SUMMARY OF MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008
INTERIM FINAL REGULATIONS

On February 2, 2010 the Departments of Health and Human Services, Labor, and Treasury issued the Interim Final Regulations under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 ("the Regulations"). The following is a brief summary of some of the major provisions of the Regulations. You may find more information and a copy of the regulations at **www.dol.gov/dol/topic/health-plans/mental.htm#doltopics**.

Effective Date of the Regulations

The Regulations are effective for plan years beginning on or after July 1, 2010. For collectively bargained plans with collective bargaining agreements ratified before October 2, 2008, the Regulations are effective for plan years beginning after the later of July 1, 2010 or the date on which the collective bargaining agreements terminate.

Groups must comply with the Mental Health Parity and Addiction Equity Act of 2009 (the "Act") the first day of their plan year beginning on or after October 3, 2009. Please note the Regulations do **NOT** change your plan's effective date for compliance with the Act. The Departments of Health and Human Services, Labor and Treasury stated in the Regulations that they will take into account your good faith compliance with the Act prior to your plan's effective date for compliance with the Regulations.

Small Group Exemption

Employers who employ an average of no more than 50 full- and part-time (to include contract) employees on business days in the preceding calendar year do not have to comply with the Act.

HOWEVER, for purposes of this exemption, an employer means not only your company but also all other related companies, such as parent-subsidy companies and brother-sister companies. So, if both you and your related companies employ an average of more than 50 full- and part-time employees, including contract employees, on business days in the preceding calendar year, then your group health plan must comply with the Act.

General Parity Requirements for Financial Limitations and Quantitative Treatment Limitations

Under the parity requirements of the Act, group health plans must not impose more restrictive treatment or financial requirements on mental health and substance abuse (MH/SA) benefits than the "**predominant**" requirements that apply to "**substantially all**" medical and surgical benefits. The Act did not define the terms "predominant" or "substantially all". Under the Regulations, these terms are now defined as follows:

- **substantially all** – a particular financial or quantitative treatment limitation applying to at least two-thirds of all medical and surgical benefits in a particular class of benefits
- **predominant** – the level of such financial or quantitative treatment limitation that applies to more than one-half of the medical and surgical benefits in such particular class of benefits for that particular financial or quantitative treatment limitation

With these terms more clearly defined, in order to determine whether your group health plan complies with the Regulations, an actuarial analysis of the expected costs of medical and surgical benefits for the plan year must be performed which defines the plan's quantitative treatment limitations. After this actuarial analysis is performed, you then must apply the "substantially all" and "predominant" test. Unfortunately, the Regulations provide little assistance in how this actuarial analysis must be performed.

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When performing the actuarial analysis, additional complications exist because plans must separate all medical and surgical benefits into the following six classifications:

- Inpatient, in-network
- Inpatient, out-of-network
- Outpatient, in-network
- Outpatient, out-of-network
- Emergency care
- Prescription drugs

In addition to the actuarial analysis described above, the Regulations add a new requirement: if a plan provides MH/SA benefits in any of the above six classifications, the plan must provide MH/SA benefits in all classifications for which the plan provides medical and surgical benefits.

Special Parity Rules for Non-quantitative Treatment Limitations and Prescription Drugs

The Regulations clarify that parity must also apply to non-quantitative treatment limitations which are benefits that are not measurable by actuarial analysis. These benefits may include things such as medical management standards, pre-certification requirements and formulary design for prescription drugs. Generally, non-quantitative treatment limitations on mental health and substance abuse benefits must be comparable to and applied no more stringently than the non-quantitative treatment limitations on medical and surgical benefits.

Definition of "Plan"

For purposes of applying all parity requirements, all employer benefits options are considered as "one plan" when the employer offers a choice of medical options combined with a mental health and substance abuse benefit option.

No Separate Deductibles

The Regulations further clarify that separate deductibles and out of pocket maximums are prohibited, even if they are equal amounts.

Blue Cross and Blue Shield of Alabama's Plan of Action

We have analyzed the Regulations and, with the assistance of an independent company, have developed and applied a mathematical actuarial analysis to your benefit plan. All benefit changes that are required to comply with the Regulations have been made.