



CLIENT MEMORANDUM

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

March 10, 2009

INTRODUCTION

Discrepancies between health insurance benefits offered for mental illness and physical illness are no longer permissible under group health plans that cover more than 50 employees. On October 3, 2008, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the "2008 Act") was signed into law as part of the nation's broader financial rescue package. The 2008 Act mandates that coverage for mental disorders be equal to coverage for physical disorders under employer group health plans that provide coverage for both. The 2008 Act does not require that group health plans offer mental health and substance abuse treatment benefits. However, if a plan includes benefits for mental disorders and addictions, the scope of coverage under the plan must be "at parity" with coverage offered for physical conditions. The Act applies to most group health plans covering more than 50 employees and becomes effective for plan years beginning on and after October 3, 2009.

MENTAL HEALTH AND PHYSICAL HEALTH INSURANCE DISPARITIES

Historically, health insurance benefits for mental disorders provided through most employer sponsored group health plans have not been "on par" with health benefits covering physical disorders. Mental health benefits are often subject to significantly lower caps on benefits, exclusions and higher deductibles. The Mental Health Parity Act of 1996 (the "MHPA") was Congress's first effort to remedy disparities between mental health and physical health insurance coverage. The MHPA prohibited group health plans that provided benefits for both mental and physical disorders from setting less favorable annual and lifetime dollar limits on the mental health benefits than for the benefits covering physical conditions. However, insurers and plan sponsors have continued to maintain disparity between mental and physical health coverage by setting higher co-payments and deductibles, and imposing stricter treatment limits, for mental health care than for care of non-mental disorders. The 2008 Act is the culmination of a twelve-year effort by

mental health advocates to ensure parity in coverage for mental and physical diseases under group health plans that provide benefits for both. It was enacted with support from the insurance industry and business groups as well as civil rights interests.

SALIENT FEATURES OF THE 2008 ACT

The salient features of the 2008 Act are:

- Mental health and substance abuse benefits are not mandated. The requirement for coverage parity applies only to group health plans that offer benefits for both mental and physical health conditions.
- Out-of-network benefits are not mandated. However, if a plan offers coverage for medical or surgical benefits by out-of-network providers, the plan must provide equivalent coverage for mental health or substance use disorder benefits by out-of-network providers.
- A plan may not impose treatment limitations and financial requirements on benefits for mental health and substance abuse treatment that are stricter than those for medical and surgical care. This means, for example, that there must be parity between mental health and non-mental health benefits with respect to limits on the frequency of treatment, number of visits, deductibles, co-payments and out-of-pocket expenses.

State laws containing stronger parity provisions are not pre-empted. For further information about this Act and further development, please feel free to contact any member of the Firm's Labor and Employment Group, including:

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