COMMENTARY

The Mental Health Parity Act of 2008: Why It May Not Benefit Those Who Need It Most

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The Mental Health Parity Act of 2008 was signed into law in October 2008. Under the law, a company that provides mental health benefits as part of a company health plan must provide them at parity with coverage for physical health services. Any deductible, co-payment or treatment restriction applied to the cost of treating a mental illness must be equal to that applied to a physical illness.[4] While the law is a significant step forward, it has limited potential for helping those with severe mental disorders; the law excludes the homeless and unemployed, does not address the stigma associated with severe mental illness, and will benefit those with less severe mental illness more than those with severe mental illness. In order for the law to be effective in treating those with severe afflictions like schizophrenia and bipolar disorder, legislators must address the social stigma associated with severe mental illness.

INTRODUCTION

In a given year, 57 million people in the United States will suffer from a mental disorder. In fact, mental illness and addiction account for a higher percentage of lost work days than several common chronic physical conditions such as diabetes and asthma.[1] Although mental illness can cause great impairment, insurance companies have not historically covered mental illness to the same extent that they do physical illness; those who do suffer from mental illness are typically responsible for most of the co-pay or have to pay out of pocket.[2] During a 2002 Congressional hearing, New Jersey representative Marge Roukema aptly described the lack of insurance coverage for mental illness as analogous to "restricting diabetics so that they could not see their endocrinologists without enormous costs." [3]

Although the gap between mental and physical health has been longstanding, many advocates for mental illness have fought for equal treatment. Senator Paul Wellstone and Representative Pete Domenici championed the Mental Health Parity Act of 1996, which prevented annual and lifetime limitations on mental health coverage. David Wellstone, son of Paul Wellstone, continued his father's advocacy and was a significant proponent of the Mental Health Parity Act of 2008, which greatly expands upon its predecessor. The law establishes full parity between insurance coverage of mental and physical illness. The legislation is applied to companies with over 50 employees that offer mental health benefits. If a company meets these requirements, the law mandates that the company health plan must cover mental illness and addiction treatment to the same extent that it would cover physical and surgical health conditions. [4]

During an interview concerning the Mental Health Parity Act of 2008, David Wellstone stated that because of the law

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"there's going to be equality."[5] While the Mental Health Parity Act of 2008 will undoubtedly increase access to mental health care, it will not create equality between physical and mental illness. This is largely because the law may not be effective in providing treatment to those with more serious mental illnesses such as schizophrenia and bipolar disorder, for several reasons. The law does not apply to the homeless and unemployed, a consideration as severe mental illness is disproportionately high in the homeless population. In addition the law does not address the social stigma associated with severe mental illness or prevent discrimination towards those with mental illness. Furthermore, the economic principle of moral hazard in conjunction with the low occurrence of severe mental disorders in the workplace will skew a company's resources toward those with less severe mental illness. In order to be effective in treating the entire spectrum of mental illness, the law must address these concerns to truly achieve equality.

MISSING THE NEEDIEST DEMOGRAPHIC

When asked who will benefit from the law, proponent David Wellstone stated that the law "cuts across all lines, class lines: rich, poor, middle class, black, white, Asian, Hispanic,

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educated, non-educated […]".[5] While the law may greatly impact those seeking mental health treatments in the workforce, it disregards the unemployed and the homeless. A significant percentage of the homeless population suffers from severe mental illness and find it hard to pay for mental health care. According to the National Coalition for the Homeless, 6% of the general population suffer from a severe mental illness, whereas up to 25% of the homeless population suffer from a severe mental disorder.[6] More specifically, according to the US department of Housing and Urban development, 664,000 people are homeless per night and of that population 26.3% suffer from severe mental illness.[7] While some people are only briefly homeless, it is those with severe mental illness who tend to stay homeless. This specific population with severe disorders serves as an example of one of the worst possible outcomes when mental illness is not treated. Without treatment, those with severe mental illness cannot operate in daily life or fulfill their potential.[10] While the act does mark a significant step forward in the progression towards equality for the mentally ill, it does not encompass a significant sector of society that could greatly benefit from the law.

The stigma associated with severe mental illness and addiction would prevent many homeless and unemployed people from gaining employment and benefitting from the law in any considerable manner. For instance, those with schizophrenia are often seen as dangerous and unpredictable.[8] One study found that interviewers were less amiable and less likely to hire someone who had psychiatric hospitalization listed on their resume.[9] In fact, homelessness may be the consequence of an untreated mental illness or addiction.[10] David Wellstone has aptly commented that "a lot of that impact [of the law] is not even going to be seen cause again there's so much stigma attached to mental illness and addiction."[5] Severe mental disorders such as schizophrenia and bipolar disorder can greatly impair a person in everyday life, to the extent that it is virtually impossible for them to maintain a job while being treated for their illness.[10] As a consequence the law will not be effective in helping those with severe mental illness since attaining employment for those afflicted with these illnesses is difficult.

"A person with depression may feel more comfortable seeking help than a person with schizophrenia."

