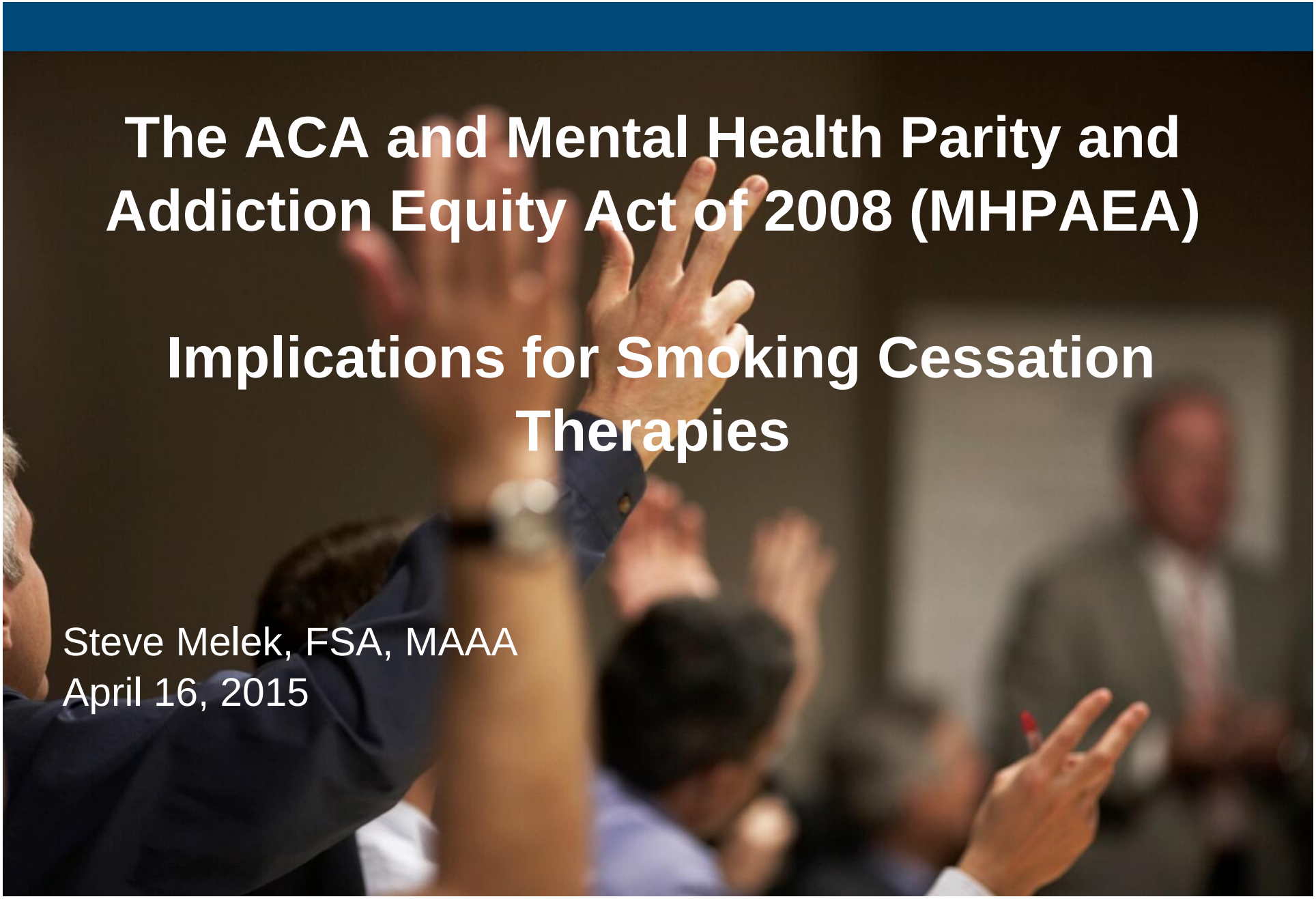

The ACA and Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)

Implications for Smoking Cessation Therapies

Steve Melek, FSA, MAAA
April 16, 2015

Milliman

Presentation Outline

- Background
- ACA Evidence-Based Preventive Services
- The Union of ACA and MHPAEA
- Federal Benefits leading by example
- ROI
- Conclusions

