



***Welcome to KNOW YOUR RIGHTS:
New Federal Parity Legislation for
Insurance Coverage of Addiction
Treatment***

**TO HEAR this webinar, you must dial 888-
465-4038 and
use participant code 8376647**

The webinar will begin at 3:00 p.m. EST
Thank you for your patience

WELCOME to the Know Your Rights Webinar Series!

Presented by:



Today's presenters are:

- Gabrielle de la Gueronniere
- Dan Belnap

WELCOME to the Know Your Rights Webinar Series! (cont.)

Funded by:



“Partners for Recovery” is an initiative of the Federal government’s Center for Substance Abuse Treatment.

WELCOME to the Know Your Rights Webinar Series! (cont.)

Who is the Legal Action Center?

- National non-profit law and policy organization
- Policy and legal work on anti-discrimination issues affecting people with
 - Alcohol or drug histories
 - Criminal records or
 - HIV/AIDS

WELCOME to the Know Your Rights Webinar Series! (cont.)

Have a Question During this Presentation?

- Use the chat feature on the upper right-hand corner of your screens.
- Will answer some questions at end, and will try to answer others on website.

Today's Materials

- This PowerPoint presentation
- *Helpful Resources on the “Paul Wellstone and Pete Domenici Mental Health and Addiction Equity Act of 2008”*
- Download them on <http://www.pfr.samhsa.gov> or <http://www.lac.org>. On the LAC site, click on “Trainings and Technical Assistance,” and then “Alcohol & Drugs/Criminal Record.”

WELCOME to the Know Your Rights Webinar Series! (cont.)



Recording of this webinar

- available at <http://www.lac.org/>

Who's today's audience?

This training is for . . .

- People in recovery from addiction to alcohol or other drugs
family members and allies of people with addiction histories
- Addiction treatment and prevention professionals
- Employers, health care providers, government officials, and
others who want to comply with the new parity law
- Anyone else interested in the topic.

This training is about . . .

- The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343, Section 511)



Today's training objectives

1. Understand the provisions of and protections provided by the new federal parity law.
2. Learn about possible next steps for implementation of the law.
3. Understand and inform others about the protections provided in the parity law.

Learning more about the Wellstone/Domenici Act: Thomas

- <http://thomas.loc.gov>, the Library of Congress's website on legislative information
 - Text of the parity law
 - Legislative history including Committee reports, prior versions of the legislation, and Member statements in support of or opposition to the Act
 - Voting record

Policy Goals of a Federal Addiction and Mental Health Parity Law

- Eliminating certain forms of discrimination in insurance coverage of mental health and addiction treatment benefits
- Expanding access to treatment for people with mental illness and/or addiction

Background and Context: The Road to Passage of Parity

- Twelve-year process toward passage
- Despite hundreds of bi-partisan sponsors, movement was stalled
- Strong opposition lobby
- Timing
- Review by four Congressional Committees required

Background and Context: The Road to Passage of Parity (cont'd)

- Leadership in the Senate by Senators Paul Wellstone (D-MN) and Pete Domenici (R-NM)
- House action led by Congressmen Jim Ramstad (R-MN) and Patrick Kennedy (D-RI)
- An organized constituency—role of the recovery community
- Timing

Background and Context: The Road to Passage of Parity (cont'd)

- House and Senate versions of the legislation, varying in scope and detail
- Review and approval by the four Congressional Committees with jurisdiction:
 - Senate Health, Education, Labor and Pensions Committee
 - House Energy and Commerce, Education and Labor, and Ways and Means Committees

Background and Context: The Road to Passage of Parity (cont'd)

- Negotiating differences between House and Senate versions of the legislation
- Paying for the costs associated with the bill
- Passage as a part of the Emergency Economic Stabilization Act
 - Approved by the Senate on October 1, 2008 by a 74 to 25 vote
 - Approved by the House on October 3, 2008 by a 263 to 171 vote and signed into law

When does the Wellstone/Domenici Act become effective?

- The new parity law becomes effective in the first plan coverage year that is one year after the date of enactment
 - For most plans, effective date will be January 1, 2010
 - Different requirement for plans maintained under collective bargaining agreements



Next steps: Regulations

- The Departments of Health and Human Services, Labor, and Treasury are charged with issuing regulations by October 2009
 - To answer questions/fill in gaps not resolved by the law
 - To guide implementation of the law
- The law goes into effect January 2010 regardless of whether regulations have been promulgated

Next steps: Regulations (cont'd)

- Request for Information (RFI) published in the April 28, 2009 Federal Register; public comments were due by May 28, 2009
- Process/timing is unclear—proposed rule may be issued, followed by a comment period and then a final rule

Provisions of the Wellstone/Domenici Act

- Requires group health plans already offering coverage for addiction and mental health treatment to provide those benefits in the same way as other medical/surgical benefits covered by the plan

Who will be protected by the Wellstone/Domenici Act?

What group plans are covered under the Wellstone/Domenici Act?



Who will be protected by the Wellstone/Domenici Act?

