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May 18, 2009

Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

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~~Office of the Medicare
Ombudsman~~

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*CAMFT is
dedicated to the
advancement and
understanding of
the profession of
marriage and
family therapy as
both an art
and a science, to
maintaining high
standards of
professional
ethics and
qualifications,
and to expanding
the recognition
and utilization of
the profession.*

**RE: Paul Wellstone & Pete Domenici Mental Health Parity & Addiction
Equality Act of 2008 (Public Law 110-343)**

To Whom It May Concern:

On behalf of the nearly 30,000 members of the California Association of Marriage and Family Therapists ("CAMFT") we thank you for allowing public comment on the rulemaking and regulations surrounding the Paul Wellstone & Pete Domenici Mental Health Parity & Addiction Equality Act of 2008 (the "Act").

1. Mental Health AND Substance Abuse Parity

Regulation must clarify that the purpose of the Act is to serve both those suffering from mental health illnesses and substance abuse disorders. All three amendment sections: (a)-ERISA, (b)-Public Health Service Act, and (c)-IRS Code at sub-section (3) state:

(3) Financial Requirements and Treatment Limitations.

(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and,

(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

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Although the legislative intent behind the bill is to serve both those suffering from mental illness and substance abuse disorders, the way the language is currently written is open to interpretation by health care plans and insurers, as well as each individual state. Our recommendation is to clarify, through regulation, that Public Law 110-343 is to cover both mental health illness and substance abuse disorders, not either.

2. Denial of Reimbursement or Payment

Providing to the patient, and the health care practitioner, the reasoning behind a denial of reimbursement or payment is essential in protecting a patient's right to treatment. Throughout the California Health & Safety Code and Insurance Code, language is utilized to mandate clear reasoning behind plan or insurer decision making. We would suggest mimicking this language in regulation, such as: *If reimbursement or payment is denied by the health care plan/insurer, the decision shall be in writing, and shall include a clear and concise explanation of the reasons for the decision.*

3. Out-of-Network Coverage

Allowing the patient to receive services out-of-network is often necessary based on exigent circumstances. Putting into regulation the following concepts protects the patient, while not creating undue hardship on the health care plan or insurer:

- For continuity of care purposes, if the patient's plan/insurance changes, allow patient to continue with their existing health care practitioner, provided that practitioner is willing to accept the new health care plan/insurer's rate of reimbursement;
- If an in-network provider is not available to a patient within their geographic area within a reasonable amount of time, the plan/insurer shall reimburse the out-of-network practitioner; and,
- Plan/insurer to reimburse for any reasonable costs associated with urgent care or emergency services, or other extraordinary and compelling health care services, when the patient's decision to secure those services outside of the plan network was reasonable under the urgent or emergency circumstances.

Thank you for your attention to this matter and please let us know if we can provide you any additional information.

Sincerely,



Catherine L. Atkins
Staff Counsel



Mary Riemersma
Executive Director

cc: Capitol Associates, Inc.