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LEGAL PROCESSING DIVISION  
PUBLICATION & REGULATIONS  
BRANCH**PUBLIC SUBMISSION**

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**Docket:** IRS-2009-0008

Request for Information for Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

**Comment On:** IRS-2009-0008-0119

Regulations Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

**Document:** IRS-2009-0008-0151

Comment on FR Doc # 2010-02166

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**General Comment**

See attached file(s)

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**Attachments****IRS-2009-0008-0151.1:** Comment on FR Doc # 2010-02166

**Massachusetts  
Association of  
Behavioral  
Health  
Systems, Inc.**

115 Mill Street  
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**Jasir Khan, MD**  
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Caritas Norwood Health System  
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Children's Hospital  
Cooley Dickinson Hospital  
Emerson Hospital  
Franklin Hospital  
Franciscan Hosp. for Children  
Gosold Treatment Center  
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High Point Treatment Center  
Holyoke Medical Center  
Larborough Hospital  
Mass General Hospital  
Metro West Medical Center  
Morton Hospital  
Mount Auburn Hospital  
Newton Wellesley Hospital  
North Shore Hospital  
North Adams Regional Hospital  
North Shore Medical Center  
Quincy Medical Center  
Providence Behavioral Health  
St. Luke's Hospital  
St. Vincent Hospital  
Tufts Medical Center  
UMass Memorial Health Care

May 3, 2010

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Ave., SW  
Washington, D. C. 20201

Re: File Code: CMS-4140-IFC

Dear Sirs:

On behalf of the Massachusetts Association of Behavioral Health Systems (MABHS), I am offering comments relative to File Code CMS-4140-IFC; Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health and Addiction Equity Act of 2008. The MABHS represents 47 inpatient mental health and substance abuse facilities, which collectively admit over 45,000 patients on an annual basis and provide the vast majority of acute inpatient behavioral health services in Massachusetts

We think these regulations are extremely important and hope they are officially promulgated. In Massachusetts, we have extensive experience with Parity Laws, having passed the first Parity Law in 2000; and then more recently an expansion of that law in 2008. The passage of these laws has helped equalize the insurance treatment for behavioral health, primarily by removing arbitrary day and dollar benefit limitations for certain conditions. However, these laws have done little to nothing towards reducing the inordinate micro-management and oversight by Carve-Out firms. There is heavy utilization of Carve-Out firms in Massachusetts, both in the public and private sectors. The oversight is far more rigorous for behavioral health than it is for medical/surgical services in the areas of Pre-Admission Screenings; Concurrent Reviews; and the application of Medical Necessity Standards. Hospitals and clinicians continually struggle to get Carve-Out firms to approve services that the attending clinicians believe are medically necessary. Evidence of the difficulties our patients and clinicians experience in this regard is demonstrated by the fact that consistently behavioral health is the most appealed health service to our Massachusetts Office of Patient Protection, usually at least double the next highest appealed condition; see [www.mass.gov/dph/opp](http://www.mass.gov/dph/opp). Providers are constantly questioned and micro-managed by Carve-Out reviewers as to the medical necessity of a given behavioral health service. In Massachusetts, we believe the scrutiny for physical health is nowhere near the level of scrutiny for behavioral health. Indeed, the MABHS has filed legislation, S. 482 and H.1079, which would balance the application of medical necessity determinations by providing more authority for the attending clinician, versus the Carve-Out reviewer.

Given the above situation we believe the proposed federal regulations, particularly in the area of "non quantitative" treatment limits, are vitally important and must be maintained in the final regulations. Our understanding of the non quantitative proposed rule is that

treatment limitations can be no more stringent for mental health or substance abuse than they can be for medical/surgical benefits. Our Massachusetts experiences would lead us to believe this provision is critical towards implementing true Parity-because we have seen through nearly ten years of Parity Laws that removal of day and dollar limits essentially does not lead to Parity if the behavioral health services are going to be more rigorously managed, scrutinized and denied by Carve-Out firms. Parity with medical/surgical benefit management would be a major step forward in providing better access to needed services for the patients we serve and in essence would help lead towards true Parity, which we believe the Congress intended. We hope that the federal agencies adhere to this language in the final regulations; for without such a provision it is difficult, if not impossible to achieve true Parity for mental health and substance abuse services.

We also request that there be clarification in the final regulations that the plans provide all levels of essential behavioral health services, just as they do for medical/surgical services. In order to have Parity, the scope of services should be comparable for behavioral health and medical surgical services.

We appreciate the opportunity to offer these comments and stand ready to answer any questions or provide any further details you may need.

Sincerely,

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