

OVERVIEW OF HOUSE-SENATE PARITY BILL AGREEMENT

- ❖ The House and Senate have both passed their respective addiction and mental health parity bills. We are hopeful it will come up for a full vote in the second or third week in July. The brief summary below outlines the key provisions in the House-Senate addiction and mental health parity agreement:
 - Co-pays, deductibles and annual and lifetime caps on addiction and mental health benefits will be the same as those on medical and surgical benefits

PROTECTION OF CONSUMERS WHO LIVE IN STATES WITH STRONGER CONSUMER PROTECTION LAWS

- The agreement includes language that would protect consumers who live in states whose laws are stronger than the federal parity legislation. The Act:
 - Provides the Department of Labor (DOL) with the authority to audit any health requesting an exemption from the Act; and
 - Directs DOL to provide both consumers and relevant state regulators with information about the impact of this Act and its relation to state laws and any new consumer rights included as a result of its passage. It would also provide consumers assistance with any questions or problems with compliance.

MEDICAL MANAGEMENT

- The House and Senate have agreed to allow plans to retain the ability to determine what is medically necessary care. Giving plans the latitude to make medical necessity determinations is the number one way plans can control costs. While there continues to be broad support for having medical necessity determinations be made by medical professionals, removing this medical management authority from the legislation may have prevented the legislation from ever passing out of the House or Senate.

SCOPE OF COVERAGE

- Plans will retain the ability to decide what conditions to cover. While advocates supported the House passed parity bill that included the DSM as the scope of coverage, such a provision lacked the 60 votes necessary to pass in the Senate.
- As a compromise for conceding on the DSM, The agreement directs the Government Accountability Office (GAO) to provide a report to Congress within three years of enactment of the bill on:
 - Specific coverage rates for all mental health and substance use disorder conditions;
 - Which diagnoses are most commonly covered or excluded;
 - Whether implementation of the Act has affected trends in coverage or exclusion of mental health and substance use disorder conditions; and
 - The impact of covering or excluding specific diagnoses on participants' and enrollees' health, their health care coverage and the cost of delivering care.

TRANSPARENCY IN MEDICAL NECESSITY CRITERIA AND REASONS FOR DENIALS

- While plans will retain the right to manage the benefit as they see fit and determine the scope of coverage, plans will have to provide to plan participants and employers the terms and conditions of the medical necessity criteria used by the plan upon request.
- The agreement also requires that plans must disclose reasons for denials.

OUT OF NETWORK BENEFITS IN PARITY

- The agreement extends parity to out of network benefits. Thus, if out-of-network benefits are extended to medical and surgical benefits under the plan, out-of-network benefits are extended to mental health and addictive disorders as well.

INCLUSION OF ADDICTION

- Addiction is transparently included throughout the agreement.

COST EXEMPTION

- Plans whose costs increase more than 2% in the first year and 1% thereafter can be exempted from the parity requirements.
- The offer requires that plans who drop coverage because they meet the cost exemption criteria must inform plan participants of a change in benefits.

SMALL EMPLOYER EXEMPTION

- Small employers who employ fewer than 50 people are exempt from the Act.

EFFECTIVE DATE

- The agreement's effective date is the beginning of the plan year one year after date of enactment of the Act.

PAYING FOR THE BILL

- Congress has adopted "pay-go" rules that require that every bill passed must be offset by an accompanying revenue raiser to offset the cost of the legislation. While the Senate passed the bill without the inclusion of any offsets, the House used a moratorium on specialty hospitals and an increase in Medicaid prescription drug rebates to "pay" for the bill. Senate negotiators have said these offsets, particularly the specialty hospital ban, cannot pass the Senate, but no alternatives have been suggested to date.