Date:  (insert)

Member Name: (insert)

Member ID: (insert)

Subject: Appeal of improperly denied nutrition counseling claims

This is a formal appeal of denied service dates (insert all denied dates) for nutrition counseling (CPT 97802 and 97803) for my eating disorder (ICD-10-CM code F50.[insert complete diagnosis code]). The denial reason given is (insert denial reason here, e.g. only 3 visits are allowed per year). This does not comply with the legal requirements of the Mental Health Parity and Addiction Equity law (MHPAEA) and violates my right to coverage.

The Plan’s limitations on Eating Disorder MNT have no lawful basis and should be immediately stopped. This is a medically necessary, standard, primary treatment by a qualified practitioner so there is no basis for denial (See Appendix A for references).

Because my insurance policy is required to cover outpatient mental health benefits that are medically necessary, this denial is violating my right to the coverage promised (See Appendix B for references). Regulatory agencies have already affirmed my right to this coverage in both clarifications to the law and in court (See Appendix C for references).

Eating disorders are recognized as mental health conditions by the law. Treatment for mental health conditions are mental health benefits even when delivered by a medical provider such as a registered dietitian.

This plan’s stated visit limit on nutrition counseling is prohibited disallowed by MHPAEA because:

1. The standard of care for eating disorder nutrition counseling in the outpatient classification is not insert here the visit limit number they gave you, it is one visit per week, i.e. 52 visits per year, unless determined to be needed more or less often by the provider.
2. An insurer cannot create their own standard of care for service that is arbitrary or not supported by generally accepted independent medical standards of care. A insert here the visit limit number they gave you-visit lifetime limit has no basis in medical or scientific standards and is arbitrarily created with no evidence or explanation.
3. Standards of care for medical conditions may not be applied to mental health conditions.
4. Nutrition counseling is *the primary treatment* for eating disorders in the outpatient classification and therefore medically necessary as long as the eating disorder diagnosis is in place.
5. The plan does not require additional information to prove that the primary standard treatment for medical conditions are medically necessary, therefore doing so for the primary treatment for eating disorders is imposing an additional burden and is not allowed. I have already (insert what you have done: made multiple calls, my dietitian has made multiple calls, had to cancel medically necessary appointments, etc.) which has already violated my rights to the coverage for which I have paid and am entitled to.

To remedy this mistake, these are my requests:

1. Reverse this improper denial of coverage and immediately process for payment the denied claims for nutrition counseling for the dates of service referenced above and any additional service dates subsequently denied.
2. Communicate this change to your claims processing department so that my future claims are processed without error or need for intervention by me or my dietitian.
3. Send me written notification that the visit limit on my nutrition counseling has been revoked and supply a revised policy document or addendum to my current policy that weekly nutrition counseling for my eating disorder is and will be covered as long as it’s medically necessary in accordance with the law.
4. Retroactively reprocess and approve for payment any previously denied claims for eating disorder nutrition counseling for all other individuals affected by this same improper plan limitation in any location who have been denied their medically necessary and legally-entitled nutrition counseling care, whether or not those individuals have appealed those improper decisions.
5. Provide copies of all documents, records, and information used to determine the denial of care for my eating disorder nutrition counseling as I am entitled to receive by law, including but not limited to: any clinical guidelines or policies applied in the decision, the specific reasons for the denial, the qualifications of the individual(s) who reviewed the case.
6. Forward my entire complaint to the Plan’s Third Party Administrator (not to the Plan Administrator).

I will expect your response within the legally required timeframe of 30 days from the date of receiving this request. If you need any additional information to process this request, please alert me immediately at [YOUR EMAIL ADDRESS].

Thank you for your immediate attention.

Sincerely,

[Insert your name]

cc: Dietitian’s Name and practice

Appendix A. Standard of Care References for Weekly Nutrition Counseling provided by a Registered Dietitian in the Outpatient Level of Care

