

The Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008

Summary of the Act

The Wellstone-Domenici Parity Act, which became law on October 3, 2008, and went into effect on January 1, 2010, is really an extension of the Mental Health Parity Act of 1996, which eliminated discriminatory lifetime and annual dollar limits for employers who offered mental health benefits. While there is still no requirement that a mental health or substance use benefit be provided, when these benefits are offered as part of a group health plan they must be offered with no greater financial requirements or treatment limitations than those applied to substantially all of the medical/surgical benefits that are also included in the plan. Unlike the 1996 law, the new law also applies parity to health plans' out-of-network benefits.

Parity Requirements

For all group health plans, including governmental plans, coverage for mental health or substance use disorders can have no greater financial requirements (i.e., deductibles, copays, out-of-pocket expenses, annual or lifetime dollar limits) or treatment limitations (i.e., number of visits, days of coverage) than the predominant requirements applied to substantially all medical/surgical benefits.

And if the plan has out-of-network coverage for medical and surgical benefits, it must also have out-of-network coverage for its mental health and substance abuse disorder benefits.

Exemptions

- **Small Employers:** The new law only applies to health plans that cover more than fifty employees.
- **Cost Exemption:** An exemption can be obtained by larger plans if they can show that providing mental health benefits equal to medical/surgical benefits increases their costs by more than 2% the first year of the law, and 1% for any year following. The cost exemption is only granted for one year on the basis of the previous year's expenses. Following the year the exemption was granted for, the plan would have to resume providing equal benefits if they wanted to continue to provide a mental health benefit.
- **Self-Insured State and Local Government Employee Plans:** These plans may opt out of the Parity Act requirements.

Benefit Management

Plans are permitted to manage benefits based on their terms and conditions and "nothing in the Act may be construed as affecting the terms and conditions of the plan or coverage related to the benefits under the plan or coverage."

Medical Necessity

Plans are required to make their medical necessity requirements for mental health and substance use treatment available upon request. Reasons for any payment denials must be made available as well.

Preemption of Less Stringent State Laws

If state or local laws require more complete coverage for mental health and substance use disorders than the Wellstone-Domenici Parity Act does, then the state or local laws will not be

preempted by the federal law. In states that have weaker parity laws (or none at all), the federal law will prevail. The same standards used to determine preemption for HIPAA (the Health Insurance Portability and Accountability Act of 1996) apply to the new parity law.

Government Accountability Office Analysis

The Government Accountability Office (GAO) is required to conduct an audit that will provide an analysis of the impact of the Parity Act on patterns and trends in coverage and any exclusions of specific mental health and substance use disorders. A report is to be presented to Congress in 2013 with the results of this audit, and another is required five years later.

Federal Guidance and Regulations

- The secretaries of Labor , Health and Human Services (HHS), and the Treasury share joint responsibility for providing guidance about the requirements of the Act to consumers and providers, as well as to state agencies and insurance commissioners. They also share joint responsibility for enforcing compliance with the Act and issuing regulations that determine how the act is to be administered.
- Starting in 2012 and every two years thereafter, the Labor Secretary must submit a report to Congress on group health plans' compliance with the Parity Act.

This summary was prepared by the APA's Office of Healthcare Systems & Financing.