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Dept. of Health and Human Services
Attention: CMS-4137-NC
P.O. Box 8017
Baltimore, Maryland 21244-8010

Re: Request for Information Regarding the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

To Whom It May Concern:

Thank you for the opportunity to submit comments regarding the issuance of forthcoming regulations under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). I write to you on behalf of the Academy of Cognitive Therapy, a 501(c)3 non-profit organization comprised of certified cognitive therapists throughout the world.

Background

The Academy of Cognitive Therapy (ACT) is a 501(c)3 non-profit mental health organization and association of certified cognitive therapists with over 700 members, made up of physicians, psychologists, social workers and other mental health professionals. Founded by leading experts in the field of cognitive therapy, ACT works to ensure that consumers in every community have access to high-quality, effective cognitive therapeutic services.

Cognitive therapy, often referred to as cognitive behavioral therapy or CBT, is a problem-solving psychotherapy focused on the present-day feelings, thoughts and behaviors of a patient. Cognitive therapists work with their patients to identify cognitive distortions and biases that negatively affect their perception of reality and create barriers to healthy behavior. Through "homework" and self-help activities, cognitive therapy teaches patients skills to help them reframe thoughts to change their feelings and behavior. The skills that patients learn through cognitive therapy often remain with them long after therapy ends and have a lasting impact on their long-term health.

Cognitive behavioral therapy is recognized internationally as an evidence-based model for mental health care, after having been proven in over 400 outcome studies to be highly effective for the treatment of many mental health problems, including depression, anxiety disorders, post-traumatic stress disorder, substance abuse, panic, anger and marital distress. CBT has been shown to be effective both with, and without, the use of medication, making it an appealing treatment option for a wide variety of patients.

Depending on the specific mental illness, cognitive behavioral therapy has been shown to be effective in treating patients in as few as 6-8 sessions.[1] Treatment is designed to help patients learn to think more adaptively and thereby experience improvements in affect, motivation, and behavior. Upon completion of treatment, patients gain an understanding of how CBT can be used to treat their mental illness. For healthcare providers seeking to keep costs low, CBT offers a time-limited treatment option with proven success rates, both in conjunction with, and in place of, the use of medication.

On a global level, cognitive behavioral therapy has become increasingly popular as an evidence-based, cost-effective treatment for mental illness.[2] For example, the United Kingdom's Department of Health currently recommends that CBT type treatments serve as the primary response, over the use of anti-depressants, for individuals diagnosed with depression. Further, the UK has mandated the use of CBT, along with medication, as the initial response in the treatment of schizophrenia and bipolar disorder. To facilitate the use of CBT, the UK has implemented a national CBT training program for all mental health practitioners engaged in the treatment of mental illness. This large-scale commitment on the part of the UK is just one example of the influence CBT is currently having on the international health community.[3]

CBT and Cost Efficacy

In a given year, roughly 26% of Americans age 18 and older suffer from a diagnosable mental disorder.[4] The various costs associated with such mental illnesses range from high levels of work absenteeism to ever increasing health care costs. While putting an actual amount on the costs to society of all diagnosable mental disorders is virtually impossible, some experts estimate that the economic burden resulting from severe mental illness (SMI) may be in excess of $300 billion per year.[5] Of those with SMI, depression is the most prevalent, occupying roughly 1/3 of all SMI diagnoses.[6] Based on these numbers, the economic burden on society resulting from depression alone could be as high as $100 billion per year.

The efficacy of preventative measures when dealing with depression is not disputed. When looking at preventative measures, studies have shown that CBT is more effective than usual care alone.[7] Further, economic evaluation indicates that choosing CBT over usual care is likely to be the most cost-effective treatment option available when factoring in the costs of production losses in the analysis.[8] Given the data in support of the use of preventative measures in dealing with depression and the cost-effectiveness of CBT treatments, the Departments should issue regulations that encourage the use of CBT in the treatment of depression and other mental health disorders.

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[1] The Beck Institute for Cognitive Therapy and Research, About Cognitive Therapy, available at: http://www.beckinstitute.org/InfoID/220/RedirectPath/Add1/FolderID/237/SessionID/%7B5C3821D4-9018-4E2B-802E-EFC4AEF8D717%7D/InfoGroup/Main/InfoType/Article/PageVars/Library/InfoManage/Zoom.htm

[2] United Kingdom Department of Health, *Improving access to psychological therapies (IAPT) programme*, available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073470.

[3] *Id.* (showing that the UK is designating over 300 million pounds to improving access to psychological therapies, much of which is to certify and train health care providers in CBT, their primary care option for the treatment of depression).

[4] Kessler RC, Chiu WT, Demler O, Walters EE. Prevalence, Severity, and Comorbidity of Twelve-Month DSM-IV Disorders in the National Comorbidity Survey Replication (NCS-R). *Archives of General Psychiatry*, 2005 Jun;62(6):617-27.

[5] Thomas R. Insel, Assessing the Economic Costs of Serious Mental Illness, available at: http://ajp.psychiatryonline.org/cgi/content/full/165/6/663 (using a study by Ronald Kesler et al., which found that the costs resulting from lost wages from SMI were roughly 193.2 billion, Insel then extrapolated these costs on to society to estimate possible economic burden from SMI).

[6] *See* supra note 2.