|  |  |
| --- | --- |
| **REFERENCE** | **SOURCE** |
| “Medically Necessary services are:   * provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease; and except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes; * **necessary for and appropriate to the diagnosis**, treatment, cure, or relief of a health condition, illness, injury, disease or its symptoms; * **within the generally accepted standards of medical care in the community**; * not solely for the convenience of the insured, the insured’s family or the provider.” | National Association of Insurance Commissioners |
| "Nutrition counseling is most effectively provided **on a weekly basis** for new-onset patients as well as for those patients with chronic eating disorder diagnoses… Anorexic patients who require weight restoration may benefit from more frequent than once weekly sessions, especially if the patient is an adolescent or child…. The first three sessions [of nutrition counseling for eating disorders] are necessary to obtain background information, to gain an understanding of [the patient’s] situation and to establish treatment goals. Additional sessions are required for implementation and monitoring of treatment goals." | Nutrition Counseling in the Treatment of Eating Disorders, 2nd ed. Herrin & Larkin, 2012. Routledge. |
| “Medical Nutrition Therapy provided by a Registered Dietitian is an empirically supported component of effective treatment…. For individuals treated in an outpatient setting, careful monitoring is essential and includes **at least weekly** weight determinations.” | The American Psychiatric Association Practice Guideline for the Treatment of Patients With Eating Disorders. 2023, American Journal of Psychiatry. |
| “When a patient steps down from more intense levels of treatment, it is recommended that the patient see the outpatient eating disorder dietitian **at least once a week**. As the patient improves, the frequency of the sessions will vary.” | The Certified Eating Disorder Registered Dietitian in Eating Disorder Care, The International Association Eating Disorder Professionals. |
| “Outpatient Care Description: Individual appointments with care providers in their offices. Time commitment: Varies, e.g. **1-2 hours per week with each provider**” | The Eating Disorders Clinical Pocket Guide, 2nd Edition. 2013, Jessica Setnick |
| “**Medical Nutrition Therapy is a vital component in treating eating disorders** and is encouraged during a person's entire treatment.” | Nutrition Therapy for Eating Disorders. 2010, American Society for Parenteral and Enteral Nutrition. |
| “Eating disorders require a high level of acuity as well as significant nutrition intervention and frequent monitoring. **It is commonly accepted in our profession that patients with eating disorders may require more of a Registered Dietitian’s time than patients with other diagnoses**, regardless of treatment setting or level of care.” | Academy of Nutrition & Dietetics Pocket Guide to Eating Disorders, Second Edition. 2017, Jessica Setnick. |
| “Nutrition intervention, including **nutritional counseling by a registered dietitian, is an essential component of team treatment of patients with anorexia nervosa, bulimia nervosa, and other eating disorders (EDs)** during assessment and treatment across the continuum of care.” | Position of the American Dietetic Association: Nutrition Intervention in the Treatment of Eating Disorders. 2011, Journal of the Academy of Nutrition & Dietetics. |
| “**Research finds Medical Nutrition Therapy to successfully change behaviors** in those with anorexia and bulimia in inpatient and outpatient settings.” | Eating Disorders: Current Nutrition Therapy and Perceived Needs In Dietetics Education And Research. 2003, Journal of the American Dietetic Association. |

 Appendix B: How Visit Limits for Eating Disorder Nutrition Counseling Violate the Law

