

SUMMARY OF PAUL B. WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008

The Paul B. Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, enacted in October 2008, seeks to remedy the inequity between benefits for mental health/substance abuse (MH/SA) disorders and medical/surgical benefits in many group health plans.

▶ ***Coverage and Exclusions***

- ⇒ The Wellstone-Domenici Act covers employers with more than 50 employees. Conversely, employers with 50 or fewer employees are excluded from the Act.
- ⇒ The Wellstone-Domenici Act does *not* mandate that employers afford *any* MH/SA benefits to employees. The parity provisions of the Act only apply if the employer chooses to cover mental health or substance abuse benefits. In other words, an employer that chooses to offer solely medical/surgical benefits is not required to afford any MH/SA benefits to its employees.

▶ ***The Parity Requirement***

- ⇒ *Same Financial Requirements* -- Covered employers cannot impose financial requirements for MH/SA benefits that are more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan. This means that the plan cannot impose deductibles, copayments, co-insurance, and out-of-pocket expenses for MH/SA treatment that are greater than those imposed most commonly or frequently for medical/surgical treatment.
- ⇒ *Lifetime/Annual Caps* -- The 1996 federal mental health parity law already requires parity in the treatment of any lifetime and annual limits for medical/surgical and mental health coverage. This Act continues these parity requirements.
- ⇒ *Same Treatment Requirements* -- Covered employers cannot impose treatment requirements for MH/SA benefits that are more restrictive than the predominant treatment limitations applied to substantially all medical/surgical benefits covered by the plan. This means that the plan cannot impose limits on the number of visits, days of coverage, or similar limits on scope or duration of MH/SA treatment that are more restrictive than the most common or frequent type of treatment limit or requirement for medical/surgical benefits.
- ⇒ *Out-of-Network Providers* -- Covered employers that provide out-of-network coverage for medical/surgical benefits in their plans must also provide out-of-network coverage for MH/SA benefits.

- ▶ ***Cost Exemptions*** -- A covered employer can exempt its group health plan from compliance with the parity requirements of the Wellstone-Domenici Act if compliance with the parity requirements of the Act will result in an increase in actual costs for benefits of 1 percent (2 percent in the first plan year that the Act is applicable).
 - ⇒ The exemption must be assessed on a year-to-year basis. To secure the exemption, a qualified actuary must determine and prepare a written report regarding the plan's cost increase after a plan has complied with the Act for the first six months of the plan year involved.
 - ⇒ An employer who invokes the exemption must notify the Secretary of the United States Department of Labor, applicable state agencies, and participants in and beneficiaries under the health plan. The Department of Labor or applicable state agencies can audit the plan relating to an exemption.

- ▶ ***Medical Necessity Standards*** -- Employees can request the criteria for medical necessity that are used by the plan with respect to treatment for MH/SA disorders. Plan administrators also must inform employees, upon request, of the reasons for denial of any mental health or substance abuse benefit.

- ▶ ***Effective Date*** -- The Act applies to plans (other than those maintained pursuant to existing collective bargaining agreements) that begin on the date that is one year after enactment, which, for most plans, will be January 1, 2010. A group health plans maintained pursuant to a collective bargaining agreement that was ratified prior to October 1, 2008 will not be subject to the Act's parity requirements until the existing bargaining agreement terminates or until January 1, 2009, whichever is later.