



Credit: Official White House Photo by Pete Souza

President Barack Obama fist-bumps AbilityOne custodian, Lawrence Lipscomb, in a federal office building following the opening session of the White House Forum on Jobs and Economic Growth held early December 2009.

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Some comments on the issue have already been received, and the agencies pointed out the sometimes conflicting comments in the interim final rules.

For example, some comments requested clarification that “with respect to a mental health condition or substance use disorder that is otherwise covered, that the regulations clarify that a plan is not required to provide benefits for any particular treatment or treatment setting (such as counseling or non-hospital residential treatment) if benefits for the treatment or treatment setting are not provided for medical/surgical conditions.” Another comment, however, argued that final regulations should clarify that those with a mental health or substance use disorder “have coverage for the full scope of medically appropriate services to treat the

condition or disorder if the plan covers the full scope of medically appropriate services to treat medical/surgical conditions, even if some treatments or treatment settings are not otherwise covered by the plan.” The interim final rule also noted comments that requested clarification that the parity law should require plans to cover any evidence-based treatments.

In addition to the exception for small group and individual coverage, there are other exceptions to MHPAEA requirements. They include:

- If a large group plan demonstrates that MHPAEA requirements will increase their claims by at least two percent in the first year (one percent in subsequent years), the plan may request an exemption
- A nonfederal governmental employer providing self-funded group health coverage may elect to

exempt its plan by filing appropriate opt-out requests

The MHPAEA provides important benefits to people with significant disabilities—parity of rules involving mental health and substance use disorder benefits improves the health coverage that is often difficult to get, hard to afford, and critically necessary to this group. The interim rules implementing the MHPAEA provide helpful clarification with respect to the law’s application.

Helpful as these interim rules are, additional clarifications would be even more beneficial. These clarifications will be brought to the agencies’ attention during the comment period. Among them are the need for further clarification on provider network issues, and formulary development.