|  |  |  |
| --- | --- | --- |
| **POLICY VISIT LIMITS VIOLATE THIS STANDARD** | **MHPAEA VIOLATION** | **SOURCE** |
| “Eating disorders, such as anorexia nervosa, bulimia nervosa, and binge-eating disorder, are mental health conditions under generally recognized independent standards of current medical practice… Therefore, benefits for treatment of eating disorders are mental health benefits for purposes of MHPAEA and may not be defined as medical/surgical benefits under a plan or coverage.” | **USING A MEDICAL QTL FOR A MENTAL HEALTH CONDITION** | Requirements Related to the Mental Health Parity and Addiction Equity Act, 2024 Federal Register Vol. 89, No. 184, Rules and Regulations. |
| “Nutrition counseling is the primary treatment for eating disorders in the outpatient, in-network classification and [because] the plan generally provides benefits for the primary treatments for medical conditions and surgical procedures in the outpatient, in-network classification… by not providing benefits for nutrition counseling, it fails to provide meaningful benefits for the treatment of eating disorders in the outpatient, in-network classification, as determined in comparison to the benefits provided for medical/surgical conditions in the classification.” | **FAILS MEANINGFUL BENEFITS TEST** | Requirements Related to the Mental  Health Parity and Addiction Equity Act, 2024 Federal Register Vol. 89, No. 184, Rules and Regulations. |
| “Medically Necessary services are:  provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease; and except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes;  necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease or its symptoms;  within the generally accepted standards of medical care in the community;  not solely for the convenience of the insured, the insured’s family or the provider.” | **FAILS MEANINGFUL BENEFITS TEST/FAILS NQTL TEST** | National Association of Insurance Commissioners |
| "Nutrition counseling is most effectively provided on a weekly basis for new-onset patients as well as for those patients with chronic eating disorder diagnoses… Anorexic patients who require weight restoration may benefit from more frequent than once weekly sessions, especially if the patient is an adolescent or child…. The first three sessions [of nutrition counseling for eating disorders] are necessary to obtain background information, to gain an understanding of [the patient’s] situation and to establish treatment goals. Additional sessions are required for implementation and monitoring of treatment goals." | **FAILS QTL TEST** | Nutrition Counseling in the Treatment of Eating Disorders, 2nd ed. Herrin & Larkin, 2012. Routledge. |
| “Medical Nutrition Therapy provided by a Registered Dietitian is an empirically supported component of effective treatment…. For individuals treated in an outpatient setting, careful monitoring is essential and includes at least weekly weight determinations.” | **FAILS QTL TEST** | The American Psychiatric Association Practice Guideline for the Treatment of Patients With Eating Disorders. 2023, American Journal of Psychiatry. |
| “When a patient steps down from more intense levels of treatment, it is recommended that the patient see the outpatient eating disorder dietitian at least once a week. As the patient improves, the frequency of the sessions will vary.” | **FAILS QTL TEST** | The Certified Eating Disorder Registered Dietitian in Eating Disorder Care, The International Association Eating Disorder Professionals. |
| “Outpatient Care Description: Individual appointments with care providers in their offices. Time commitment: Varies, e.g. 1-2 hours per week with each provider” | **FAILS QTL TEST** | The Eating Disorders Clinical Pocket Guide, 2nd Edition. 2013, Jessica Setnick |
| “Eating disorders require a high level of acuity as well as significant nutrition intervention and frequent monitoring. It is commonly accepted in our profession that patients with eating disorders may require more of a Registered Dietitian’s time than patients with other diagnoses, regardless of treatment setting or level of care.” | **FAILS QTL TEST** | Academy of Nutrition & Dietetics Pocket Guide to Eating Disorders, Second Edition. 2017, Jessica Setnick. |
| “Medical Nutrition Therapy is a vital component in treating eating disorders and is encouraged during a person's entire treatment.” | **FAILS NQTL TEST** | Nutrition Therapy for Eating Disorders. 2010, American Society for Parenteral and Enteral Nutrition. |
| “Nutrition intervention, including nutritional counseling by a registered dietitian, is an essential component of team treatment of patients with anorexia nervosa, bulimia nervosa, and other eating disorders (EDs) during assessment and treatment across the continuum of care.” | **FAILS NQTL TEST** | Position of the American Dietetic Association: Nutrition Intervention in the Treatment of Eating Disorders. 2011, Journal of the Academy of Nutrition & Dietetics. |
| “Research finds Medical Nutrition Therapy to successfully change behaviors in those with anorexia and bulimia in inpatient and outpatient settings.” | **FAILS NQTL TEST** | Eating Disorders: Current Nutrition Therapy And Perceived Needs In Dietetics Education And Research. 2003, Journal of the American Dietetic Association. |
| “The restoration of both nutrient status and weight starts slowly and gradually accelerates as tolerated.” | **FAILS QTL TEST** | Nutritional Rehabilitation in Anorexia Nervosa: Review Of The Literature And Implications For Treatment. 2013, BMC Psychiatry Journal. |
| “Morbidity and mortality in individuals with an eating disorder can be improved with effective treatment… Throughout treatment, ongoing nutritional monitoring is required to evaluate outcomes of treatment and particularly change in eating disorder behavior.” | **FAILS NQTL TEST** | Australia New Zealand Eating Disorder Organization Practice and Training Standards for Dietitians Providing Eating Disorder Treatment. 2020, International Journal of Eating Disorders. |

