



October 31, 2008

**ILLINOIS HOSPITAL ASSOCIATION
M E M O R A N D U M**

TO: Chief Executive Officers, Member Hospitals and Health Systems
Chief Financial Officers
Directors, Behavioral Health Services
Managed Care Personnel

FROM: Elena Butkus, Vice President, Finance
MaryLynn Clarke, Senior Director, Health Policy and Regulation

SUBJECT: **UPCOMING BEHAVIORAL HEALTH INSURANCE CHANGES**

On October 3, 2008, President Bush signed into law the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* as part of the federal “bailout” legislation (H.R. 1424). Although this legislation does not mandate coverage for mental health and addiction benefits, for those health insurance plans with 51 or more employees that do provide such coverage, mental health and addiction services must be provided on a par with other physical illnesses. The legislation will improve access to mental health and addiction care, and it will have a positive effect on hospitals. **The federal changes affect those individuals in both fully-insured and self-insured group plans of 50+ employees and are effective October 4, 2009 for non-calendar year insurance renewals and January 1, 2010 for calendar year insurance renewals.**

This memorandum reviews the coming federal changes and also discusses Illinois law with respect to health insurance plans with 51 or more employees. **Because Illinois law mandates coverage for certain mental health services for fully insured health insurance plans issued to 51 or more employees, we believe that potentially even more benefits could be provided to individuals insured in such group sizes in Illinois as a result of the federal law because, for example, Illinois law contains day/visit limitations that may not be enforceable.** As of today, the Illinois Division of Insurance (DOI) informed us that it does not yet have a final determination on this issue. Its decision will ultimately be posted on DOI’s web site (www.idfpr.com/DOI/default2.asp). As the State issues new FAQs or determinations on this issue we will promptly inform you so that you may plan accordingly.

In addition, this memorandum references a recent Illinois law that provides insurance coverage for anorexia/bulimia benefits. **The state change for coverage of anorexia/bulimia affects those individuals in fully-insured group plans of 50+ employees effective January 1, 2009.**

While it is not necessary for hospitals to make any internal changes with respect to these laws, we wanted to bring them to your attention as they will provide for increased behavioral health insurance coverage for your patients. IHA supported both initiatives.

ORIGINAL FEDERAL LAW

The first federal Mental Health Parity Act was signed into law in 1996 and applies to insured group plans of 50+ employees. This law does not require group health plans to provide mental health benefits but does require parity on lifetime/annual dollar limits on covered mental health benefits to that of medical/surgical benefits. The original Mental Health Parity Act did not change other terms and conditions applicable to out-of-pocket limits or number of visits/days covered. Significantly, it did not apply to substance abuse or chemical dependency benefits. After this law took effect many employers eliminated discriminatory dollar limits on mental health coverage but created new restrictions on other aspects of mental health benefits such as number of visits or hospital days. There is a cost exemption for any group health plan whose total costs increased 1% or more due to the application of the requirements in this law.

KEY PROVISIONS OF THE NEW FEDERAL LAW

- *While the Act does not require group health plans of 50+ to provide mental health or substance abuse benefits, if they are provided, they will be subject to parity requirements with medical coverage. Of note is that the new law requires parity for substance abuse benefits.*
- *Prohibits differences in out-of-pocket costs (co-payments, deductibles, coinsurance) for mental health and substance abuse benefits than that of medical/surgical benefits.*
- *Prohibits the use of day or visit limits for mental health and substance use benefits that are more restrictive than treatment limitations applied to medical/surgical benefits.*
- *Provides that insurers providing benefits for mental health and/or substance abuse disorders must provide the coverage for services rendered by out-of-network providers on the same basis that medical and surgical benefits are provided by out-of-network providers.*
- *Provides that if there are medical necessity standards for determining benefits, the criteria must be available to the participant/spouse/dependent(s) and provider upon request. If the plan denies services, the reason for the denial must be made available upon request.*
- *Allows a cost exemption for health plans that can prove the cost of complying with the requirements would raise total plan costs by more than 2% in the first year after enactment of the law and 1% thereafter.*

The Department of Labor, HHS and IRS will be jointly issuing regulations to implement the law.

ILLINOIS LAW

In general, H.R. 1424 does not preempt state laws regarding parity except to the extent that state

laws prohibit the application of a requirement in the federal law. The Illinois insurance mandates are being reviewed by the Illinois Division of Insurance with respect to their final application. First, in Illinois, state insurance statutes require that fully-insured group insurance policies that provide hospital or medical coverage **provide coverage for treatment of “serious mental illness”** under the same terms and conditions as coverage for hospital or medical expenses for employer groups 50+. However, coverage may be limited to 45 days of inpatient treatment annually; 60 outpatient visits annually; and 20 outpatient visits for speech therapy for pervasive developmental disabilities. Under Illinois law, “serious mental illness” is defined as:

- (a) Schizophrenia;
- (b) Paranoid and other psychotic disorders;
- (c) Bipolar disorder;
- (d) Major depressive disorder;
- (e) Schizoaffective disorders;
- (f) Pervasive developmental disorders;
- (g) Obsessive-compulsive disorders;
- (h) Depression in childhood and adolescence;
- (i) Panic disorder;
- (j) Post-traumatic stress disorder

Public Act 95-0973 takes effect on January 1, 2009 to provide that anorexia nervosa and bulimia nervosa qualify as a “serious mental illness.”

Second, in Illinois, fully-insured group insurance policies that provide hospital coverage are required to provide coverage for inpatient treatment of alcoholism.

Because Illinois law requires mandatory coverage for specific mental health/substance abuse benefits, DOI will be issuing a determination on how/whether those benefits will change as a result of the new federal law (i.e., whether day or visit limits will change). As noted earlier, as the State issues new determinations/regulations we will promptly inform you. In the interim if you have any questions or comments, please contact Elena Butkus at (630) 276-5526 or ebutkus@ihastaff.org or MaryLynn Clarke at (217) 541-1154 or mclarke@ihastaff.org.