



COMMUNITY ADVOCATES  
**Public Policy Institute**

**Statement of**  
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**and**  
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**to the**  
**Clinical Advisory Committee on Health and Emerging Technologies (CACHET)**  
**Wisconsin Department of Health Services**

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Thank you for this opportunity to present our views on implementing the federal requirement to provide addiction and mental health services on a parity basis in Wisconsin's BadgerCarePlus Core plan.

We'd like to begin by thanking the Department, Governor Doyle, and the Wisconsin Legislature for creating BadgerCarePlus, and in particular the Core plan, in the first place. This innovative--indeed path-breaking--initiative puts Wisconsin in the forefront of expanding health insurance coverage to those who most urgently need it.

As you know, the recently enacted Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Division C, Title V, Subtitle B, Secs. 511-512 of the Emergency Economic Stabilization Act, H.R. 1424, P.L. 110-343) (Wellstone-Domenici), in concert with pre-existing federal Medicaid law, requires that, if a state's Medicaid program both provides coverage for substance use or mental health disorders and uses Medicaid managed care organizations (HMOs), then the HMOs must provide substance use and mental health disorder services in a way that is no more restrictive than the predominant financial and treatment limitations applied to substantially all medical and surgical services that are provided by the HMOs.

This federal requirement presents a challenge to dozens of Medicaid programs across the country. According to data provided by the Centers for Medicare and Medicaid Services (CMS), over 60% of all Medicaid participants in 2006 were enrolled in Medicaid managed care organizations, i.e., HMOs. In Wisconsin, CMS reports, the 2006 percentage of total Medicaid participants enrolled in HMOs was 47%; but for those enrolled in what we used to call "family" Medicaid—and now call BadgerCarePlus—the percent of enrollees in HMOs in 2006 was already well over 60%. In the three years since 2006, with the huge expansion of enrollment in BadgerCarePlus, the percentage in HMOs in Wisconsin has surely grown much higher.

What this means is that, across the United States as well as in Wisconsin, state Medicaid programs that include a substance use or mental health disorder benefit, and use HMOs, are

grappling with the challenge of how to comply with the Wellstone-Domenici requirement to provide substance use and mental health disorder services on a parity basis. We are not alone. But Wisconsin can be unique. Our challenge is, once again, to lead the nation.

For fiscally understandable reasons, when the Department initially proposed, the Governor and Legislature embraced, and CMS approved the Core plan, they did not include substance use or mental health disorder treatment parity. The program allows all other chronic illnesses to be treated under the supervision of a physician by a wide variety of providers—both doctors and non-doctors. But, the Core plan stipulates that substance use and mental health disorders alone may be treated only by psychiatrists.

Federal law, however, now requires that this unique restriction (which does not apply to either the Standard Plan or the Benchmark Plan—just the Core plan) must change. Wisconsin has three legal options:

- **Wisconsin could, in theory, altogether eliminate substance use and mental health disorder treatment under the Core plan and thus avoid parity.** In other words, Wellstone-Domenici allows Medicaid programs to entirely end substance use and mental health disorder treatment—and then, since there’s no benefit, there’s no need for Medicaid HMOs to provide parity. We assume, however, that no one in this room or this State wishes to *entirely* eliminate substance use or mental health disorder treatment from the Core plan, in which case Wellstone-Domenici applies and its parity requirements must be implemented by HMOs.

- **Alternatively, Wisconsin could stop using HMOs altogether.** Wellstone-Domenici’s parity requirements technically apply to Medicaid programs only to the extent that such programs use “Medicaid managed care organizations.” Wisconsin could abandon its long-standing policy of using HMOs for BadgerCare Plus (in other words, move from over 60% use of HMOs to 0% use of HMOs) and thus escape entirely from the requirements of the parity law. Again, we assume that—however the situation in Milwaukee County is resolved—nobody wants to eliminate *entirely* the Core plan’s use of HMOs, in which case parity is applicable to Core plan enrollees in HMOs.

- **The third option is to fully implement the federal parity requirement.** This means providing substance use and mental health disorder treatment to Core enrollees in HMOs (and, we would argue, to those also in fee-for-service settings) in a way that is no more restrictive than for medical and surgical services provided to, for example, accident victims, asthma patients, diabetes patients, cancer patients, or hypertension patients.