[7] Smit. F. et al., *Cost-effectiveness of Preventing Depression in Primary Care Patients*, British Journal of Psychiatry (2006) 188, 330-336

[8] *Id.*

General Comments

First, we wish to commend the passing of the MHPAEA and voice our encouragement for continued action on the part of Congress in ending the health insurance inequities between mental health/substance use disorder benefits and medical/surgical benefits. Providing cost effective solutions for those suffering from mental illness will ensure that the economic impact of mental health disorders in the United States will be reduced. In passing the MHPAEA, Congress has provided much deserved relief to the millions of Americans who, prior to the passing of this Act, were barred by their healthcare plan providers from access to the mental health care they needed. By issuing regulations that encourage the use of CBT treatments for those with mental health disorders, healthcare providers will be able to keep the financial burdens of complying with the MHPAEA at a minimum.

As mental health treatment plans move away from traditional psychoanalytic methods to more evidence based cognitive-behavioral methods, it is important that healthcare providers accommodate this shift. The perceived legislative intent behind the MHPAEA, that mental health is equally as important as physical health, is indicative of what ACT believes to be a change in the culture surrounding mental illness in the United States.[9] Given the efficacy of CBT in treating mental illness, it is important that the MHPAEA be interpreted in such a way so as to encourage the use of CBT in addition to other psychotherapeutic methods. ACT hopes that the Departments' regulations to the MHPAE will acknowledge the success of CBT and support its continued use in treating mental illness.

Specific Comments

1. ACT encourages the Departments, in their issuance of regulations, to remain aware of the ability of healthcare providers to account for additional costs through lowering or dropping mental health coverage.

As noted in various places of the MHPAEA, mental health and substance use benefit parity comes as a condition of coverage.[10] Thus, the efficacy of this legislation will depend on the extent to which healthcare providers are able to make room for the additional costs imposed by the required parity without having to cut existing mental health benefits. ACT acknowledges that the MHPAEA is not to be construed as requiring a group health plan to provide mental health or substance use disorder benefits. ACT, however, encourages healthcare providers not to reduce the breadth of their mental health benefits, but rather to utilize cost-effective methods such as CBT.

Because mental health issues covered under MHPAEA are defined under the terms of the specific plan and in accordance with the applicable federal and state laws, ACT is concerned that healthcare providers might curtail the breadth of those mental health disorders covered under their specific plans in an effort to make up for the additional costs imposed by the MHPAEA.[11] Benefits for conditions such as marriage counseling or treatment for disorders such as Down syndrome and dyslexia, currently considered on the "cusp" of mental health, are left open for exclusion by providers. Various state reviews conducted in response to state parity laws have been

[9] *See* Robert Pear, House Approves Bill on Mental Health Policy, N.Y. Times Mar. 6, 2008 (pointing out that not only have researchers found biological causes and effective treatments for numerous mental illnesses, but also some doctors say that the stigma of mental illness has faded as people see members of the armed forces returning from Iraq and Afghanistan with mental disorders).

[10] 29 U.S.C.A. § 1185(a)(1); 29 U.S.C.A. § 1185(b)(1).

[11] 29 U.S.C.A. § 1185(e)(4) "The term "mental health or substance use disorder benefits" means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law."

largely inconclusive as to the effects of parity legislation on healthcare providers.[12] ACT asks that the Departments take account of this possibility and attempt to limit the likelihood of such an outcome occurring.

2. ACT suggests that the Departments take a broad approach to effectuating the intent of the MHPAEA in their writing of regulations and specifically, in their defining of terms.

In defining "financial requirement" under the MHPAEA, ACT urges the Departments to adopt regulations that give broad meaning to the phrase "financial requirement" and ACT asks that the list provided in the definition be inclusive of general financial constraints imposed by healthcare providers. A broad approach will lessen the ability of healthcare providers to respond to the MHPAEA much like they did to the original 1996 MHPA, by finding new and more creative ways to limit access to mental health and substance use benefits.

In addition, ACT asks that the Departments consider the possibility that in applying cost sharing requirements, healthcare providers may seek to guide consumers away from those plans that would result in higher costs under the MHPAEA and toward plans that offer limited benefits, for all categories of care, or fail to include a mental health or substance use component at all. Whereby, the effect of the cost sharing requirement would be the functional equivalent of a group health plan imposing a traditional cost sharing requirement applicable only with respect to mental health or substance use disorder benefits.

ACT also encourages the Departments to take a similar approach in their interpretation of treatment limitation. By providing a broad approach to the definition of "treatment limitation," the regulations to the MHPAEA will increase the likelihood that those interpreting the statute will do so in accordance with its intention of parity between mental health and substance use benefits and medical and surgical benefits.

Conclusion

The MHPAEA represents a giant leap forward in the effort to achieve parity between mental health benefits and physical health benefits, and ACT praises the bipartisan efforts of Congress used to pass this legislation. In continuing with the spirit embodied in the MHPAEA, ACT encourages the Departments to issue regulations that will further the ideals embedded in the law itself and promote true parity between mental health benefits and physical health benefits provided by healthcare providers. As the United States undergoes a cultural shift in how mental health issues are viewed by the general public, it is critical that access to care and treatment for mental illnesses be made available to the increasing number of individuals coming forward in search of such care. On behalf of all of the members of ACT, I thank you for the opportunity to provide comments regarding the forthcoming regulations to the MHPAEA. If you have any questions, please feel free to contact me at (267) 350 7683 or moconnell@academyofct.org.

Sincerely,

Michelle Lehr O'Connell, MGA
Executive Director
Academy of Cognitive Therapy

[12] Roland Sturm and Rosalie Liccardo Pacula, *State Mental Health Parity Laws: Cause or Consequence of Differences in Use?*, available at: http://content.healthaffairs.org/cgi/reprint/18/5/182.pdf.