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KENNEDY, DOMENICI, & ENZI UNVEIL LONG-AWAITED BREAKTHROUGH ON MENTAL HEALTH PARITY

Legislation Will Build on Landmark 1996 Parity Law

WASHINGTON – U.S. Senators Edward Kennedy (D-Mass.), Pete Domenici (R-N.M.), and Mike Enzi (R-Wyo.) today introduced breakthrough mental health legislation to ensure greater health insurance parity for persons with mental illness.

The **Mental Health Parity Act of 2007** represents the culmination of more than a year's negotiations involving lawmakers, mental health, insurance and business organizations to craft compromise legislation. The new policy would build on the landmark 1996 Mental Health Parity Act, a law authored by Domenici and the late Minnesota Senator Paul Wellstone that began the process of ending health insurance discrimination against people with mental illness.

The bill does not mandate group plans to provide any mental health coverage, but it does require health insurance plans that offer mental health coverage to provide that coverage on par with financial and treatment coverage offered for other physical illnesses.

"One in five Americans will suffer from mental illness this year. But unlike in the past, we know today that mental illnesses are treatable – more treatable than many physical illnesses. Yet, only one third of those facing mental illnesses will receive treatment," **Kennedy** said. "The bill we introduce today will begin to right these wrongs. It represents an agreement, after seven long years of stalemate, not only between Democrats and Republicans, but also with the mental health community, businesses and the insurance industry. And it provides new hope to millions of our fellow citizens."

"We are here today after years of hard work," **Domenici** said. "Simply put, our bill will provide parity between mental health coverage and medical and surgical coverage. No longer will a more restrictive standard be applied the mental health coverage and another more lenient standard be applied to medical and surgical coverage. This is a matter of fairness and I am genuinely excited that we may finally make progress to build on the 1996 law and offering this much-needed help to those with mentally ill and those whose care for them."

"This carefully crafted, balanced compromise bill could only be reached by bringing together employer, insurance and mental health communities and asking them to set aside partisanship and find a common ground. By bringing everyone to the table to air concerns and determine areas of agreement, we have finally overcome years of legislative paralysis to make progress for the millions of Americans affected by mental illness," **Enzi** said.

Domenici is a long-time mental health advocate, while Kennedy and Enzi are chairman and ranking member, respectively, of the Senate Health, Education, Labor and Pensions Committee that has jurisdiction over this issue. The HELP Committee is scheduled to take up the bill Wednesday.

The legislation would provide mental health parity for about 113 million Americans who work for employers with 50 or more employees. It will ensure that health plans do not place more

restrictive conditions on mental health coverage than on medical or surgical coverage. As such it would require:

· Parity for financial requirements like deductibles, co-payments, and annual and lifetime limits; and,

· Parity for treatment limitations such as the number of covered hospital days and visits.

The 1996 Mental Health Parity law only provided parity for annual and lifetime limits between mental health coverage and medical surgical coverage. The new bill expands parity by including deductibles, co-payments, out-of-pocket expenses, coinsurance, covered hospital days, and covered out-patient visits.

The measure does include a small business exemption for companies with fewer than 50 employees, and also includes a cost exemption for all businesses.

The 1996 law began the parity process, and helped raise greater public awareness to the plight of those with mental illnesses and the societal stigma often associated with those illnesses. Today, about 26 percent of American adults, or nearly 58 million people, suffer from a diagnosable mental disorder each year. Six percent of these adults suffer from a serious mental illness. Mental illness is also closely linked to the more than 30,000 suicides in the United States every year. In addition, an estimated 16 percent of all inmates in state and local jails suffer from a mental illness.

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Summary
Mental Health Parity Act of 2007

Context

· This compromise legislation reflects more than a year of discussions among business, insurance, and mental health organizations.

