

**VIA EMAIL:** [www.regulations.gov](http://www.regulations.gov)

December 21, 2012

Ms. Marilyn Tavenner, Acting Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW, Room 445-G  
Washington, DC 20201

**RE: CMS-9980-P; RIN 0938-AR03: "Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation"**

Dear Ms. Tavenner,

As an association representing behavioral healthcare provider organizations and professionals, the National Association of Psychiatric Health Systems (NAPHS) appreciates the opportunity to comment on the proposed rule issued by the Department of Health and Human Services (HHS) in the November 26, 2012, *Federal Register* on the **"Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation"** [CMS-9980-P].

Founded in 1933, NAPHS advocates for behavioral health and represents provider systems that are committed to the delivery of responsive, accountable, and clinically effective prevention, treatment, and care for children, adolescents, adults, and older adults with mental and substance use disorders. Our members are behavioral healthcare provider organizations, including more than 700 psychiatric hospitals, addiction treatment facilities, general hospital psychiatric and addiction treatment units, residential treatment centers, youth services organizations, outpatient networks, and other providers of care. Our members deliver all levels of care, including inpatient care, residential treatment, partial hospitalization, and outpatient services.

#### **COMMENTS ON THE PROPOSED RULE ON ESSENTIAL HEALTH BENEFITS**

NAPHS has been a strong proponent of and has been actively involved in the passage and implementation of the mental health and addiction parity law (the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008*). We greatly appreciate the proposed rule specifically stating that mental health and addiction coverage must be part of the Essential Health Benefit package and that the mental health and addiction parity law and regulations apply to the EHB.

Although the proposed rule states that mental health and addiction coverage must be part of the EHB and that the mental health and addiction parity law and regulations apply to the EHB, **we would encourage the Department to:**

- **include a specific requirement that all EHB-benchmark plans meet federal parity standards;**
- **clarify that states can supplement insufficient base-benchmark plans** that do not meet parity and other requirements;
- **modify supplementation methodology to include supplementation for sub-components** (such as mental health and substance abuse); and
- **clarify that this supplementation is not considered an "additional required benefit"** that would affect state funding requirements.

The proposed rule allows for benefit substitution within an EHB category. We believe this could lead to the unintended consequence of not covering a sub-component within the mental health and substance abuse category. **We would urge the Department to ensure that benefit substitution should only occur within a sub-component, such as within the mental health part of the benefit, or within the substance abuse benefit, but substitution should not lead to the total exclusion of the mental health benefit or the substance abuse benefit.**

We believe patients should have access to FDA-approved medications for the treatment of mental illness and addictive disorders. The Medicare Part D program is a good model to use as part of the EHB.

The ACA requires the Secretary to ensure that benefits, payment rates, and incentives built into the EHB do not discriminate based on age, disability, or expected length of life, and that the EHB takes into account the health needs of diverse segments of the population (including women, children, persons with disabilities, and other groups). These protections are critically important to individuals with mental health and substance use disorders and others with chronic illnesses and disabilities. We appreciate that the proposed rule codifies the statute's requirement, and prevents EHB benchmark plans from including discriminatory benefit designs. Furthermore, we applaud that the proposed rule also extends non-discrimination requirements to all issuers of EHB. We want to strongly emphasize that mental illnesses and addiction disorders have had a long history of discrimination and stigma as part of basic benefit design and the management of the benefit, so **we want to encourage the Department to put in place the necessary procedures to ensure that discrimination with respect to these disorders is not perpetuated in the EHB.**

We believe that **current accreditation parity standards that are currently part of the URAC's Version 7 standards for accreditation of health plans should be a mandatory minimum standard** applied to all accrediting bodies for accreditation purposes.

As we mentioned earlier, people with mental illness and addiction disorders have faced discrimination in their health plan coverage for a very long time. With the inclusion of mental health and substance abuse benefits in the EHB (along with the requirements of the *Mental Health Parity and Addiction Equity* law and regulations), there is a great opportunity to reverse this long-standing discrimination. However, without aggressive oversight and enforcement in this area our mutual goal of eliminating discrimination for these disorders may not be achieved. Therefore, **we strongly recommend that enforcement and oversight be critical components of the approval and implementation process for EHB.**

NAPHS is a Steering Committee member of the Parity Implementation Coalition, which will also be submitting formal and more detailed comments on each of the areas addressed in our comment letter. In addition, NAPHS is a signatory to the Coalition for Whole Health comment letter. We strongly endorse the recommendations and analyses of both these coalitions.

We look forward to working with the Department to make sure that persons with mental and addictive disorders have the same coverage that is afforded to all other Americans.

Sincerely,

/s/

Mark Covall  
President/CEO