

Wellstone Act's Effective Date For New Mental Health and Substance Use Disorder Parity Rules Clarified

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By:

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On December 23, 2008, President Bush signed into law a technical correction to the effective date of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the "Act"). Enacted on October 3, 2008, the Act established a requirement of full parity for mental health and substance use disorder benefits. For a full discussion of this legislation, see Littler's October 2008 ASAP, [Equal Mental Health and Substance Use Benefits Realized](#).

The amendment clarifies that the effective date of the Act for a group health plan maintained pursuant to a collective bargaining agreement between employee representatives and one or more employers ratified on or before October 3, 2008, is the later of: (a) the date on which the last collective bargaining agreement relating to the group health plan terminates (determined without regard to any extension to that agreement that is made after October 3, 2008); or (b) January 1, 2010.

As previously drafted, the Act contained a provision that could have been interpreted to have made collectively bargained plans subject to the provisions of the Act on the termination date of the collective bargaining agreement, which could be well before the October 3, 2009 effective date for non-collectively bargained group health plans (and the January 1, 2010 effective date for calendar year group health plans). As amended, the earliest date a collectively bargained plan will be subject to the Act is January 1, 2010.

The rest of the provisions of the Act with respect to collectively bargained plans remain intact, including the provision that provides that any amendment to a collective bargaining agreement made solely to conform to the Act will not be treated as a termination of that agreement. Plan sponsors are urged to review current plan designs with counsel to determine how best to comply with applicable provisions of the Act.

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