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Regulations Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

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General Comment

General Response to the Interim Final Rule

The Interim Final Rule (IFR) is consistent with the MHPAEA statute and Congress's goals of eliminating discrimination in group health plan coverage of mental health and substance use disorder and mental health treatment benefits and improving access to care. It will help to ensure that the MHPAEA is implemented correctly and as Congress intended.

State policy-makers best inform consumers and the broader public about the requirements of the MHPAEA. In, particular, State insurance commissioners need continued guidance to ensure greatest compliance with the MHPAEA. Allthough the IFR preamble affirms that the MHPAEA does not preempt any State laws except those that would prevent the application of the MHPAEA, additional education and outreach is needed to ensure that managed care organizations continue to comply with state laws that provide greater protections than the MHPAEA.

he IFR's inclusion of both quantitative and non-quantitative treatment limitations in the MHPAEA parity analysis is consistent with the statute and its legislative history.

Medical management tools, identified in the IFR as non-quantitative treatment limitations

(NQTLs), are a fundamental means through which plans limit treatment, and have been determined by both Congress and the regulators as a form of treatment limitation as defined under the law.

Limiting the scope of the MHPAEA analysis solely to day or visit limits or frequency of treatment limits would not achieve the intended result of ensuring that substance use disorders and mental health benefits are not treated in a more restrictive way than benefits for other medical and surgical procedures.
Other examples of NQTLs include but are not limited to:

o Utilization management
o Medically necessity criteria
o "Fail first" requirements
o Prior authorization
o Classifying treatment as experimental
These should also be disallowed.