

Mental Health Liaison Group

March 7, 2006

Dear Senator:

The undersigned organizations in the Mental Health Liaison Group are writing in opposition to the Health Insurance Marketplace Modernization and Affordability Act of 2005, S. 1955. All of our organizations share Chairman's Enzi's concern with taking action to address the needs of the many millions of uninsured Americans, but we believe this controversial legislation would on balance, do too much harm to the coverage of the many millions of Americans each year who require mental health care. Specifically, this bill would preempt state insurance laws, not just in the small group market (as is done by Association Health Plan legislation), but also in the individual and large group markets. S. 1955 would thwart years of state-level efforts to ensure that consumers have adequate health and mental health coverage.

S. 1955 would create a federal ceiling on consumer protections that would undermine carefully crafted protections offered to consumers in virtually every state. Most importantly, the bill would have the effect of repealing state laws that have been enacted to ensure that consumers have access to adequate mental health benefits. The bill would preempt state benefit, service and provider mandate laws that states have adopted to ensure that consumers have adequate health and mental health benefits.

- Under the Chairman's March 3, 2006 amendments, an insurer must meet only a single requirement – that offers wholly inadequate protection -- in order to bypass a state's mental health and other benefit protections. That is, the insurer must offer consumers, as an alternative to an even more limited health plan option, the option of a plan that resembles one offered to state employees in one of the five most populous states. As such, given the variability among applicable state offerings, beneficiaries could find themselves with only the most limited of mental health benefits (to include a high deductible plan with virtually no outpatient mental health coverage).
- This bill would sweepingly override the work of 39 state legislatures that have passed mental health parity laws aimed at preventing discriminatory coverage of mental health services, and in doing so, would leave residents of those states without the protection those laws have afforded them. And, 32 state minimum mental health benefit mandate or mandated offering laws would also be preempted. These laws ensure that consumers have some level of coverage should mental health disorders arise.
- Under this legislation, state incentives to enact laws in the future and be laboratories for healthcare innovation would be undermined because states would lose their ability to protect large segments of their own residents.
- For what is expected to become many millions of insureds covered under federally prescribed rating rules, S. 1955 also would preempt stronger state laws that limit the ability

of insurers to vary premiums based on health status, age, gender and geography. For many older and sicker residents, this would price them out of the health insurance market, undermining the very purpose of the legislation. Furthermore, The bill imposes on all the states an outdated model law created by the National Association of Insurance Commissioners (NAIC), rather than using the NAIC's current model standard that is more protective.

A bill that preempts over 1,000 state laws for millions of insureds warrants much closer review before it is moved quickly through the Health, Education, Labor and Pensions (HELP) Committee and considered on the Senate floor. There is no evidence how this bill will affect premiums across all insured groups or whether it will increase the number of Americans with adequate health insurance. As we have found through analysis of the federal AHP legislation, a proposal that purports to provide more affordable and expanded coverage sometimes can fail to do what it claims and even make existing access and cost problems worse.

While the sponsors of S. 1955 have made a sincere effort to address shortcomings of the AHP legislation, their solution would make things worse by endangering the quality of health and mental health care for the 68 million Americans in state-regulated group health plans and 16.5 million with individual coverage. We urge your opposition to this legislation.

Sincerely,

Cosigners:

Alliance for Children and Families
American Association for Geriatric Psychiatry
American Association for Marriage and Family Therapy
American Association of Practicing Psychiatrists
American Counseling Association
American Group Psychotherapy Association
American Psychiatric Nurses Association
American Psychoanalytic Association
American Psychological 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 Guild 49, OPEIU
Eating Disorders Coalition for Research, Policy & Action
Federation of Families for Children's Mental Health
National Alliance on Mental Illness
National Association of Anorexia Nervosa and Associated Disorders -- ANAD
National Association of Social Workers
National Disability Rights Network (formerly NAPAS)
National Mental Health Association
Suicide Prevention Action Network USA
Therapeutic Communities of America