



# Behavioral Health is Essential To Health



Prevention Works



Treatment is Effective



People Recover



**Welcome to Parity, Health Care Reform and Beyond:**  
The Paul Wellstone and Pete Domenici Mental Health Parity  
and Addiction Equity Act: Parity 201

The webinar will begin at 1:00 p.m. EST  
Thank you for your patience



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# WELCOME to the Parity, Healthcare Reform and Beyond Webinar Series

Today's presenter is:

- Gabrielle de la Gueronniere, JD  
of the Legal Action Center

# WELCOME to the Parity, Healthcare Reform and Beyond Webinar Series! (cont.)

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# WELCOME to the Parity, Healthcare Reform and Beyond Webinar Series! (cont.)

## Have a question during this presentation?

- Use the chat feature on your screen.
- Will answer as many questions as possible at the end of the presentation.

# This training is about . . .

- The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343, Section 511) and the statute's Interim Final Rule
- Builds on the fundamentals of the law and includes an examination of issues related to implementing and enforcing the law

# Today's Materials

- This **PowerPoint presentation**  
[http://www.lac.org/index.php/lac/national  
\\_healthcare\\_reform](http://www.lac.org/index.php/lac/national_healthcare_reform)
- ***SAMHSA Parity Tip Sheet***

# Who is today's audience?

## **This training is for . . .**

- State and local government officials
- Addiction treatment and prevention providers
- People seeking or in recovery from addiction to alcohol or other drugs, family members, friends, and allies of people with addiction histories
- Employers, health care providers, and others who want to comply with the new parity law
- Others interested in the topic.

# Today's training objectives

1. Understand major issues related to implementation of the Federal parity law.
2. Learn about mechanisms for enforcement of the Federal parity law and be able to help educate others about the requirements of the law.
3. Learn about anticipated next steps related to implementation, including the connection of the Federal parity law to the Affordable Care Act.

# What We'll Discuss Today

- The Federal parity law
  - Quick review of major provisions
  - Implementing the law
  - Enforcement mechanisms and compliance
  - Interrelationship of the Federal parity law with the Affordable Care Act and State laws
  - Next steps for implementation

# Implementing the Federal Parity Law: Key Issues to Consider

- Understanding:
  - The requirements of the Federal parity law, the scope of its protections and timing
  - Which types of plans must comply with parity
  - How to determine whether a plan's activities comply with parity
  - Which Federal and State agencies are charged with enforcing the law
  - How implementation of the Federal parity law relates to the Affordable Care Act

# Central Requirement of the Federal Parity Law

- The Federal parity law:
  - Prohibits group health plans offering SUD/MH benefits from providing those benefits in a more restrictive way than other covered medical/surgical benefits
    - Financial requirements
    - Treatment limitations (quantitative and non-quantitative)

# Implementing Parity: Which Types of Plans Must Comply with the Federal Parity Law?

- The Federal parity law is now in effect for covered plans; certain types of plans can opt out
- The requirements of the federal parity law **do** apply to:
  - Large group employer-funded plans
  - Non-federal employer-funded plans
  - Self-funded ERISA plans
  - Medicaid managed care plans
  - SCHIP (State Children's Health Insurance Program)

# Implementing Parity: Which Types of Plans Must Comply with the Federal Parity Law?

*(cont'd)*

- The requirements of the Federal parity law **do not** apply to:
  - Individual and small employer plans (although parity will apply to these plans starting in 2014 under the Affordable Care Act)
  - Traditional fee-for-service Medicaid
  - Medicare
  - Tricare plans

# Implementing the Parity Law: Examination to Determine Compliance

- The parity regulations establish tests to determine whether plans are parity compliant
  - Apply to treatment limitations and financial requirements imposed on benefits for inpatient and outpatient care provided in- and out-of-network; also emergency care and prescription drugs
  - Identify medical management tools as non-quantitative treatment limitations that must comply with the law

# Implementing the Parity Law: Examination to Determine Compliance *(cont'd)*

- Need to compare the way SUD/MH benefits are managed with management of other offered medical/surgical benefits provided in the same category of care
- Medical necessity criteria and reasons for denial of coverage must be made available
  - Transparency provisions are intended to help consumers and providers ensure compliance with the federal parity law

# Implementing the Parity Law: Additional Requirements

- The Federal parity law prohibits certain plan activities:
  - Lifetime or annual dollar limits imposed on SUD/MH benefits can't be more restrictive than those for medical/surgical benefits
  - Separate cost-sharing requirements or treatment limitations only imposed on SUD or MH benefits
  - Separate plans or benefit packages are prohibited
  - Discussion on separate classifications for specialists and generalists

# Implementing the Parity Law: Additional Requirements (*cont'd*)

- Discussion of MHPAEA requirements applying to prescription drugs
  - Parity requirements do apply
  - Financial requirements imposed on drugs prescribed to treat SUD or MH conditions must be compared with those imposed in same tier in which drug is classified
  - The parity requirement for prescription drugs is met if:
    - Plans demonstrate that they're imposing different levels of financial requirements on different tiers of drugs based on "reasonable factors" and
    - Without regard to whether the drug is generally prescribed for medical/surgical conditions or SUD or MH conditions

# Implementing the Parity Law: Additional Requirements *(cont'd)*

- Regulatory discussion of Employee Assistance Programs (EAPs):
  - States with an EAP providing MH or SUD counseling services (in addition to MH or SUD benefits) are compliant with the requirements of the Federal parity law

# Implementing the Parity Law: Additional Requirements *(cont'd)*

- Guidance discussion of Employee Assistance Programs (EAPs):
  - However, EAPs serving as gatekeepers would be considered a non-quantitative treatment limitation
  - If other gatekeeping processes with exhaustion requirements aren't applied to medical/surgical benefits, applying them to MH or SUD benefits would violate rule that non-quantitative treatment limitations be applied comparably/not more stringently

