

Mental Health Liaison Group

May 21, 2004

CC:PA:LPD:PR (Notice 2004-2)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

To Whom It May Concern:

The undersigned organizations, representing the diverse interests of the behavioral health community, are writing in response to IRS Notice 2004-23.

We strongly support the Department of Treasury's proposed inclusion of screening services for mental health and substance abuse as part of preventive care. Mental disorders are the second leading cause of disability and premature death in the country. Untreated mental illnesses cost businesses as much as \$79 billion annually in lost productivity and increased sick leave. Early detection and treatment holds great promise of reducing those costs.

We also believe that in cases where Employee Assistance Program (EAP) services are considered health care services then these services should be considered preventive in nature and should therefore be included in the safe harbor for "preventive care" benefits in high deductible health plans (HDHP), section 223(c)(2)(c).

EAPs are workplace based programs that have traditionally been provided at no cost to employees. EAPs provide employees and others residing in their household a means to identify and resolve a wide range of employee and employer concerns such as health, marital, family, financial, legal, safety and substance abuse (including drug free workplace), stress, and other personal issues. EAPs have had great success in the prevention of workplace violence, in critical incident stress debriefings and in assisting employees affected by corporate restructuring. The federal government's recognition of the importance and value of EAPs is demonstrated by its mandate that EAPs be offered to federal employees.

EAPs provide services that are substantially different from the services covered by traditional health plans. EAPs focus primarily on identification and assessment of an employee's issue or concern and identification and referral to the appropriate resource (be it an organization, facility or program) to assist the employee.

The choice should not have to be made between choosing an HSA or an EAP. The way to solve this problem is to recognize that EAP services constitute "preventive care" as defined in section 223.

We encourage the IRS to issue additional guidance establishing an explicit “preventive care” safe harbor for EAPs or issue some other type of exception for EAPs. Thank you for your attention to this important issue.

Sincerely,

American Academy of Child and Adolescent Psychiatry
American Association for Marriage and Family Therapy
American Association of Pastoral Counselors
American Association of Practicing Psychiatrists
American Counseling Association
American Group Psychotherapy Association
American Managed Behavioral Health Association
American Mental Health Counselors Association
American Psychiatric Association
American Psychiatric Nurses Association
American Psychological Association
American Psychotherapy Association
Anxiety Disorders Association of America
Association for the Advancement of Psychology
Association for Ambulatory Behavioral Healthcare
Bazelon Center for Mental Health Law
Clinical Social Work Federation
Depression and Bipolar Support Alliance
Eating Disorders Coalition for Research, Policy & Action
Ensuring Solutions to Alcohol Problems
Federation of Families for Children’s Mental Health
International Society of Psychiatric-Mental Health Nurses
Legal Action Center
Longview Associates, Inc.
NAADAC, The Association for Addiction Professionals
National Alliance for the Mentally Ill
National Association for Children’s Behavioral Health
National Association of Anorexia Nervosa and Associated Disorders -- ANAD
National Association of County Behavioral Health Directors
National Association of Mental Health Planning & Advisory Councils
National Association of School Psychologists
National Association of Social Workers
National Association of State Mental Health Program Directors
National Council for Community Behavioral Healthcare
National Council on Alcoholism and Drug Dependence
National Mental Health Association
Providence Health Systems
State Associations of Addiction Services
Therapeutic Communities of America
Tourette Syndrome Association