PUBLIC SUBMISSION

As of: May 29, 2009
Tracking No. 809bc72c
Comments Due: May 28, 2009

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-2009-0008-0001
Request for Information Regarding the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Document: IRS-2009-0008-0103
Comment on FR Doc # E9-09629

Submitter Information

Name: Jessica R. Jarvis
Address:
Austin, TX,

General Comment

MHPA and MHPAEA may combine to significantly expand access to mental health and substance abuse services for participants of ERISA-regulated health plans. Perhaps plan participants will find greatly enhanced freedom to receive psychotherapy or alcohol rehabilitation treatment, for instance. On the other hand, it is possible that participants and service providers will find themselves sifting through extensive rules for approval for such services, including lists of conditions that fit the plan's interpretation of what constitutes a mental illness or substance use disorder. The latter scenario highlights the problems in healthcare that persist despite the passage of the two parity bills.

First, as discussed above, most self-insured ERISA health plans maintain the freedom to define "mental health condition" and "substance use disorder." Although some advocates favor the use of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as the authority on defining such terms, managed care has incentive to disagree. Managed care exists to contain costs, so health plans will most likely avoid a liberal interpretation of these terms.

Furthermore, although MHPAEA requires transparency in the managed care utilization management process, the law does not specify how the plan administrator will be held accountable. To its credit, MHPAEA does indicate sensitivity to the risk for managed care abuse of the power to make medical decisions. It requires a report from the General Accounting Office that describes the effects of the MHPAEA on access to mental health and substance abuse care, including coverage or exclusion of specific diagnoses. Perhaps this report will spot problems and lead to stricter requirements for health plans, but in the interim, what recourse is available to the participant whose mental health treatment is not deemed "medically necessary"?

This question leads back to the problem with ERISA state preemption, including limits on the reach of state laws and blockade of direct liability malpractice suits.