All group plans with 50 or more employees. This includes:

- People enrolled in employer-funded and state-regulated group health plans that offer addiction treatment and mental health benefits
- People in self-funded plans regulated by ERISA; not protected by State parity laws

Who will be protected by the Wellstone/Domenici Act? (cont'd)

- Expected that people covered by managed-care Medicaid programs offering addiction and mental health treatment benefits are included
- Additional detail will likely be determined through the regulatory process
- Intersection with and impact of national healthcare reform legislation

Who will be protected by the Wellstone/Domenici Act?

Protections expected to reach over 100 million people.



Who will NOT be protected by the Wellstone/Domenici Act?

What population is not covered under the Wellstone/Domenici Act?



Who will NOT be protected by the Wellstone/Domenici Act?

- Entities/plans exempt from the requirements of the law:
 - Individual insurance plans
 - Small employers with less than 50 employees

Who will NOT be protected by the Wellstone/Domenici Act?

- Entities/plans exempt from the requirements of the law:
 - Medicare plans
 - Plans whose costs increase more than two percent in the first year and one percent after that
 - Plans meeting the cost exemption criteria who drop coverage are required to inform plan participants of the change in benefits

Provisions of the Wellstone/Domenici Act

- Treatment limitations and financial requirements must be the same as those for medical/surgical benefits.

Provisions of the Wellstone/Domenici Act

Example # 1

The ABC group policy limits the number of outpatient mental health and addiction treatment visits to 30 visits a year.

The ABC group policy does not have any limits on visits for other health care services.

Provisions of the Wellstone/Domenici Act

Example # 1 (cont'd)

Will this be allowed when the Wellstone/Domenici Act goes into effect?



Provisions of the Wellstone/Domenici Act

Answer:

NO!

If a plan has no limits on how frequently you can see your doctor or your surgeon for medical services, it will not be able to impose limits (both number and day limits) on mental health and addiction treatment services.

Provisions of the Wellstone/Domenici Act

Example # 2

The ABC group policy imposes a \$10,000 lifetime cap on addiction services.

The ABC group policy does not impose a monetary cap on other health care services.

Provisions of the Wellstone/Domenici Act

Example # 2 (cont'd)

Will this be allowed when the Wellstone/Domenici Act goes into effect?



Provisions of the Wellstone/Domenici Act

Answer:

NO!

If a plan has no limits lifetime cap on medical or surgical benefits, it cannot have a lifetime cap on addition treatment or mental health services.

Provisions of the Wellstone/Domenici Act (cont'd)

- Requires financial requirements to be the same as those for medical/surgical benefits.

Provisions of the Wellstone/Domenici Act (cont'd)

No additional co-pays, deductibles, coinsurance and out-of-pocket expenses are allowed.



Provisions of the Wellstone/Domenici Act

Example # 3

The ABC group policy requires a \$40 co-pay for addiction and mental health services.

The ABC group policy imposes a \$20 co-pay for other health care services.

Provisions of the Wellstone/Domenici Act

Example # 3 (cont'd)

Will this be allowed when the Wellstone/Domenici Act goes into effect?



Provisions of the Wellstone/Domenici Act

Answer:



A plan must impose the same co-pay for addiction treatment or mental health services as it does on medical and surgical benefits.

Provisions of the Wellstone/Domenici Act (cont'd)

QUESTION

DOES the new law require group health plans to provide an addiction or mental health treatment benefit?



Provisions of the Wellstone/Domenici Act (cont'd)

ANSWER

NO. The new law DOES NOT require group health plans to provide an addiction or mental health treatment benefit.

Provisions of the Wellstone/Domenici Act (cont'd)

ANSWER (cont'd)

If a group health plans does not currently provide an addiction or mental health treatment benefit, it will not have to provide such a benefit when the law goes into effect.

Provisions of the Wellstone/Domenici Act (cont'd)

The issue of the public and private insurance coverage for addiction and mental health services is currently being discussed as part of national health care reform.

This will be discussed in more detail during the last part of this presentation.

Provisions of the Wellstone/Domenici Act (cont'd)

- Extends out-of-network coverage for addiction and mental health treatment where there is out-of-network coverage for medical/surgical conditions

Provisions of the Wellstone/Domenici Act (cont'd)

Example #1

- The ABC group plan allows its members to go out-of-network for medical or surgical care.
- The ABC group plans requires its members to only use in-network providers for mental health and addiction treatment.

IS THIS ALLOWED UNDER THE NEW LAW?



Provisions of the Wellstone/Domenici Act (cont'd)

NO



- If the ABC group plan allows its members to go out-of-network for medical or surgical care, it must allow its member to go out-of-network for mental health and addiction treatment.

Provisions of the Wellstone/Domenici Act (cont'd)

Example #2

- The ABC group plan allows its members to go out-of-network for medical or surgical care and pays 80% of the cost.
- The ABC group plans allows its members to go out-of-network for mental health and addiction treatment but only pays 20% of the cost.

IS THIS ALLOWED UNDER THE NEW LAW?



Provisions of the Wellstone/Domenici Act (cont'd)

NO



If the ABC group plan allows its members to go out-of-network for medical or surgical care and mental health and addiction treatment, it must impose the same financial requirements.

