RICHARD BLUMENTHAL
CONNECTICUT

UNITED STATES SENATE
WASHINGTON, D.C. 20510

October 17, 2012

Mr. Gary Martin Cohen
Director
Center for Consumer Information
and Insurance Oversight
United States Department of Health
and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Cohen,

I am writing to you regarding an enforcement issue concerning the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 ("MHPAEA" or the "Parity Law") and the law's Interim Final Rules (the "IFR" or the "Rules"). This issue pertains to which entities have enforcement authority under MHPAEA and the IFR and the role of the states in the enforcement of MHPAEA and the IFR.

Specifically, I understand that there is substantive variability in states' understanding of their role in implementation and enforcement of MHPAEA and the IFR. Many states are declaring that they do not have the authority to enforce MHPAEA or the IFR and cannot act on any complaints regarding potential violations of the Parity Law or Rules. At least one state appears to be confused as to which federal authorities have the ability to enforce MHPAEA and the IFR; this confusion has resulted in plan participants being directed to the Department of Labor regarding fully insured, and not self-funded, health plans.

Clarification of this issue with the states is essential to ensure proper enforcement of the Parity Law and the Rules within their authority. Clarification is also necessary in the instance where a state has declared that it cannot enforce the Parity Law and the Rules. It is essential that states know their obligation in implementing and enforcing the Parity Law on fully insured plans.

In the absence of guidance, states' confusion is limiting patient access to the benefits promised to them under the Parity Law. Right now, in certain states, patients in fully insured plans have no ability to seek enforcement of MHPAEA and the IFR.

I ask that you formally communicate this information through directives, sub-regulatory guidance, or other means to each state to educate them about their role in the enforcement of MHPAEA and the IFR over fully insured plans in their state.

Thank you in advance for your time and consideration. Please contact Rachel Pryor with my staff at (202) 224-2823 with any questions.

Sincerely,

Richard Blumenthal
United States Senate