What the Bill Requires Plans To Do

· The bill does not mandate group health plans provide any mental health coverage. However, if a plan does offer mental health coverage, then:

- The plan or coverage must ensure that the financial requirements applied to mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits that the plan covers. Such financial requirements include deductibles, co-payments, coinsurance, out-of-pocket expenses, and annual and lifetime limits. The plan may not establish separate cost sharing requirements that are only applicable to mental health benefits.
- The plan or coverage must also ensure that the treatment limitations applied to such benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits that the plan covers. Such treatment limitations include limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope and duration of treatment.

What the Statute Does Not Limit Plans From Doing

· The bill would not prohibit group health plans from negotiating separate reimbursement or provider payment rates, or managing the provision of mental benefits in order to provide medically necessary treatments under the plan (as a means to contain costs and monitor and improve the quality of care). This statute would not prohibit group health plans from taking into consideration similar treatment settings or similar treatments when applying the provisions of this statute.

· The bill would not require group health plans to provide out-of-network coverage for mental health benefits, but if a group health plan does provide both medical and surgical benefits and mental health benefits (including substance abuse treatment), and provides such benefits on both an in- and out-of- network basis pursuant to the terms of the plan (or coverage), then the plan must ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits.

Scope of Coverage – Small Business and Individual Market Exemption

· The mental health parity requirements apply to group health plans with 50 or more employees.

· It does not apply to employers with less than 50 employees who are exempt from this Act, nor does it affect the individual insurance market.

Cost Exemption

· Plans may elect to be exempt from the parity requirement if it is projected that the health plan will experience increased actual total costs of coverage under the plan that exceed 2% of the actual total plan costs during the first plan year or exceed 1% of the actual total plan costs each subsequent year. The cost exemption would apply for the next plan year following determination that the cost threshold will be exceeded.

Definitions

· "Mental Health Benefits" are defined to mean benefits with respect to mental health services (including substance abuse treatment) as defined under the terms of the plan or coverage, and when applicable, as may be defined under State law to health insurance coverage offered in connection with a group health plan.

Effect on State Mental Health Parity Laws

· At the State level, mental health *parity* standards regarding financial requirements and treatment limitations would be preempted. The bill would not preempt state laws mandating that mental health benefits be covered. States that elect (through statute or regulation) to adopt the federal standards would not be subject to preemption.

Administration

· Oversight and administration would be conducted by the Department of Labor for self-funded ERISA plans and by the Department of Health and Human Services for insured plans.

Effective Date

· The requirements of the bill will be effective in the first plan year that begins on or after January 1 of the first calendar year that begins more than 1 year after the date of the enactment of this Act.

Mental Health Parity Act of 2007 – Q & A

Q: Who does the bill affect?

A: Anyone who has group health insurance through their employer, if their employer has more than 50 employees. That's roughly 113 million Americans, or 2.8 million in Massachusetts.

Q: What does the bill do?
A: This bill requires insurance companies and employers offering mental health coverage to provide parity between mental health and physical health coverage, meaning that they must treat the two benefits similarly to each other. They can't establish different financial requirements for mental health, such as deductibles, co-pays, annual and lifetime limits, etc. Plans can also not create different treatment limitations such as day and visit limits for mental health, meaning that the treatment they cover for mental health should be on par with what you would receive for physical health care.

Q: Does it mandate or require a plan to offer mental health coverage?
A: No. It simply requires a plan that offers mental health coverage to treat that coverage in a similar way to its physical health coverage.

Q: Will it take away my state mandated mental health coverage?
A: No. State laws requiring plans to provide mental health coverage will remain in effect. The primary difference is that these plans will now have to treat your mental health coverage the same as physical health coverage under the federal parity guidelines that address financial requirements such as co-pays, and treatment limitations such as day and visit limits.

Q: What happens if my state's laws outline specific mental health treatment limitations?
A: This bill would not affect the state's basic mandate of mental health coverage, but it would take the place of any specific day or visit limits that your state might currently mandate.

Q: Are small businesses required to comply with the parity rule?
A: No, businesses of 50 or fewer employees do not have to offer plans with parity under this bill, but they'll still be required to follow state regulations that apply to them.

