

From: [Haro, Tamar Magarik](#)
To: [E-OHPSCA-FAQ.ebsa](#)
Cc: [Haro, Tamar Magarik](#); [Mezzoni, Alyssa](#)
Subject: Comments on MHPAEA Final Rule
Date: Wednesday, January 08, 2014 6:02:45 PM
Attachments: [Tavenner Letter on MHPAEA Final Rule.pdf](#)

To Whom It May Concern:

Attached please find comments submitted on the Mental Health Parity and Addiction Equity Act final rule on behalf of the American Academy of Pediatrics and 17 other organizations. Should you have any questions, please do not hesitate to contact me.

Sincerely,
Tamar Haro

[Tamar Magarik Haro](#)
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January 8, 2014

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Tavenner:

As organizations dedicated to promoting the mental health and well-being of children and adolescents, we write to applaud the release of the final rule implementing the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)* and to urge you to issue strong regulations applying the final rule for MHPAEA to Medicaid and the Children's Health Insurance Program (CHIP) as soon as possible.

Families and children need access to mental health screening and assessment and a full array of evidence-based therapeutic services to appropriately address mental and behavioral health needs. Nearly 1 in 5 children in the U.S. suffers from a diagnosable mental disorder, but only 20 to 25 percent of affected children receive treatment. There are countless more children who face mental and behavioral impairments that do not meet the criteria for a diagnosis whose needs are not being met by the current system.

The final rule issued on November 8, 2013, was a critical step in the applicability and enforceability of important protections against insurance discrimination of mental health and substance use disorders. The final rule adds additional consumer protections that are intended to ensure that parity applies to intermediate levels of care, to apply parity to a broader set of plan standards and non-quantitative treatment limitations, and to provide new disclosure requirements for plan enrollees.

However, the final rule explicitly does not apply to Medicaid and CHIP plans, leaving more than 43 million children without these protections. While the final rule indicates that additional guidance to assist states in their efforts to implement the MHPAEA requirements in their Medicaid programs will be forthcoming, we believe that CMS should issue regulations applying all of the consumer protections in the MHPAEA final rule to Medicaid and CHIP. In particular, the clarifications in the final rule that standards for provider admission to participate in a network, including payment rates, are a form of non-quantitative treatment limitation should apply to Medicaid and CHIP, as are restrictions on geographic location, facility type, and provider specialty. Payment rates in Medicaid continue to be a barrier to access to mental health and certain mental and behavioral health services for children and adolescents are not reimbursed at all.

The use of behavioral health carve-outs in Medicaid and CHIP in about half of all states has contributed to fragmentation between physical and mental health and makes the early identification and treatment of mental health problems in children and adolescents more difficult. Therefore, it is essential that CMS move quickly on regulations applying and enforcing the

consumer protections in the MHPAEA final rule to Medicaid and CHIP. Children and adolescents in these programs should receive the same protections from discrimination in mental health and substance use disorder treatment and recovery services as those who are privately insured.

We applaud the release of the MHPAEA final rule as a historic step for those living with mental illness and addiction and we look forward to working with you to ensure that the important consumer protections included in the MHPAEA final rule apply to Medicaid and CHIP and are enforced. Should you have any questions or need additional information, please contact Tamar Magarik Haro with the American Academy of Pediatrics at (202) 724-3307 or tharo@aap.org.

Respectfully submitted,

American Academy of Child and Adolescent Psychiatry
American Academy of Family Physicians
American Academy of Pediatrics
American Association for Marriage and Family Therapy
American Dance Therapy Association
American Foundation for Suicide Prevention
American Music Therapy Association
American Psychological Association
Children's Defense Fund
Families USA
First Focus Campaign for Children
National Alliance to Advance Adolescent Health
National Alliance on Mental Illness
National Association for Children's Behavioral Health
National Association of Pediatric Nurse Practitioners
National Association of School Nurses
National Federation of Families for Children's Mental Health
School Social Work Association of America

cc Cynthia Mann, JD
Deputy Administrator and Director
Center for Medicaid and CHIP Services