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The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Comment On: CMS-2009-0040-0048
Interim Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Document: CMS-2009-0040-DRAFT-0063
Dawn M. Owens, Chief Executive Officer

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General Comment

Attachments

CMS-2009-0040-DRAFT-0063.1: Dawn M. Owens, Chief Executive Officer

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Health,,.

April 12, 2010

The Honorable Kathleen Sebelius
Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

OptumHealth, a subsidiary of UnitedHealth Group, currently provides a full range of behavioral health services to one out of every six insured Americans. These services include managing behavioral health benefits that are part of specific health plans and administering freestanding or "specialty" behavioral health plans offered in connection with a range of health plans and across employers. We provide our services in forty-four states with mental health and substance abuse parity requirements, and have consistently advocated improving access to cost-effective, quality behavioral health services for all Americans.

OptumHealth supports the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the "MHPAEA") as an effort to further improve access to mental health and substance abuse services. We have been working with employers and health plans to evaluate the impact of the Interim Final Rules for MHPAEA ("the Rules"), on their benefit plans and the individuals who participate in them. Although we plan to submit a full comment letter prior to the close of the comment period on May 3, we write today to highlight one issue for your consideration as early as possible.

As you are aware, the Rules were effective April 5,2010 and become generally applicable to group health plans and group health insurance issuers for plan years beginning on or after July 1, 2010. This July 1, 2010 "Applicability Date" applies to both the non-quantitative and quantitative requirements of the Rules. Employers, health plans and managed behavioral healthcare organizations such as ours have anticipated and prepared for quantitative parity since October 2009. Modifications to both specialty and health plan deductibles, co-insurance, co-payments, etc. were well underway and slated for timely compliance, as applicable, after July 1, 2010. Inclusion of non-quantitative aspects to the Rules however, was unanticipated, and their introduction on February 2, 2010 created a high level of complexity and uncertainty.

Non-quantitative aspects of both the behavioral benefits included in health plans and specialty plans were historically based on best practices specific to behavioral medical management. The Rules, however, require that the medical management practices of each health plan offered by each employer be referenced in formulating non-quantitative treatment limitations for behavioral care, or vice versa. We are concerned that, if too little time is allowed for this exercise, employers, health plans and managed behavioral health care organizations will not have time thoughtfully to incorporate behavioral as well as medical expertise in their approach to non-quantitative parity.

In addition, because specialty plans are administered across multiple employers with multiple plan anniversary dates, where each employer may itself have multiple medical plans, implementation of the Rules' non-quantitative limitations is extremely complex. For example, to avoid making serial or uncoordinated changes to a single specialty plan offered by a number of employers in connection with a variety of health plans, the full range of medical management techniques offered across those medical plans will need to be considered at the outset.

The different disciplines of medical and behavioral care, and the administrative complexity of this context makes the July 1 Applicability Date far less achievable -- and far more likely to result in unintended, negative consequences -- on the non-quantitative side. There is simply not adequate time to understand how the Rules may apply to or across health plans and employers, consider how best to incorporate both medical and behavioral management expertise, make and implement necessary plan changes, and appropriately communicate those changes to plan participants. We believe that an applicability date of July 1, 2011, would provide the best opportunity to preserve MHPAEA's aims, and that an orderly transition is simply not possible with an application date prior to January 1,2011.

In sum, we are concerned that, unless there is a change to the Applicability Date, the Rules will lead to large-scale disruption in mental health benefit administration, thereby reducing access and quality in the provision of mental health and substance abuse treatment. My OptumHealth colleagues and I look forward to working with you to refine the Rules so that unintended consequences do not dim the promise of MHPAEA. We remain committed to the establishment of a Final Rule that serves the best interests and behavioral health care needs of all individuals and will submit further comments per the guidelines issued by HHS.

Sincerely,

Dawn M. Owens
Chief Executive Officer, OptumHealth

Cc: [redacted]
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