Appendix C. Existing Government Interventions Related to MHPAEA Violations of Eating Disorder Standard of Care and Visit Limits

|  |  |
| --- | --- |
| “Eating disorders, such as anorexia nervosa, bulimia nervosa, and binge-eating disorder, are mental health conditions under generally recognized independent standards of current medical practice… Therefore, **benefits for treatment of eating disorders are mental health benefits** for purposes of MHPAEA and may not be defined as medical/surgical benefits under a plan or coverage.” | Requirements Related to the Mental Health Parity and Addiction Equity Act, 2024 Federal Register Vol. 89, No. 184, Rules and Regulations. |
| “**Nutrition counseling is the primary treatment for eating disorders** in the outpatient, in-network classification and [because] the plan generally provides benefits for the primary treatments for medical conditions and surgical procedures in the outpatient, in-network classification… **by not providing benefits for nutrition counseling, it fails to provide meaningful benefits for the treatment of eating disorders** in the outpatient, in-network classification, as determined in comparison to the benefits provided for medical/surgical conditions in the classification.” | Requirements Related to the Mental Health Parity and Addiction Equity Act, 2024 Federal Register Vol. 89, No. 184, Rules and Regulations. |
| The report cites specific examples of health plans and health insurance issuers failing to ensure parity. For example, a health insurance issuer covered nutritional counseling for medical conditions like diabetes, but not for mental health conditions such as anorexia nervosa, bulimia nervosa and binge-eating disorder. | U.S. Departments of Labor, Health and Human Services, Treasury issue 2022 Mental Health Parity and Addiction Equity Act Report to Congress  ***Report shows failures to deliver parity in mental health,  substance-use disorder benefits*** |
| Pg 13 “ following is a list of the most common NQTLs for which EBSA requested a comparative analysis, listed in descending order of frequency… 10. Nutritional counseling limitations.”  Pg 19 These initial determination letters involved the following NQTLs that were not applied in parity for MH/SUD benefits:  …exclusion of nutritional counseling for MH/SUD conditions.”Pg 22  **Example #3 – Removal of Nutritional Counseling Exclusion for MH/SUD Conditions**  Two large plans using similar fully-insured products (an exclusive provider organization (EPO) product and a preferred provider organization (PPO) product) offered by the same health insurance issuer covered nutritional counseling for medical/surgical conditions like diabetes, but not for mental health conditions like anorexia nervosa, bulimia nervosa, and binge-eating disorder.  EBSA’s New York Regional Office requested comparative analyses for the nutritional counseling limitation from both plans and directly from the issuer offering the fully-insured products used by the plans. The responses received from the plans and the issuer did not explain or demonstrate that the facially-discriminatory exclusion, which affected only MH benefits, was compliant with parity requirements. As a result, both plans have amended their coverage documents to remove the exclusion, and the issuer is in the process of submitting forms to state regulators to remove the NQTL from the fully- insured products. | 2022 MHPAEA Report to Congress |
| Pg 12 MH benefits are defined as benefits for items and services for *mental health conditions* (similarly, SUD benefits are defined as benefits for items and services for *substance use disorders*).  *Example*: State Y has identified the DSM-V as the basis for defining benefits as MH/SUD and therefore defines anorexia as a mental health condition for purposes of parity compliance. Therefore, state Y must treat nutritional counseling as a mental health benefit when it is delivered for treatment of anorexia, regardless of the nature of the service or the provider delivering the service. | Parity Compliance Toolkit Applying Mental Health and Substance Use Disorder Parity Requirements to Medicaid and  Children’s Health Insurance Programs |
| 21st Century Cures Act confirms that eating disorder treatment is considered a mental health benefit for parity analysis purpose | CMS Fact Sheet |
| 13007. CLARIFICATION OF EXISTING PARITY RULES.  If a group health plan or a health insurance issuer offering group or individual health insurance coverage provides coverage for eating disorder benefits, including residential treatment, such group health plan or health insurance issuer shall provide such benefits consistent with the requirements of section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), and section 9812 of the Internal Revenue Code of 1986. | 21st Century Cures Act |
| New York’s Attorney General received hundreds of consumer complaints about health insurers denying coverage of mental health/substance use disorder treatment. Since 2014, the Attorney General has reached settlements with five insurers-Cigna, MVP Health Care, Emblem Health, Value Options/Beacon Health Options, and Excellus Health Plan-after finding that they violated parity laws. | NY [Attorney General Assurance of Discontinuance against Cigna (January 2014)](http://lac.org/wp-content/uploads/2014/07/Cigna-AOD-Executed-1-7-14.pdf) |