

New Federal Law Provides Equal Treatment for Mental and Addiction Disorders

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During his time in the United States Congress Representative Patrick Kennedy wrote and passed the most important federal law in the history of mental and addiction disorders, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA).

The law applies to employers with 50 or more workers whose group health plan chooses to offer mental health or substance use disorder benefits. MHPAEA requires that any group health plan that includes mental health and substance use disorder benefits ensure that the benefits offered are treated in the same way as medical and surgical coverage in terms of out-of-pocket costs, benefit limits and practices such as prior authorization and utilization review. Recently, the federal agencies entrusted with the implementation of the MHPAEA, the Departments of Labor, Health and Human Services and Treasury issued regulations to help insurers and employers comply with the law.

These regulations go into great detail regarding how mental and addiction disorders are to be treated by health plans, and the good news is these rules should make access to necessary services easier to obtain for millions of Americans. To reiterate, group health plan coverage for mental health or substance use disorders can have no greater financial requirements or treatment limitations (i.e., number of visits, days of coverage) than the predominant requirements applied to substantially all medical/surgical benefits. And if the plan has out-of-network coverage for medical and surgical benefits, it must also have out-of-network coverage for its mental health and substance abuse disorder benefits.

The regulations also require plans to operate a single deductible for mental health and medical/surgical coverage. This is an important provision as patients with mental illness often have general medical conditions that require treatment at the same time. In such cases, separate deductibles prevent access to mental health treatment. Plans are required to make their medical necessity requirements for mental health and substance use treatment available upon request. Your plan must

also tell you the reasons for any payment denials, and do so in a timely fashion.

If state or local laws require more complete coverage for mental health and substance use disorders than the Mental Health Parity and Addiction Equity Act does, then the state or local laws will not be preempted by the federal law. In states that have weaker parity laws (or none at all), the federal law will prevail. You will want to consult your benefit guide from your insurer to understand both your medical/surgical benefits and your mental and substance use benefits. Going forward, your insurer will need to treat these classes of benefits the same way.

If you think that your insurer has violated your rights, you can bring a suit based on alleged violation of the statute that occurred on or after October 3, 2009—the date the Act became effective. However, if the beneficiary's suit is based on a claim that the plan improperly implemented the regulations, the beneficiary would likely have to wait to bring such a suit until July 1, 2010—the date the regulations become effective.

For more information, please consult: the National Council's MHPAEA fact sheet:
http://www.thenationalcouncil.org/galleries/policy-file/Parity%20Fact%20Sheet_National%20Council.pdf

For information on how to file an ERISA complaint call the Department of Labor (DoL)/EBSA at 1.866.444.3272 or view their site at <http://www.dol.gov/ebsa/> ✓

With more than 15 years experience in behavioral healthcare, Charles Ingoglia has worked as a provider, advocate, and educator for government and public sector organizations. In his current role as Vice President, Public Policy for the National Council for Community Behavioral Healthcare, Mr. Ingoglia directs the federal affairs function of the nonprofit trade association as well as its policy and technical assistance outreach to more than 1,700 member organizations across the nation. Most recently, his efforts have centered on key issues such as parity, healthcare reform, and increasing access and retention in community behavioral healthcare. www.TheNationalCouncil.org.