Implementation of the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008*: Next Steps for States

Virginia General Assembly's Joint Subcommittee Studying Substance Abuse Treatment and Prevention

Carol McDaid
Faces and Voices of Recovery
August 26, 2009

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

- On October 3, 2008, President Bush signed into law the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* as part of the financial rescue package (Public Law No. 110-343)

What Does Parity Mean?

- Under the new Act:
  - 149 million people will now have non-discriminatory addiction and mental health coverage under employer based plans, SCHIP and Medicaid
    - Including 82 million new individuals under ERISA plans who previously lacked parity protections as they are not covered by State parity laws

Insurance Equity

- Plans will not be mandated to offer addiction and mental health benefits BUT
  - Plans will have to provide benefits in a non-discriminatory manner
- What does this mean?
  - Co-pays, deductibles, day and visit limits, annual and lifetime caps and OON coverage on SUD & MH benefits must be the same as those on medical/surgical benefits

What Conditions are Covered?

- Plans can decide what MH/SUD conditions they cover
- BUT stronger state laws will NOT be preempted
  - For example, a state law requiring plans to cover all conditions in the DSM-IV is protected
- Weaker state laws will be preempted and must meet federal "floor"

Medical Management & Transparency

- Plans retain the right to manage the benefit as they see fit but management must be equal
- BUT plans will have to provide to plan participants and providers medical necessity terms and conditions and the reason for any denial

Regulatory Process

- Federal regulations due out by 10/3/09
- DOL, HHS & Treasury currently circulating draft regulation
- Agencies need to hear from Members of Congress
- Law goes into effect 1/1/2010 with or without regulations

Potential Benefits to States because of Parity

- Reduce cost shifting from private to public sector
- As access to Tx improves, BH conditions become medicalized, not criminalized
- As out of pocket spending drops, collateral costs from untreated addiction reduced
- Private investment in SUD market becomes more attractive; increase in innovations in Rx and devices
- Co-location of primary care and behavioral health

State Issues

State	Status	State	Status	State	Status	State	Status
Connecticut	Best	**Arkansas**	Limited	**N. Hampshire**	Limited	**Florida**	Mandate
Maryland	Best	**California**	Limited	**New Jersey**	Limited	**Michigan**	Mandate
Minnesota	Best	**Colorado**	Limited	**New York**	Limited	**Penn.**	Mandate
Vermont	Best	**Delaware**	Limited	**Ohio**	Limited	**Alaska**	Mandate
Oregon	Best	**Hawaii**	Limited	**Oklahoma**	Limited	**Georgia**	Mandate
Indiana	Good	**Illinois**	Limited	**S. Carolina**	Limited	**Miss.**	Mandate
Kentucky	Good	**Iowa**	Limited	**S. Dakota**	Limited	**Wisconsin**	Mandate
Maine	Good	**Louisiana**	Limited	**Tennessee**	Limited	**D.C.**	Mandate
N. Mexico	Good	**Mass.**	Limited	**Texas**	Limited	**Kansas**	Mandate
N. Carolina	Good	**Missouri**	Limited	**Utah**	Limited	**N. Dakota**	Mandate
Rhode Island	Good	**Montana**	Limited	**Virginia**	Limited	**Wyoming**	None
Washington	Good	**Nebraska**	Limited	**W. Virginia**	Limited	**Idaho**	*State employees only*
Arizona	Limited	**Nevada**	Limited	**Alabama**	Mandate		