Q: Will the parity requirement result in a cost to employers?
A: Past Congressional Budget Office scoring of mental health parity has shown a less than 1% increase in cost to employers.

Q: Can companies and insurance providers opt out of providing parity?
A: Yes, but only if they can show that their actual costs for providing parity increased their overall cost by 2% over the course of the first year parity is in effect or 1% for subsequent years. If so, they may choose to opt out for one year, but must comply with the parity requirements the next year.

Q: What happens if my insurance doesn't comply?
A: If your plan does not offer the parity required by law, the first recourse is through your state's Department of Insurance or other agency handling insurance matters in the state. If the state fails to enforce the law, you can appeal to the U.S. Department of Health and Human Services, which can charge the health insurance issuer a civil monetary penalty fee of up to $100 per day per violation for each individual affected. The U.S. Department of the Treasury is also authorized to penalize employers with an excise tax of up to $100 per day per violation for each individual affected. The U.S. Department of Labor can also enforce compliance in group health plans. Finally, if none of the above appeals have resolved your dispute, you can also bring a claim against the plan issuer through the federal courts to get them to do what was required under law.

Q: Will the states all enforce parity in the same way?
A: Yes. Each state is required to enact the federal parity standard, or change their state law to mirror the federal standard. This ensures uniformity in how the states enforce the parity requirements.

Q: Will my out of network mental health coverage be protected by parity?
A: Yes, the bill requires that plans which offer out of network mental health coverage provide parity for that coverage, so that out of network mental health coverage is treated the same as out of network physical health coverage. However, the bill does not require that a plan offer out of network mental health coverage, even if the plan does offer out of network coverage for physical health.

Q: Is substance abuse treatment included in the bill?
A: Yes, plans that cover substance abuse will be required to provide parity, but the bill does not mandate that plans offer any substance abuse coverage.

Q: Does it affect my coverage under Medicare or Medicaid?
A: Yes and no. Medicare is not affected. Medicaid managed care, SCHIP, and some state and local
health plans are affected.

Q: Will the group health plan issuer be required to notify me of any changes to my mental health coverage?
A: Yes, the bill requires that plans notify enrollees of any changes in their mental health coverage.

Q: When does the federal parity requirement go into effect?
A: The parity requirement will take effect on the first plan year of your coverage that begins at least one calendar year after the President signs the bill into law.

MENTAL HEALTH FACT SHEET
NATIONAL

- An estimated 26.2 % of Americans ages 18 and older — about one in four adults — suffer from a diagnosable mental disorder in a given year. When applied to the 2004 U.S. Census residential population estimate for ages 18 and older, this figure translates to 57.7 million people.

- In any given year, about 6 %, or 1 in 17 people, suffer from a serious mental illness.

- In addition, mental disorders are the leading cause of disability in the U.S. and Canada for ages 15-44.

- Although mental illnesses are surprisingly common, affecting approximately 26.2 percent of our nation, recovery is possible. Studies show that many people with mental illnesses recover completely when they receive mental health services.

- Mental illnesses have a huge impact on our society. Consider for example that mental illness, including suicide, accounts for over 15 percent of the burden of disease in established market

economies, such as the United States. This is more than the disease burden caused by all cancers.

- Evidence indicates a persistent disparity in the mental health status of racial and ethnic minority populations, as compared with the overall mental health status of the U.S. population. Demographic trends indicate that the demand for mental health services tailored to racial and ethnic minorities will increase, but several barriers deter minorities from reaching treatment. Many of these barriers operate for all Americans: cost, fragmentation of services, lack of availability of services, and societal stigma toward mental illness (DHHS, 1999). The MHPA would help to lessen pervasive mental health disparities.

- The number of employees receiving mental health parity under the new bill covered by **self-insured plans** under ERISA would be approximately 82 million.

- The number of employees receiving mental health parity under the new bill covered by **insured plans**, which are not under ERISA's jurisdiction, would be approximately 31 million.

- Approximately 98% of workers with employer-sponsored health insurance have coverage for mental health care.

- Approximately 14-20 % of group health plan participants use their mental health coverage.