

# Mental Health Liaison Group

November 7, 1997

Dr. Franklin Raines  
Director  
Office of Management & Budget  
Old Executive Office Building, Room 252  
Washington, D.C. 20503

Dear Director Raines:

The undersigned members of the Mental Health Liaison Group (MHLG) – representing over 50 consumer, professional, provider, family and advocacy organizations – are writing you concerning federal regulations intended to implement the Mental Health Parity Act (MHPA) of 1996 (P.L. 104 - 204). In particular, we wish to address the 1 % exemption permitted under the law, which has generated so much controversy in the media.

The legislative history surrounding the passage of P.L. 104-204 demonstrates that the authors of the law – Sen. Pete Domenici (R-NM) and Sen. Paul Wellstone (D-MN) – intended this historic measure to apply to every health plan and employer in the United States not explicitly exempted in the wording of the statute itself. You may recall that after successfully offering a broader mental health parity amendment of the Kassebaum-Kennedy Health Insurance Portability and Accountability Act in April of 1996, Senators Domenici and Wellstone displayed great determination by amending an appropriations bill five months later with the compromise measure currently before you. In preparation for the September floor debate, the Congressional Budget Office estimated that the MHPA would increase private health insurance premiums by 0.16%.

As structured, the legislation is primarily designed to benefit people with severe mental illness and children with serious mental and emotional disturbances who experience extraordinary mental health expenditures, and as a result come up against a lifetime caps or annual reimbursement limits. The legislative history is replete with references to protecting these individuals against catastrophic losses by maintaining their private health insurance.

Given this legislative history, regulations intended to interpret the 1% exemption provisions should contain the following:

- 1.) Mandatory implementations of the MHPA for all the plans in 1998 – with exemption applications based solely upon 1998 actual cost data.
- 2.) A rigorous and fully public application process for an exemption for those rare circumstances in which an affected private sector entity is truly unable to comply with the MHPA.

We strongly oppose the proposal apparently considered by the Insurance Reform Implementation Task Force for a loosely structured or “informal” exemption process that essentially sanctions a form of self-declaration with respect to alleged premium escalations. This would significantly increase the popularity of the exemption overall. Indeed, a poorly structured process – particularly one shielded from public view – might become the preferred route by which large numbers of employers and health plans escape the MHPA’s requirements.

Similarly, a fully prospective application process, or one that permitted the exemption to be issued based on 1997 cost data, would encourage gaming and other devices to evade the law's requirements. In short, the Administration must avoid promulgating regulations that cause a replay of the 1996 legislative battle in which nondiscriminatory mental health benefits were subjected to wildly inaccurate actuarial projections.

President Clinton played a critical role in passing P.L. 104-204, and he has been a strong advocate for improving health insurance coverage for those Americans struggling with mental disorders. In the end, we are confident that the Administration will issue regulations that are consistent with congressional intent and the statute's clear meaning.

Sincerely,

American Academy of Child and Adolescent Psychiatry  
American Association for Marriage and Family Therapy  
American Association of Children's Residential Centers  
American Association of Private Practice Psychiatrists  
American Association Psychiatric Services for Children  
American Board of Examiners in Clinical Social Work  
American Counseling Association  
American Federation of State, County and Municipal Employees  
American Managed Behavioral Healthcare Association  
American Occupational Therapy Association  
American Orthopsychiatric Association  
American Psychiatric Association  
American Psychological Association  
Association for the Advancement of Psychology  
Association for Ambulatory Behavioral Healthcare  
Association of Behavioral Healthcare Management  
Bazelon Center for Mental Health Law  
Children and Adults with Attention Deficit Disorder  
Clinical Social Work Federation  
Corporation for the Advancement of Psychiatry  
Family Services America  
Federation of Families for Children's Mental Health  
International Association of Psychosocial Rehabilitation Services  
National Alliance for the Mentally Ill  
National Association for Rural Mental Health  
National Association of Protection and Advocacy Systems  
National Association of Psychiatric Health Systems  
National Association of Psychiatric Treatment Centers for Children  
National Association of Social Workers  
National Association of State Mental Health Program Directors  
National Council for Community Behavioral Healthcare  
National Depressive and Manic-Depressive Association  
National Mental Health Association