Background

- Health insurance carriers need to be in the business of providing smoking cessation coverage according to current healthcare policy

- Specifically, when you consider the Affordable Care Act (ACA) and Mental Health Parity and Addiction Equity Act (MHPAEA) together, plans actually have to offer pharmacotherapy as well as counseling

  http://www.ofr.gov/OFRUpload/OFRData/2013-02420_PI.pdf

  http://www.uspreventiveservicestaskforce.org/uspstf/grades.htm
  http://aspe.hhs.gov/health/reports/2013/mental/rb_mental.cfm
  http://www.gpo.gov/fdsys/pkg/FR-2010-02-02/pdf/2010-2167.pdf

- Enforcement is key to ensuring that health plans offer comprehensive smoking cessation treatment and there is already legal precedent

  http://behavioralhealthtoday.com/2013/05/05/first-mhpaea-lawsuit-a-win-for-those-with-mental-health-substance-abuse-disorders

ACA Evidence-Based Preventive Services

- ACA requires group and individual coverage to include “evidence-based items or services that have a rating of ‘A’ or ‘B’ in the USPSTF (US Prevention Services Task Force) recommendations”
- An ‘A’ grade means that is it a recommended service, and that there is high certainty of substantial benefit from implementing the service
- Tobacco cessation has an ‘A’ rating and includes both counseling and pharmacotherapy
- However it should be noted that ACA language does not clearly state that both counseling and pharmacotherapy are mandated
- Yet despite this lack of clarity, when the ACA and MHPAEA are viewed together, it is clear that both must be offered

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http://www.uspreventiveservicestaskforce.org/uspstf/grades.htm

http://aspe.hhs.gov/health/reports/2013/mental/rb_mental.cfm

http://www.gpo.gov/fdsys/pkg/FR-2010-02-02/pdf/2010-2167.pd

Essential Health Benefits (EHBs)

- Beginning in 2014, all non-grandfathered plans in both the individual and small group markets, Medicaid benchmark and benchmark-equivalent plans, and Basic health plans are required to cover EHBs, both for products on and off Health Benefit Exchanges.
- 1 of the 10 EHB categories is “mental health and substance use disorder services, including behavioral treatment”.
- ACA requires that EHB be equal in scope to benefits offered by a “typical employer plan”.
- Ten different state-specific benchmark plan options exist, chosen by either the state or the federal government (if state defers selection).
- To comply with EHB requirements for drugs, a plan must cover at least the greater of (1) 1 drug in every category of the USP Model Guidelines; and (2) the same number of drugs in each category and class as the chosen EHB-benchmark plan.

ACA, Section 1302.

https://s3.amazonaws.com/public-inspection.federalregister.gov/2013-04084.pdf

http://cciio.cms.gov/resources/files/issuer-letter-3-1-2013.pdf

The Union of ACA and MHPAEA

- The Final Rules for MHPAEA require a health plan that covers a Mental Health/Substance Abuse disorder in 1 of 6 defined benefit classifications to also provide coverage in all 6 of them where medical/surgical benefits exist.
- The 6 classifications are 1) in-network inpatient, 2) in-network outpatient, 3) out-of-network inpatient, 4) out-of-network outpatient, 5) emergency care, and 6) prescription drugs.
- So, even if only tobacco cessation counseling is covered (which may be the case given current lack of clarity in ACA language which references “tobacco cessation intervention”), plans still must provide coverage for tobacco cessation in all 6 classes, including pharmacotherapy

http://www.gpo.gov/fdsys/pkg/FR-2010-02-02/pdf/2010-2167.pdf

The FAQ on Tobacco Use

Q5: The USPSTF recommends that clinicians ask all adults about tobacco use and provide tobacco cessation interventions for those who use tobacco products. What are plans and issuers expected to provide as preventive coverage for tobacco cessation interventions?