Provisions of the Wellstone/Domenici Act (cont'd)

Protects State laws that provide greater protection than the federal law.



Provisions of the Wellstone/Domenici Act (cont'd)

Examples of State laws that provide greater protection than the federal law:

Provisions of the Wellstone/Domenici Act (cont'd)

- **Mandated minimum benefits for alcohol and substance abuse treatment: Many states laws require insurers to cover a number of outpatient visits and/or inpatient treatment.**
- **No such requirement under new law. State law prevails.**



Provisions of the Wellstone/Domenici Act (cont'd)

- **Mandated “make available” coverage for addiction treatment:** Some states require plans to make coverage for addiction treatment available if requested by the policyholder.
- **No such requirement under new law. State law prevails.**



Provisions of the Wellstone/Domenici Act (cont'd)

- **Some states do not permit insurers to exclude from their networks any licensed addiction or mental health providers within a geographical area if the provider is willing to meet the terms and conditions for participation established by the health insurer.**
- **No such requirement under new law. State law prevails.**



Provisions of the Wellstone/Domenici Act (cont'd)

- **Some states have consumer-protection laws that, for example;**
 - require a report card on health insurance plans' performance in relation to quality measures
 - require plans to tell members about the plan, including the right to file a complaint or question a decision, and the right to emergency care.
- **No such requirement under new law. State law prevails.**



Provisions of the Wellstone/Domenici Act (cont'd)

- **Some states delegate decision-making authority regarding need and level of care.**
- **No such requirement under new law. State law prevails.**



Provisions of the Wellstone/Domenici Act (cont'd)

Transparency Requirements

- A plan must:
 - make mental health and addiction treatment medical necessity criteria available to current or potential participants, beneficiaries or providers upon request.
 - make reasons for payment denials available to participants or beneficiaries on request.

Provisions of the Wellstone/Domenici Act (cont'd)

- Continues to allow plans to manage the benefits provided
- Plans can still determine:
 - Medical necessity criteria
 - Scope of coverage
 - Although prior versions of the parity legislation would have required that all conditions and disorders in the DSM-IV be covered, this requirement was not a part of the final law

Provisions of the Wellstone/Domenici Act (cont'd)

- Compliance reports required by the Department of Labor
- GAO report analyzing affects of the law required
- Provisions for consumer assistance
- Enforcement provisions

Questions raised by the agencies crafting rules on the parity law

- Whether and how plans impose financial requirements and treatment limitations on MH/SUD benefits
- How plans apply limits to medical/surgical benefits
- What information on medical necessity criteria is available

Questions raised by the agencies crafting rules on the parity law (cont'd)

- What information on the reasons for denial is made available/how is this information made available
- Whether plans currently provide out-of-network coverage for MH/SUD benefits
- What type of guidance would be helpful related to the increased cost exemption

Remaining questions that may be addressed through rule-making

- Scope of services and treatment limitations:
 - Limits on treatment services must be “**no more restrictive**” than the “**predominant treatment limitations**” applied to “**substantially all**” medical/surgical benefits covered by the plan

Remaining questions that may be addressed through rule-making (cont'd)

- Medical management
- Out-of-network coverage
- Coverage of medications
- Compliance by Medicaid managed care plans
- Consumer assistance
- Enforcement

National Healthcare Reform: Potential Impact on the Requirements of the Parity Law

- Congress and the Obama Administration are working to reform the national healthcare system
- Hearings, working groups and meetings in the five Congressional Committees of jurisdiction



National Healthcare Reform: Potential Impact on the Requirements of the Parity Law (cont'd)

- Various versions of healthcare reform legislation have been developed and approved
 - Senate HELP Committee approved healthcare reform legislation
 - Three House Committees of jurisdiction (Education and Labor, Energy and Commerce, and Ways and Means) each marked up (reviewed) and approved healthcare reform bills
 - Senate Finance Committee may release a bill after the summer recess

National Healthcare Reform: Potential Impact on the Requirements of the Parity Law (cont'd)

- Substance use disorder and mental health services are a part of the basic benefits package in each of the bills
- Plans must adhere to the requirements of Wellstone/Domenici
- Long process—need to reconcile various versions of the legislation and unclear what final bill will look like

Next steps: staying informed

- Follow the regulatory process
- Educate yourself and your elected officials about the requirements of the new parity law
- Stay informed about how healthcare reform proposals could relate to the new parity law



Next steps: staying informed

- Sign up to receive Legal Action Center's policy updates, <http://www.lac.org>
 - Read our updates on national healthcare reform and parity:
http://lac.org/index.php/lac/category/national_health_care_reform



HAVE QUESTIONS?

Remember:

Visit our website to see answers to questions submitted during today's webinar.

Go to <http://www.lac.org>. Click on “Trainings and Technical Assistance” and look for the “training materials” section.

WANT MORE INFORMATION?

Visit the websites of:

- *Partners for Recovery* (PFR)
<http://www.pfr.samhsa.gov>
- Legal Action Center, <http://www.lac.org>

Both websites contain the Know your Rights materials developed under PFR and other useful information.

Thank you!

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