

**From:** [Charla Penn Mcmanus](#)  
**To:** [E-OHPSCA-FAQ.ebsa](#)  
**Cc:** [Robert Zucker](#)  
**Subject:** Comments - FAQs Nov182013 - Mental Health Parity  
**Date:** Wednesday, January 08, 2014 3:56:17 PM  
**Attachments:** [TCA Parity Transparency Comments to DoL Jan 2014.pdf](#)

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Please see the attached comments submitted by the Treatment Communities of America in response to request for comments in the 11/8/13 FAQs for the "Affordable Care Act Implementation (Part XVII) and Mental Health Parity Implementation"

Thank you,  
Charla McManus

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January 8, 2014

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Washington, DC 20212  
Via email: [E-OHPSCA-FAQ.ebsa@dol.gov](mailto:E-OHPSCA-FAQ.ebsa@dol.gov)

**Re: TCA Comments on Ensuring Compliance with MHPAEA through Health Plan Transparency**

On behalf of Treatment Communities of America, thank you for the opportunity to comment on the final rule on of the Wellstone/Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) and what additional steps, consistent with the statute, should be taken to ensure compliance with MHPAEA through health plan transparency. In particular, this includes what other disclosure requirements would provide more transparency to participants, beneficiaries, enrollees, and providers, especially with respect to individual market insurance, non-Federal governmental plans, and church plans.

Treatment Communities of America (TCA) is a non-profit association comprised of community based substance abuse treatment providers throughout the United States and Canada. For the past 36 years, TCA's mission has focused on ensuring and expanding access to a full continuum of care for individuals and families suffering from a mental health (MH) and substance use disorder (SUD). We strongly believe that all Americans should have access to high quality, affordable health care, including care for substance use disorders, and we appreciate your consideration of our comments.

The interim final rule (IFR) established six classifications of benefits and provided that the parity requirements between medical/surgical benefits and MH/SUD benefits be applied on a classification-by-classification basis. We are grateful for the clarification in the final rule that all sub-classifications must meet all parity tests within each classification, specifically that intermediate levels of MH/SUD care are to be covered equally whether delivered in residential or 'intensive outpatient' settings.

TCA also believes strongly that MHPAEA requires a full continuum of SUD treatment in order to ensure that individuals have access to all services, including residential treatment, necessary to meet their needs. Medical necessity criteria should reflect the chronicity of serious mental health and substance use disorders and provide for coverage for the full continuum of care, including residential treatment; to ensure that people receive the most appropriate and effective care available. **This would include ensuring coverage that allowed for adequate length of stay in services that is consistent with the severity of the individual's diagnosis which is not addressed.**

Additionally, the elimination of the exceptions to the parity requirement for Non-Quantitative Treatment Limitations (NQTLs) will help ensure patients have access to appropriate levels of MH/SUD care. The new disclosure requirements, for cases involving the denial of coverage or reimbursement, that plans provide written documentation within 30 days of how their processes, strategies, evidentiary standards and other factors used to apply an NQTL were imposed on both medical/surgical and MH/SUD benefits in connection with a claim will

improve the transparency an often complex and opaque process.

We are, however, disappointed that under the final rule states will be the primary means of enforcing implementation of MHPAEA. This remains unchanged from the IFR. TCA maintains that HHS should play a primary role in the enforcement issues involving non-compliant plans. The final rule just issued on MHPAEA is still in the early stages of implementation, and plans, many of them new exchange plans, are just beginning to make medical necessity determinations for mental health and substance use disorder benefits. Significant problems remain in implementing parity and consumers are continuing to experience discrimination in access to treatment. Many states are, understandably, completely focused on implementation of the ACA and may not have the personnel or resources to appropriately monitor and enforce parity. As such, it would be much more appropriate for the federal government to enforce MHPAEA to ensure that it is implemented fairly across the country and that residents receive the same protections, no matter what state in which they live.

Thank you again for the opportunity to participate in this historic process that we all hope will provide unprecedented access to care for SUD and MH for the millions of Americans in need of this critical care. We look forward to continuing to work with you on this goal in the months and years ahead.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sushma Taylor', with a long horizontal flourish extending to the right.

Dr. Sushma Taylor  
President