has achieved an amazing market share in our state. I don't know what the actual figure is, but it is speculated they control well over 80% of the health insurance business in our state. I know because I was an employee there for almost 10 years in various marketing positions. They are a respected company and they have earned their place in the market. However, their position in regards to behavioral health benefits over the years leaves much to be desired.

Blue Cross of Alabama's physician PPO program is an open network of any willing qualified provider and has an amazing 95% participation rate among doctors in the state, and that figure may be understated. However, psychiatrists were left out of the network with their fellow physicians. In fact, <u>all behavioral health providers</u> were excluded from any PPO network. While most office visits for PPO medical services included a simple co-pay, visits to a behavioral health provider were all considered out-of-network (there was no network) and usually subject to a deductible and paid at 50%.

Blue Cross of Alabama was like almost all insurance companies in circumventing the intent of the 1996 Parity Act using limitations on visits. However, earlier in the 1990's they contracted with a single local company in the state, Alabama Psychiatric Services, to provided PPO (in-

network) services to their local groups, again locking out the vast majority of qualified providers in Alabama from network participation. There were a few limited and small pockets in the state where Alabama Psychiatric Services contracted with local providers for services, but very few. Just as an example, to this day Alabama Psychiatric Services in the Birmingham metropolitan area employees one psychologist and our understanding is that is in an administrative non-practicing role. To the best of our knowledge they do contract out to two psychologists in that area on an "as needed" basis. This is an area with a population base of over one million people.

To make things even more confusing the Blue Cross Association has guidelines for each of their Blue franchisees and one of them is to provide a Behavioral Health PPO for subscribers who reside in the state of Alabama to access who have out of state Blue Cross coverage. This is part of their national PPO plan. So, a few years ago they contracted with another local behavioral health company to provide that network. It was, and is, an open network for any qualified provider. So Blue Cross of Alabama provided a PPO network for out of state Blue Cross plans, but the vast majority of in-state providers were still considered out-of-network. Local plan Blue Cross patients sought care from the closed network HMO gatekeeper, or they paid the price to go out of network with in many cases a large deductible and 50% coverage.

That brings us to last year and the passage of the 2008 Act. At that point Blue Cross did decide to establish a network for Behavioral Health providers. They called it "Blue Choice". They also decided to switch the maintenance of this network to a local company called Mental Health Care Administration (MHCA). Guess what? MHCA is a sister company of Alabama Psychiatric Services, who controls all the "in-network" business in the state. I'm not saying there is anything wrong with that, but you have to admit it looks "interesting".

Providers were told that this network was being established to comply with MHP as well as replacing the other out-of-state network. Providers obviously assumed they were joining a network where they would be considered "in-network" providers for local Blue Cross groups at last and neither Blue Cross of Alabama or MHCA refuted that assumption. Most providers in Alabama joined the network.

You can imagine our surprise when we were told, only after the first of this year, that the Blue Choice network would be considered "out-of-network" if the Alabama Blue Cross group had access to the Alabama Psychiatric benefit!

I know this has been a lot to digest. Imagine how the staff in our provider offices feel when they try to explain benefits to a local Alabama Blue Cross subscriber - "yes, Dr. X is in the Blue Choice Network, however, Blue Cross has decided that network will be subject to "out-of-network benefits"??!!

The bottom line is we feel ***Network Access*** needs to be addressed in the proposed rules. We are in no way saying MHC carve-outs don't have a place in Behavioral Health. However, most of those carve-outs have networks open to any qualified provider. I feel strongly that they should be required to keep their networks open for Behavioral Health if they also have open networks for medical/surgical benefits.

Some MHC carve-out companies have already closed networks saying their network is full. What the behavioral care consumers report is a different story. They report calling network providers and finding the providers are not accepting new patients, or in many cases are no longer in practice. Delays in getting in to see a MHC-carve out psychiatrist often run into "months", even if they accept new patients.

I feel one major area not addressed in the proposed rules is this non-qualitative restriction of care through manipulation of provider networks. As an example I would like to highlight this disparity in a table:

Benefits	Blue Cross of Alabama In-Network Medical/ Surgical PPO	Blue Cross of Alabama In-Network Behavioral Health Care
Open Network to any qualified provider?	Yes	No – closed employee only HMO
Second Opinion	Yes – at same benefit level	Yes – but only if the patient is willing to pay a deductible and 50%
Network Saturation	95% of all MD's eligible or greater	Exact figures are unknown, but vast majority of willing providers excluded
Network Type	Open – PPO	Closed – HMO - Gatekeeper
Funding Arrangement	Fee for service – fee schedule	Started as a capitated arrangement – uncertain if that remains

Does this look like parity to you? Does it appear that Blue Cross is trying to control access to care for behavioral health vs medical/surgical to you? Under the current proposed rules this will probably be allowed and we would ask the committees to consider this type of grave disparity in the non-quantitative limits section of the rules. This is a real example that is being put in place as we speak. I have presented the facts as I know them, but often information is hard to obtain. Should any of this information prove to be incorrect I would ask to be informed by any parties contained herein so that the faulty-information can be corrected.

Thank you again for your efforts in trying to formulate rules that are fair and reflect the Act's true intent to provide parity in behavioral health benefits.

Sincerely,

Steve Vance
CCC Systems