SOURCE: MENTAL HEALTH AMERICA, JULY 2008

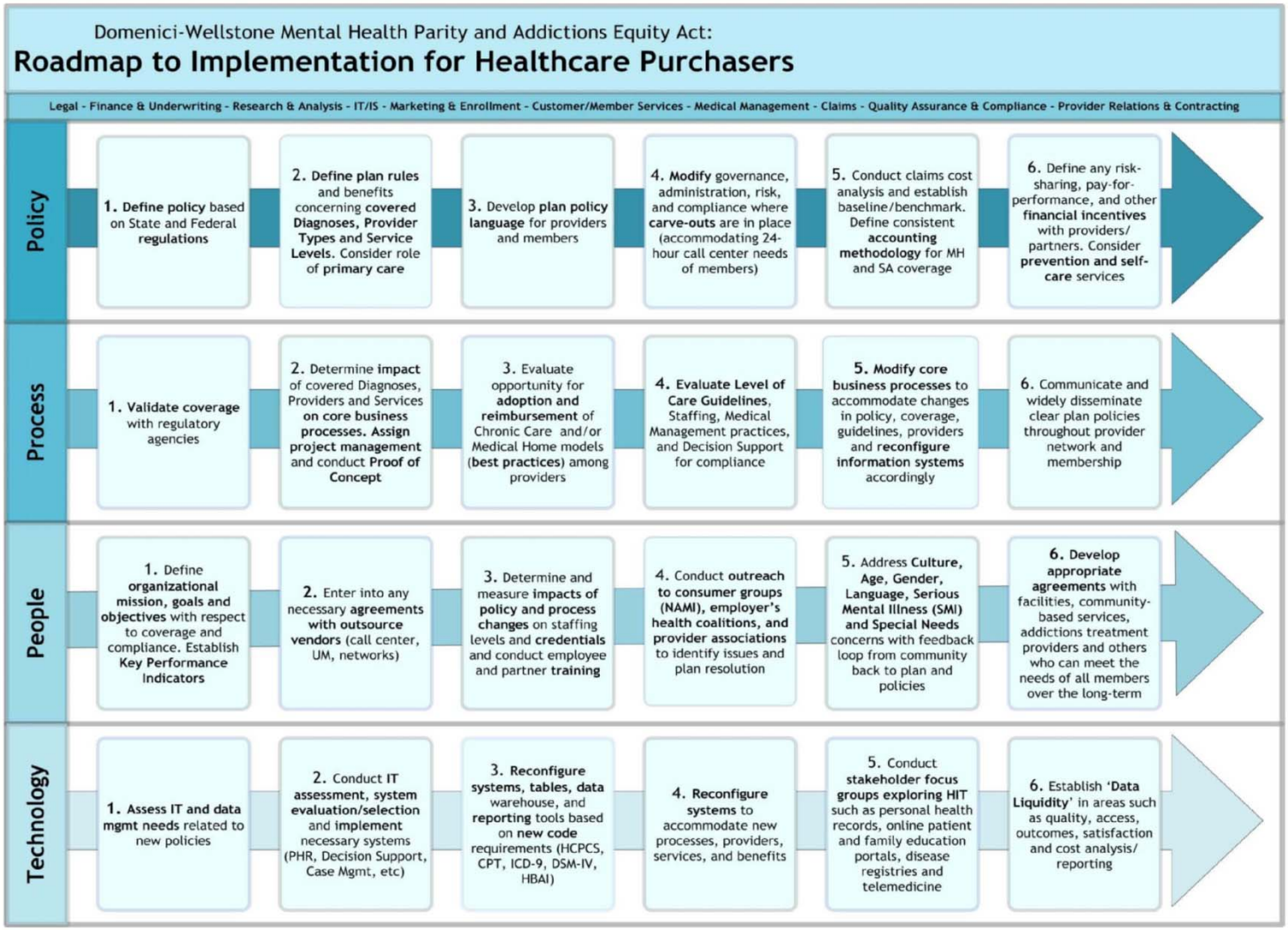
Best = Best parity and comprehensive equity (covers MH and SA, no exemptions)

Good = Good parity coverage (few exceptions or limitations)

Limited = Mostly applicable to specific populations such as serious mental illness SMI (listing 7-10 "biologically-based" disorders such as psychosis and bi-polar disorder) and can exclude SUDs. Often exempts employers with 50 or fewer employees

Mandate = State-mandated levels of coverage or benefit expressed in terms of financial limits and/or treatment constraints. Mandated coverage is often inconsistent with Parity.

State Issues Continued



Inclusion of SUD/MH in HCR

	Senate HELP Bill	Senate Finance Options Paper	House Tri-Committee Draft Bill
Parity Requirement	•Applies parity to all plans under the exchange	•Applies parity to all plans under the exchange	•Applies parity to all plans under the exchange
Inclusion of SUD/MH in Minimum Benefit Package	•Includes SUD/MH in the minimum benefit package	•Includes SUD/MH in the minimum benefit package	•Includes SUD/MH in the minimum benefit package
Workforce	•Does not meaningfully include SUD workforce •Includes MH workforce provisions	•Does not reference MH/SUD	•Energy & Commerce Committee added MH/SUD grants workforce provision
Prevention	•Includes SUD prevention at school-based health clinics •Does not include SUD prevention under community transformation grants •Includes tobacco prevention	•Includes tobacco prevention, but omits meaningful inclusion of SUDs	•Education & Labor Committee added SUD prevention & SBIRT provision •Energy & Commerce Committee added SAMHSA to list of agencies