DISCRIMINATION WILL PREVENT PATIENTS FROM SEEKING HELP

The law will be ineffective in helping those with severe mental illness since it does not prevent the discrimination that the mentally ill experience, especially when seeking treatment. Namely, private insurance companies may deny coverage to a person because their mental illness could be classified as a preexisting condition.[11] In addition, many individuals with serious mental illness may not come forward fearing the repercussions if their current employers were to ever discover their disorder. [9] So while the law mandates coverage for those with any kind of mental illness, fear of discrimination may prevent them from seeking treatment. Furthermore, the law only applies to insurance plans that are company-based. Therefore a person could be diagnosed with a mental disorder as a result of seeking treatment through their company's insurance plan and then later not be able to obtain coverage through a private provider because their mental illness could be considered a preexisting condition. Many who suffer from severe mental illnesses are painfully aware of the stigma and stereotypes associated with them and therefore are very careful about divulging that they have a mental disorder. [9] Therefore those who suffer from severe mental illnesses like schizophrenia and bipolar disorder may not take advantage of the Mental Health Parity Act even if they are employed by a company required to comply with the law.

THE LAW WILL DISPROPORTIONATELY BENEFIT THOSE WITH LESS SEVERE MENTAL ILLNESS

Under the act, a company's resources are more likely to benefit those with less severe mental disorders than those with severe mental disorders like schizophrenia and bipolar disorder for three reasons. First, as a consequence of moral hazard the use of mental health services will increase. Richard Frank is an economist specializing in the mental health economics. He defines moral hazard as "the tendency for people to demand more services as the price they pay for services falls."[12] This phenomenon has been seen when companies expand their coverage of mental and physical health care; studies have shown that companies end up spending twice as much on mental health care than physical health care when the price of these services decreases.[12]

Second, severe disorders such as schizophrenia and bipolar disorder are rare in the workplace when compared to other disorders. Depression and anxiety disorders are typically less severe than schizophrenia and bipolar disorder since they are easier to treat. For example, major depressive disorder is encountered in the workplace at a rate of 6.4% where as bipolar disorder is only present in 1.1% of the working population.[13]

Third, general attitudes towards those with schizophrenia and bipolar disorder compared to those regarding depression differ greatly. People may harbor negative attitudes towards both depression and schizophrenia, but there is a difference in severity; while people often feel that depressed individuals are lazy and that they could easily do something about their disorder, schizophrenics are seen as dangerous.[8] Since the mentally ill are aware of the stigma surrounding their condition,[9] a person with depression may feel more comfortable seeking help than a person with schizophrenia. As a consequence the law will more strongly benefit those with depression and anxiety disorders because of the effects of moral hazard, the low prevalence of severe mental illness in the workplace, and the harsher discrimination towards those with severe mental illness.

MINIMIZING MENTAL HEALTH COSTS

Employee assistant programs argue that the Mental Health Parity Act can be enacted with minimal increase in

cost if conditions are treated early. Employee Assistant Programs (EAPs) are commercial entities that aid companies in delivering a variety of behavioral services, including mental health care.[14] ComPsych is an EAP that has successfully helped companies adopt the Mental Health Parity Act while decreasing costs. For instance, ComPsych helped a restaurant chain decrease overall behavioral health costs by 14.4% through its assistance. According to ComPsych, this was accomplished by treating the condition early in its progression and determining the appropriate level of treatment.[14] This argument is not applicable to severe mental illness as these disorders are typically chronic in nature and require lifelong treatment. For example, a long term study with 104 schizophrenic patients found that rate of relapse after an initial episode was 81.9%, despite antipsychotic drugs. If the patient discontinued their antipsychotic medication, their risk for relapse increased five times.[15] ComPsych also establishes a fixed number of sessions, which would not be effective in treating severe mental illness, as they often require lifelong treatment.[16] Mental disorders have strong biological components[17] and thus relapses into old patterns are likely to occur if treatment is only temporary. While preventative measures as modeled by EAPs can be used so that the mental health parity act will not increase costs, these strategies are not always applicable to those with severe mental illnesses.

NECESSARY CHANGES TO IMPROVE THE EFFECTIVENESS OF THE LAW

While the Mental Health Parity Act of 2008 will help many people suffering from mental illness, additional legislation concerning anti-discrimination and the scope of the law must be made for it to effectively help those with severe mental illness. The law has an economic focus, but in order for it to be effective, it needs to address the social aspects surrounding mental illness. For instance, the law must be amended to include anti-discrimination legislation; specifically it must prevent all insurance companies from characterizing mental illness as a preexisting condition. The law must also be expanded so that it aims to decrease the stigma surrounding mental illness within society. One option would include increasing awareness of mental illness through education. Schools could incorporate information about mental illness into the standard curriculum, allowing younger generations to accept mental illness and not propagate discriminatory attitudes. The law must also expand its scope so that it includes the homeless and unemployed demographics. Measures could include companies receiving tax discounts if they provide insurance for homeless people with severe mental disorders. Or perhaps companies could offer start up entry level positions to homeless people with severe mental disorders. Assuming these concerns would be addressed, it would provide a strong step towards true parity between mental and physical health coverage and bring significant upgrades in health benefits for so many in desperate need of aid outside of the current system.

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