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From: Jeffrey Barkin, M.D., President
cc/ Gordon Smith, Esq., Interim Executive Director
Re: L.D. 882, An Act To Limit Health Care Mandates and its impact on mental health parity
Date: Feb. 1, 2012

The 125th Legislature is currently considering L.D. 882 noted above. While preliminary votes have taken place in the Joint Standing Committee on Insurance and Financial Affairs, the bill technically is still in the committee process but is likely to be scheduled for floor votes within the next ten days. The preliminary votes in the Committee, which is likely to be the final vote, was 8 to 5 Ought to Pass on a strictly partisan basis with each Republican voting to support the bill and each Democrat opposing it. MAPP opposes this bill for the reasons set forth below.

In essence, the amended version of the legislation changes Maine's insurance laws to state that carriers are not required to offer a health plan in Maine after Jan. 1, 2014 that exceeds the minimum essential benefits package determined in accordance with federal law. Because of recent developments in federal law, passage of this bill could jeopardize the state existing mental health parity law.

L.D. 882 was introduced last session but was carried over to await federal guidance on the minimum essential benefits package. The guidance was issued on Dec. 16, 2011 with comments being submitted until Jan. 31, 2012. In this guidance, HHS indicated an intention to have the essential benefit package required by the Affordable Care Act be defined using a benchmark approach BY EACH STATE. States would have the flexibility to select a benchmark plan that reflects the scope of benefits offered by "typical employer plan." If a state chooses not to select a benchmark, HHS intends to propose that the default benchmark will be the small group plan with the largest enrollment in the State.

While the ACA specifies that mental health and substance use disorder services, including behavioral health treatment, be included as one of the ten benefit categories that must be included in the essential health benefits, the coverage would not have to be at parity with other medical treatment if the benchmark selected by the state did not include mental health parity. And while some of the potential benchmark plans are consistent with the current mandate, others are not. Further complicating this situation is the confusion over how the benchmark plan for Maine will be selected.

So the bottom line seems to be as follows: If Maine selects a plan with the existing mental health mandate as the benchmark, enactment of L.D. 882 would have no impact. But if a plan is selected which does not contain the existing mandate, the bill would have the effect of destroying the guarantee of mental health benefits that MAPP, NAMI and many other groups and family members worked so hard to achieve.

It is important for MAPP to join NAMI-Maine and many other organizations in advocating the defeat of L.D. 882. It will be difficult to achieve, because of the current toxic, partisan environment at the State House. But please join me in communicating with legislators the message that passage of L.D. 882 may result in the loss of mental health parity benefits and the serious adverse impact this would have on your patients. Thank you for all you do for the MAPP and the patients of Maine.

Sincerely,

Jeffrey S. Barkin, MD
President

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