# Enforcing the Federal Parity Law: Who is Responsible?

- Oversight of the Federal parity law is shared by a number of Federal and State agencies
  - Employer-funded large group plans:
    - State insurance commissioners have primary responsibility
    - Federal Department of Labor (DOL) also has jurisdiction
  - Self-funded employer plans:
    - Federal DOL has oversight

# Enforcing the Federal Parity Law: Who is Responsible? *(cont'd)*

- Self-funded non-Federal governmental plans:
  - Federal Department of Health and Human Services (HHS) has oversight [through HHS's Center for Medicare and Medicaid Services (CMS)]
- The Internal Revenue Service also has oversight to help enforce the law through tax penalties

# How States are Working to Implement the Federal Parity Law

- Guidance from State Insurance Commissioners
- Work between Insurance Departments, State SUD officials, providers, payers and plans
  - Educating all parties about the requirements of the law
  - Strengthening relationships between all interested parties/decision-makers

# Interrelationship of the Federal Parity Law with State Laws

- The Federal agencies that oversee the federal parity law have made clear that the law does not preempt State laws except those that would prevent the application of the federal law
  - Therefore, State laws providing greater consumer protections remain in effect
  - States are not precluded from passing additional pieces of legislation that provide greater consumer protections

# Interrelationship of the Federal Parity Law with State Laws *(cont'd)*

- Tremendous variation in State SUD and MH parity laws around the country
  - Ranges from strong to more limited State laws
  - Issues related to State mandated coverage laws
- Need to examine State parity laws and cross-walk with the requirements of the Federal law

# Intersection of the Federal Parity and Health Care Reform Laws: Private Plans

- **Under the Affordable Care Act (ACA):**
  - MH and SUD benefits are required in the essential benefit plan for individual and small group plans in the state health care exchanges
  - All plans in the exchange must adhere to the provisions of the Federal parity law
    - Building on the Federal parity law—SUD/MH benefits required and must be provided at parity; extension to individual and small group plans
    - Effective starting in 2014
    - States can allow large employers to participate in the exchanges in 2017

# Intersection of the Federal Parity and Health Care Reform Laws: Public Plans

- The ACA:
  - Requires that newly-eligible Medicaid enrollees, including childless adults, receive adequate health coverage through benchmark or benchmark equivalent plans that include SUD/MH coverage at parity with coverage of medical/surgical benefits
    - Effective in 2014
    - Significance of expansion to childless adults

# Areas Identified as Subject to Additional Regulatory Action

- Questions still remain; additional guidance is expected by the Federal agencies overseeing the Federal parity law
- Medicaid managed care plans
- Provision on exemption based on cost increase

# Areas Identified as Subject to Additional Regulatory Action *(cont'd)*

- Departments would specifically like comment on:
  - Whether additional examples on non-quantitative treatment limitations/how parity analysis applies would be helpful
  - Whether/how the MHPAEA addresses the scope of services/continuum of care issue
  - What additional information would be helpful to ensure compliance with disclosure requirements

# Intersection of the Federal Parity and Health Care Reform Laws: The Regulatory Process

- Enormous scope and speed of Federal regulations to implement the Affordable Care Act
- Relationship between implementation work at the Federal and State levels
- Implementation efforts of both Federal laws closely tied together
  - Work to define the SUD and MH benefits
  - Consumer protective provisions
  - Provisions aimed at strengthening the healthcare workforce—access to care

# Resources

- SAMHSA
  - [www.samhsa.gov](http://www.samhsa.gov)
- Department of Labor
  - [www.dol.gov](http://www.dol.gov)
  - **1-866-444-EBSA (3272)**
- Department of Health and Human Services
  - [www.hhs.gov](http://www.hhs.gov)
  - **1-877-267-2323 extension 6-5511 (CMS)**

# More Resources

- National Association of Insurance Commissioners' website with contact information for each of the state commissioners:
  - [http://www.naic.org/state\\_web\\_map.htm](http://www.naic.org/state_web_map.htm)
- National Conference of State Legislators' analysis of state mental health and addiction parity laws:

<http://www.ncsl.org/default.aspx?tabid=14>

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# More Resources

- Mental Health Parity Watch
  - <http://www.mentalhealthparitywatch.org/Pages/mentalhealthparity.aspx>
  - Parity Implementation Coalition's "Parity Toolkit for Addiction & Mental Health Consumers, Providers & Advocates"  
<http://www.psych.org/Departments/HSF/Parity/Parity-Toolkit-12Oct2010.aspx>
- Legal Action Center
  - [www.lac.org](http://www.lac.org); [gdelagueronniere@lac-dc.org](mailto:gdelagueronniere@lac-dc.org)/202-544-5478 with any questions

# Next Steps: Staying Informed

- <http://thomas.loc.gov>, the Library of Congress website on legislative information
  - Text of the parity law
  - Legislative history including Committee reports, prior versions of the legislation, and Member statements and votes in support of or in opposition to the Act
- <http://edocket.access.gpo.gov/2010/pdf/2010-2167.pdf>, the text of the Interim Final Rule on the Wellstone/Domenici Act

## Next Steps: Staying Informed (cont'd)

- Follow the regulatory process—weigh in with comments at key points in the process
- Continue to educate yourself and your elected officials about the requirements of the new parity law

# HAVE QUESTIONS?

## Now for your questions...

# How to View the Webinar & Answers To Questions

Answers to questions, a recording of the webinar and the Power Point slides will be posted at:

[http://www.lac.org/index.php/lac/national\\_healthcare\\_reform](http://www.lac.org/index.php/lac/national_healthcare_reform)

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