



Regulatory Update

MHPAEA Guidance Provided by DOL

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Introduction

Guidance has been provided by the US Department of Labor (DOL) regarding how health plans could violate provisions of the Mental Health Parity and Addition Equity Act of 2008 (MHPAEA). Specific examples have been provided by the DOL which can be used to determine if further analysis and confirmation of compliance is required. If any of the following plan provisions relating to coverage of mental health or substance use disorder are currently in force, further investigation is required:

Preauthorization & Pre-Service Notification Requirements

Blanket Preauthorization Requirement: Plan/insurer requires preauthorization for all mental health and substance use disorder services.

Treatment Facility Admission Preauthorization: Plan/policy states that if the insured is admitted to a mental health or substance abuse facility for non-emergency treatment without prior authorization, insured will be responsible for the cost of services received.

Plan states that for inpatient mental health precertification is required.

Plan requires pre-notification or notification ASAP for non-scheduled MH/SUD admissions and reduces benefits 50% percent if pre-notification is not received.

Plan requires preauthorization for all inpatient and outpatient treatment of chemical dependency and all inpatient and outpatient treatment of serious mental illness and mental health conditions.

Plan requires preauthorization or concurrent care review every 10 days for MH/SUD services but not for med/surg services.

Medical Necessity Review Authority: Plan's/insurer's medical management program (precertification and concurrent review) delegates its review authority to attending physicians for med/surg services but conducts its own reviews for MH/SUD services.

Prescription Drug Preauthorization: Plan/insurer requires preauthorization every three months for pain medications prescribed in connection with MH/SUD conditions.

Extensive Pre-Notification Requirements: Plan/insurer requires pre-notification for all mental health and substance use disorder inpatient services, intensive outpatient program treatment and extended outpatient treatment visits beyond 45-50 minutes.



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Fail-First Protocols

Progress Requirements: For coverage of intensive outpatient treatment for MH/SUD, the plan/insurer requires that a patient has not achieved progress with non-intensive outpatient treatment of a lesser frequency.

Treatment Attempt Requirements: For inpatient SUD rehabilitation treatment plan/insurer requires a member to first attempt two forms of outpatient treatment, including the intensive outpatient, partial hospital, outpatient detoxification, ambulatory detoxification or inpatient detoxification levels of care.

For any inpatient MH/SUD services, the plan/insurer requires that an individual first complete a partial hospitalization treatment program.

Probability of Improvement

Likelihood of Improvement: For residential treatment of MH/SUD, the plan/insurer requires the likelihood that inpatient treatment will result in improvement.

Plan/policy only covers services that result in measurable and substantial improvement in mental health status within 90 days.

Written Treatment Plan Required

Written Treatment Plan: For MH/SUD benefits, plan/insurer requires a written treatment plan prescribed and supervised by a behavioral health provider.

Treatment Plan Required within a Certain Time Period: Plan/insurer requires that within seven days, an individualized problem-focused treatment plan be completed, including nutritional, psychological, social, medical and substance abuse needs to be developed based on a complex bio-psychosocial evaluation. Plan needs to be reviewed at least once a week for progress.

Treatment Plan Submission on a Regular Basis: Plan/insurer requires that an individual-specific treatment plan will be updated and submitted, in general, every 6 months.

Other

Patient Non-compliance: Plan/policy excludes services for chemical dependency in the event the covered person fails to comply with the plan of treatment, including excluding benefits for MH/SUD services if a covered individual ends treatment for chemical dependency against the medical advice of the provider.

Residential Treatment Limits: Plan/policy excludes residential level of treatment for chemical dependency.



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Geographical Limitations: Plan/policy imposes a geographical limitation related to treatment for MH/SUD conditions but does not impose any geographical limits on med/surg benefits.

Licensure Requirements: Plan/policy requires that MH/SUD facilities be licensed by a State but does not impose the same requirement on med/surg facilities.

For More Information

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