

**Preliminary Summary
of the Draft Senate Mental Health Parity Bill
(2/5/2007)**

Issue	Comments
1. Coordination with current law	<ul style="list-style-type: none"> • The bill is drafted to coordinate with current law; e.g., by extending current law until the effective date of the new provisions and by amending ERISA and PHSA to include the requirements of the new Act.
2. Preemption rule	<ul style="list-style-type: none"> • The bill includes a rule which would preempt State laws applicable to insured health plans which “differ from” several specific provisions of the federal standards in order to achieve uniformity between state and federal standards. The provisions of the bill which would be subject to the preemption rule are those related to: 1. financial requirements, 2. treatment limitations, 3. medical management, 4. in- and out-of-network services and 5. the employer cost waiver rules.
3. State and federal enforcement	<ul style="list-style-type: none"> • States which adopt laws in conformance with the bill’s preemption rule would have enforcement authority with respect to health insurers while the U.S. Secretary of Labor would continue to have enforcement over self-insured employer group health plans, as under current law. Individuals (whether in insured or self-insured plans) would also be able to bring actions to enforce their rights to parity of benefits under their plan’s grievance and appeals procedures or could seek relief in the courts under ERISA’s judicial review remedial scheme.
4. Definition of mental health benefits subject to parity requirement	<ul style="list-style-type: none"> • The bill defines mental health benefits to be those related to mental health services (including for substance abuse) as defined under the terms of the plan or, when applicable to insured health coverage, by state insurance laws. Therefore, the bill’s parity requirements would apply to any mental health benefits (including benefits for substance abuse) which the plan chooses to cover or is required to cover in the case of insured plans which are subject to state law. • The bill also includes a clarification that nothing in the legislation requires a plan to cover “<i>any</i> mental health benefits”.
5. Protection of plan medical management practices	<ul style="list-style-type: none"> • The bill includes a provision to protect plan medical management practices such as utilization review, authorization procedures and the application of medical necessity determinations. • Additional language is under consideration to state that such medical management practices are utilized “in order to provide benefits for medically necessary services pursuant to the terms of the plan or coverage”.

Issue	Comments
6. Parity requirement on financial requirements and treatment limitations	<ul style="list-style-type: none"> The bill would require that a plan’s financial requirements (e.g., deductibles, co-payments, coinsurance, and annual lifetime limits) or treatment limitations (e.g., day or visit limits on the duration of coverage) be “no more restrictive than” those applied to “substantially all” medical or surgical services covered by the plan. In applying this standard, plans would be permitted to comply by comparing financial limitations between services provided in “similar settings” or for “similar treatments”.
7. Network-based coverage	<ul style="list-style-type: none"> The bill would require that the parity standards apply to out-of-network mental health services if a plan provides coverage for such services on an out-of-network basis. The bill also includes a clarification that plans are not required to provide out-of-network coverage for mental health services (even if a plan provides out-of-network coverage for medical and surgical benefits covered by the plan).
8. Cost increase exemption	<ul style="list-style-type: none"> The bill includes provisions to exempt plans if they experience more than a 2 percent cost increase in the first year of application of the parity rules and more than 1 percent thereafter. Current law allows for exemption if the parity rules result in an increase of more than 1 percent in overall plan costs.
9. Applicability to small groups and individual market coverage	<ul style="list-style-type: none"> The bill would not apply to the individual insurance market or to small groups with between 2 and 50 employees (or “groups of 1” in states that include such groups in their definition of a small employer). Note: States would not be preempted from applying their own parity laws with respect to insurance coverage for the individual or small group markets.
10. Ombudsman function	<ul style="list-style-type: none"> The bill includes provisions that establish an ombudsman function at the Department of Labor and Department of HHS “to serve as an initial point of contact” and assist plan participants in self-insured employer group health plans and insured health plans, respectively, with issues which may arise with compliance with the parity requirements.
11. Issuance of regulations and effective date	<ul style="list-style-type: none"> The bill requires that final regulations be issued by the Secretary of Labor and the Secretary of HHS by no later than one year after the date of enactment. The provisions would be effective on plans beginning the first plan year which begins more than one year after the date of enactment.