Plans may use reasonable medical management techniques to determine the frequency, method, treatment, or setting for a recommended preventive service, to the extent not specified in the recommendation or guideline regarding that preventive service. Evidence-based clinical practice guidelines can provide useful guidance for plans and issuers.[13] The Departments will consider a group health plan or health insurance issuer to be in compliance with the requirement to cover tobacco use counseling and interventions, if, for example, the plan or issuer covers without cost-sharing:

- Screening for tobacco use; and,
- For those who use tobacco products, at least two tobacco cessation attempts per year. For this purpose, covering a cessation attempt includes coverage for:
  - Four tobacco cessation counseling sessions of at least 10 minutes each (including telephone counseling, group counseling and individual counseling) without prior authorization; and
- All Food and Drug Administration (FDA)-approved tobacco cessation medications (including both prescription and over-the-counter medications) for a 90-day treatment regimen when prescribed by a health care provider without prior authorization.

Enforcement of MHPAEA Rules

- In early May 2013, the United States District Court for the District of Vermont became the first court in the country to interpret MHPAEA, and that decision was favorable to insured members that need mental health and substance use services.
- The court found that health plan administrators bear the burden of establishing why mental health and substance use disorder benefits would be treated differently from medical benefits based on divergent clinical standards.
- There have also been additional lawsuits filed in two federal courts regarding MHPAEA noncompliance – one in New York against United Health Group and one in Connecticut against Anthem/Wellpoint.

http://behavioralhealthtoday.com/2013/05/05/first-mhpaea-lawsuit-a-win-for-those-with-mental-health-substance-abuse-disorders

*www.psychiatry.org/.../Advocacy%20and%20**New**sroom/.../13-50-APA*

Leading by Example – Federal Benefits

- Two letters were sent to FEHBP carriers in 2010 which defined the Office of Personnel Management's expectations regarding smoking cessation benefits and programs.
- The letters stated that carriers must offer comprehensive smoking cessation programs without any limits or member cost-sharing.
- Kathleen Sebelius and Howard Koh (DHHS) co-authored an article that included "since tobacco dependence and obesity represent substantial health threats, the ACA addresses these challenges in a number of ways".
- Grandfathered plans do not have to conform to the preventive requirements of ACA, yet do have to comply with MHPAEA.

http://www.cdc.gov/features/quitsmoking/
http://www.nejm.org/doi/full/10.1056/NEJMp1008560

Return on Investment

- Milliman was commissioned by the American Legacy Foundation to develop a case for employers for covering smoking cessation as a health benefit
- The PMPM costs ranged from a low of $0.02 for the Quitline only, with an estimate of 3% of smokers starting the program, to $0.45 per member per month for a comprehensive benefit design
- The report also included projections of short term medical cost savings to a health plan of $213 in year 1, up to $1,096 in year 5 due to an arithmetic increase in savings for several years. This suggests that the program costs can be recovered in savings in 2-3 years.
- A study of health plan and employer smoking cessation efforts conducted by American Health Insurance Plans (AHIP) and the Kaiser Permanente Center for Health Research found that health plans investing $35-$410 per participant in a one-year program generated a positive ROI within 3 years

Conclusions

- When the ACA and MHPAEA are considered together, coverage for tobacco dependence must be comprehensive in order to comply with both pieces of legislation – some, or all, of which must be provided at no member cost sharing
- Benefit plan designs should be carefully reviewed to make sure that parity requirements are being met for tobacco cessation benefits
- Essential health benefits should be reviewed to ensure proper coverage of mental health and substance use disorder services, including behavioral treatment, for products sold both on and off Health Benefit Exchanges

What To Do

- Review your benefit plan designs and identify the specifications for tobacco use coverage, including quantitative and nonquantitative details
- Remove any quantitative limits that are non-compliant with MHPAEA (e.g. quit attempt limits, counseling limits)
- Determine if your Rx coverage for tobacco use is at least as good as your state benchmark plan; if not, the formulary needs to be changed
- Remove any nonquantitative treatment limits that may be non-compliant with MHPAEA (e.g. step therapies for Rx, concurrent counseling requirements)
- Talk to your lawyers and consultants about any non-compliant issues

Contact

steve.melek@milliman.com
Milliman
1400 Wewatta St.
Suite 300
Denver, CO 80202
303/672-9093