What does such Core plan parity mean? At minimum, it means that (1) the financial requirements, such as deductibles and copayments, and the treatment limitations applied to mental health or substance use disorder benefits under the Core plan be no more restrictive than the predominant financial requirements or treatment limitations applied to substantially all medical and surgical benefits covered by the plan; and (2) that there are no separate cost sharing or treatment limitation requirements applicable only to mental health or substance use disorder benefits.

But we believe parity should mean more, both as law and policy. When accident victims, asthma patients, diabetes patients, or cancer patients receive treatment, their doctors often issue orders for them to receive—and their HMOs pay for—treatment by non-physician providers, such as physical therapists, rehabilitation therapists, and so forth. **We believe that substance use and mental health disorder parity should mean that when a medical doctor (whether a psychiatrist or otherwise) concludes that a patient’s substance use or mental health disorder also requires treatment by non-physician providers and programs, the patient must also be able to obtain—and the HMO must also pay for—treatment from such non-physician providers and programs.**

In our view, it is not conceivable that the BadgerCarePlus Core plan can move from non-parity to parity, yet still limit patients to receiving care only from psychiatrists.

We recognize that complying with Wellstone-Domenici will increase spending on substance use and mental health disorder services. That, indeed, is one of the *reasons* why Congress enacted the law. Congress *wanted* Medicaid programs that were providing substance use and mental health disorder services through HMOs to spend more on these forms of treatment.

We also recognize that spending more through the Core plan on substance use and mental health disorder treatment creates a fiscal challenge for the State. For that reason, we are not recommending that either one of the Department’s two proposals—the \$31 million proposal or the \$10 million proposal—must be immediately implemented. The \$10 million proposal represents 2/10ths of 1 percent of the entire Medicaid budget. Viewed in that light, it hardly seems like a huge amount. But we recognize that, in today’s fiscal climate, even 2/10ths of 1 percent looks like a lot. We appreciate the need to increase spending under the Core plan for substance use and mental health disorder treatment in a measured way.

However, it is not compatible with Wellstone-Domenici for Wisconsin to move from non-parity to parity, while still providing substance use and mental health disorder treatment *only* through psychiatrists and continue spending exactly the *same* amount for such treatment. **We believe the Core plan must be modified so that, beginning on January 1, 2010, HMOs also begin to provide substance use and mental health disorder services delivered by non-physician providers and by well-managed substance use and mental health disorder programs. This, in turn, will require reasonable increases in Core plan spending for substance use and mental health disorder services.**

We note that DHS and CMS anticipated the possibility of such increased spending when CMS approved the State’s waiver last year. CMS stated that: “After implementation of the demonstration the State may add and/or expand the following services, as recommended by CACHET ... Additional mental health and substance abuse ...” CMS added that: “At implementation, coverage is limited to mental health therapy services provided by a psychiatrist only but coverage may be expanded to include outpatient mental health, outpatient substance abuse (including narcotic treatment), mental health day treatment, substance abuse treatment and inpatient hospital stays for mental health and substance abuse.” (See Attachment A)

We would also like to emphasize that having the Core plan cover non-physicians, and spend more for substance use and mental health disorder services, does *not* mean increasing *total* Medicaid spending. There is strong evidence that addiction treatment, which we're most familiar with, can greatly reduce total health spending, not to mention spending on incarceration and domestic violence, and increase in tax revenue. (See Attachment B) When addiction is treated effectively, for example, we can avoid millions of dollars in costs due to end-stage liver disease, brain deterioration and early dementia. As with most investments, the "return" on substance use and mental health disorder treatment is not immediate; it may take years to show up; but it is real, and can be accounted for using present value techniques.

Finally, there is another reason for the Core plan to expand coverage for substance use and mental health disorder treatment. One of the Department's recommendations, which we support, is to increase SBIRT expenditures by \$382,000. SBIRT stands for Screening, Brief Intervention, *Referral and Treatment*. It makes little sense to spend money on a program that will surely increase "referral and treatment" for substance use and mental health disorders and yet make zero additional options or resources available to actually provide substance use or mental health disorder treatment.

In conclusion: in advocating that the BadgerCarePlus Core plan comply with federal parity legislation, cover non-physician treatment of substance use and mental health disorders, and increase spending for such treatment, our fundamental message is about saving. Saving lives. Saving families. Saving the logic of SBIRT. And, we believe, saving money.

Thank you.

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