To: Appeals

Date:

Re: MEMBER NAME, DOB, POLICY NUMBER

Appeal of Improperly Denied Services for Medically Necessary Care DATES OF SERVICE

I am appealing your wrongful denial of my claims for medically necessary treatment of my eating disorder. The denial letter I received states that nutrition counseling (CPT code 97803) for my eating disorder (ICD-10-CM code F50.xxx) is “not a covered service” [quote exact wording from denial letter].

This denial as well as the policy behind it both violate Federal Law as follows:

1. Eating disorders are mental health conditions subject to mental health regulations, specifically the Mental Health Parity and Addiction Equity Act (MHPAEA).
2. Mental health benefits must comply with MHPAEA, even when treatment is by a medical provider.
3. MHPAEA states that mental health conditions such as eating disorders must not be subject to additional burdens or more stringent restrictions than medical/surgical conditions.
4. The primary treatments for medical/surgical conditions are covered services in this plan. Therefore the primary treatment for mental health conditions must also be covered.
5. The primary treatment for eating disorders is nutrition counseling. Therefore nutrition counseling must be covered.
6. The plan does not require additional information to prove that the primary treatment for medical/surgical conditions are medically necessary, therefore the plan may not require additional information to prove that nutrition counseling for eating disorders is medically necessary.
7. 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, and standards of care for medical conditions may not be applied to mental health conditions.
8. The standard of care for eating disorder nutrition counseling in the outpatient classification is one session per week unless determined to be needed more or less often by the provider. See Appendix A for documentation of independent medical standards of care.

For all of these reasons, the statement that my nutrition counseling for my eating disorder is not covered service is a violation of my rights under Federal Law. I need you to reverse this decision immediately so that I may continue receiving my medically necessary and legally mandated care. I will be filing a complaint with the Employment Benefit Security Administration as they have publicly stated they will look closely at nutritional counseling restrictions for eating disorders to ensure that patients do not face barriers to treatment for these conditions.

Even if [INSURANCE COMPANY NAME] is not intentionally discriminating against individuals with eating disorders, that is what is happening in practice. I feel sure that you will want to quickly approve my care as well as change the way policies are written and interpreted to avoid both regulatory scrutiny and potential legal consequences, because federal and state enforcement agencies have repeatedly called out failure to cover nutrition counseling for eating disorders as a violation. For example:

* The 2022 MHPAEA Report to Congress documented instances where government regulators took action when nutritional counseling was restricted for individuals with eating disorders. In these cases the EBSA required corrective actions, including policy amendments to remove the discriminatory limitations.
* An investigation by EBSA’s Boston Regional Office found that a plan limited coverage of nutritional counseling to three visits per calendar year. In response to the investigation, the plan was amended to state that the three-visit limitation did not apply to the treatment of any mental or behavioral health diagnoses including eating disorders.
* The Attorney General of New York found that Cigna had illegally limited access to nutrition counseling for eating disorders and the company was compelled to revise its policies.
* In response to a complaint submitted to the Attorney General of Pennsylvania, Independence Blue Cross removed all visit limitations and cost-sharing for eating disorder nutrition counseling system-wide.

My specific requests are as follows. I am relying on you to deliver this information to the appropriate parties/departments:

1. Reverse the denials of my previous claims and forward payment to [specify whether payment should go to you or to your dietitian] immediately.
2. Supply a new or revised policy document or addendum to my current policy that indicates that nutrition counseling for eating disorders is a covered service, retroactively to my effective date and on an ongoing basis.
3. 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.
4. Alert my employer and all other companies for whom [INSURANCE COMPANY NAME] served as TPA and wrote policies with illegal restrictions on nutrition counseling for eating disorders that there was a mistake; that [INSURANCE COMPANY NAME] takes full responsibility for any financial liability or legal penalty related to this mistake; that the employers will not be liable for claims resulting from the improperly written policies; and that all future policies will be written to comply with the law, specifically that no [INSURANCE COMPANY NAME] policy will limit nutrition counseling for eating disorders.
5. Retroactively reprocess and approve for payment any previously denied claims for nutrition counseling for any other [INSURANCE COMPANY NAME] members with eating disorder diagnoses in any location who were impacted by an improperly written plan that included an illegal restriction on nutrition counseling for eating disorders.
6. Communicate this information to your underwriters so that all future policies comply with MHPAEA and no future policies are intentionally or unintentionally written with unlawful restrictions on nutrition counseling for eating disorders.
7. Communicate this information to your customer service and provider relations departments so that members and providers who call to verify benefits are informed that nutrition counseling for eating disorders is a covered service in compliance with the law.

Thank you for your immediate attention. I await your response.

Please feel free to forward this letter and the attached documents to the appropriate departments.

[Your Name]

**Appendix A: Nutrition Counseling is Standard Medically Necessary Care for Eating Disorders**

Excluding Nutrition Counseling for Eating Disorders Violates MHPAEA/Nutrition Counseling (CPT Code 97803) provided by a Registered Dietitian for up to 52 visits per year is the Standard Treatment for Eating Disorders (All F50.xxx ICD-10-CM Diagnoses) at the Outpatient Level of Care. Please refer to the following references.

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| **POLICY EXCLUSION VIOLATES THIS STANDARD** | **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 MentalHealth 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 providemeaningful benefits for the treatment of eating disorders in the outpatient, in-networkclassification, as determined in comparison to the benefits provided for medical/surgical conditions in the classification.” | **FAILS MEANINGFUL BENEFITS TEST** | Requirements Related to the MentalHealth 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. |