To: INSURANCE COMPANY NAME Appeals Department

Date: ------

Re: MEMBER NAME, Date of Birth, POLICY NUMBER

Appeal of Improperly Denied Services DATES OF SERVICE

It has come to my attention that you are attempting to justify visit limits on nutrition counseling (CPT code 97803) for my eating disorder (ICD-10-CM code F50.xxx) by claiming that self-funded insurance plans do not have to comply with MHPAEA (the Mental Health Parity and Addiction Equity Act).

This is not correct.

Here are the facts according to Federal Law:

1. Eating disorders are mental health conditions subject to mental health regulations.
2. Nutrition counseling is the primary treatment for eating disorders in the outpatient classification.
3. The eating disorder diagnosis is the evidence of medical necessity.
4. A plan that offers mental health or substance use disorder benefits of any kind must do so in accordance with MHPAEA.
5. Mental health benefits must comply with MHPAEA, even when treatment is by a medical provider.
6. Insurance coverage provided by an employer of over 50 employees must comply with MHPAEA whether or not that coverage is self-funded.

It is possible that your regulatory affairs and compliance departments are not up to date and do not realize that the provision of the law that formerly allowed self-funded policies to “opt out” of compliance with MHPAEA has been discontinued[[1]](#footnote-1).

The Employee Benefit Security Administration has stated that “Issuers and plans, in conjunction with their TPAs for self-funded group health plans, have had ample time to develop the internal structures required for analyzing NQTLs to ensure that their plans and coverage comply with MHPAEA”[[2]](#footnote-2).

This plan’s stated 12-visit lifetime limit on nutrition counseling is disallowed by MHPAEA because:

1. 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. See Appendix A for documentation of independent medical standards.
2. A 12-visit lifetime limit has no basis in medical or scientific standards and is arbitrarily created with no evidence or explanation.
3. The standard of care for eating disorder nutrition counseling in the outpatient classification is not 12 visits per lifetime, it is one visit per week unless determined to be needed more or less often by the provider. See Appendix A for documentation of independent medical standards.
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 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.
6. Standards of care for medical conditions may not be applied to mental health conditions.

The Department of Labor has 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.

Therefore I am requesting that you notify the correct departments to do the following:

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. Notify my provider and myself that the visit limit on my nutrition counseling has been revoked and supply a revised policy document or addendum to my current policy that indicates that my coverage meets the standard of care effective retroactively to my first date of service.
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 company and all other companies for whom [INSURANCE COMPANY NAME] served as TPA and wrote policies with illegal visit limits 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 moving forward, no [INSURANCE COMPANY NAME] self-funded policy will limit nutrition counseling for eating disorders in compliance with the law.
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 visit limitation.
6. Communicate this change to your underwriters so that future policies related to nutrition counseling for eating disorder diagnoses are written in compliance with MHPAEA.
7. Communicate this change to your customer service and provider relations departments so that members and providers who call to verify benefits are informed that visit limits on nutrition counseling for eating disorders have been revoked in compliance with the law.

[Optional: I have sent copies of this letter and the attached supporting documents to the Benefits Department of my company and to the Department of Labor Employee Benefit Security Administration.]

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]

[Your Preferred Contact Information]

**Appendix A: Standards of Care References for Outpatient Eating Disorder Nutrition Counseling (MNT) CPT Codes 97802-97804 Frequency, Duration and Role of the Registered Dietitian as Provider**

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| **STANDARD OF CARE** | **SOURCE** |
| "Nutrition counseling is most effectively provided on a weekly basis for new-onset patients as well as for those patients with chronic ED diagnoses. Patients tend to not make behavioral progress with less frequent appointments unless they are highly motivated. Our experience has shown that more frequent visits at the beginning of treatment are more beneficial than meeting once monthly for a longer period of time. Bi-weekly and then monthly sessions are indicated as patients successfully meet and maintain treatment goals. Anorexic patients who require weight restoration may benefit from more frequent than once weekly sessions, especially if the patient is an adolescent or child." | Nutrition Counseling in the Treatment of Eating Disorders, 2nd ed. Herrin & Larkin, 2012. Routledge. |
| “From time to time patients inquire about the amount of time or the number of nutrition counseling sessions required for recovery. Although this seems like a fair question, it is difficult to predict a time frame for recovery. Much will depend on the patient's background, support system, and level of motivation. What we can tell the patient is that, ideally, the first three sessions are necessary to obtain background information, to gain an understanding of his or her 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. The American Psychiatric Association recommends that patients with an eating disorder have a documented, comprehensive, culturally appropriate, and person-centered treatment plan that incorporates medical, psychiatric, psychological, and nutritional expertise, commonly via a coordinated multidisciplinary team…. 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. |
| “Specific considerations for the eating disorder dietitian’s role at the Outpatient level of care:* Communication with the previous care team. If this is the first point of contact, coordinate new treatment team with local professionals trained in ED treatment
* Well‐coordinated transition of meal plan, supplementation and nutritional goals if patient is stepping down from higher level of care
* Adjustment of nutritional goals to meet level of supervision and medical management in present environment
* Assistance in recognizing potential vulnerabilities presented within this environment for the individual patient and plans for relapse prevention
* Continuous assessment for appropriateness of environment for patients needs
* Flexibility with nutrition intervention which may include multiple individual sessions weekly and close monitoring, but typically 1 to 2 sessions per week initially
* Close collaboration with attending physician and therapist, altering nutritional intervention as needed
* Communication with the family/participation in family sessions as appropriate
* Attention to the individual patients in helping them focus on their recovery goals and expectations, with the eventual goal of normalized eating
* Weight and behavior monitoring of patient
* Routine, consistent communication with treatment team regarding patient progress
* Management of the patient’s case, since often the RD acts as a “health navigator” in the outpatient setting, by making sure communications occur between team members, educating patients and families about next steps and treatment options, and ensuring patients have continuous access to necessary treatment. This case management task is an appropriate role for RDs considering their training in both physical/medical and behavioral realms.”
 | The Certified Eating Disorder Registered Dietitian in Eating Disorder Care, The International Association Eating Disorder Professionals |
| “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 |
| “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. |
| “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. |

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| “In addition to educating individuals on their nutritional decisions, Medical Nutrition Therapy also helps people set goals, deconstruct current behaviors, and build new habits. An added piece of Medical Nutrition Therapy as an eating disorder treatment includes the psychodynamics of eating disorders. A person with an eating disorder often has mental or emotional forces that encourage their relationship to food. To help someone with an eating disorder change their food-related behaviors, a dietitian will also understand the motivations behind a person's behavior.” | Medical Nutrition Therapy Planning. 2010, Medicinski Pregled Journal. |
| “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. Diagnostic criteria for EDs provide important guidelines for identification and treatment. In addition, individuals may experience disordered eating that extends along a range from food restriction to partial conditions to diagnosed EDs. Registered Dietitians are integral members of treatment teams and are uniquely qualified to provide Medical Nutrition Therapy for the normalization of eating patterns and nutritional status. This role requires understanding of the psychologic and neurobiologic aspects of EDs… Advanced training is needed to work effectively with this population.” | Position of the American Dietetic Association: Nutrition Intervention in the Treatment of Eating Disorders. 2011, Journal of the Academy of Nutrition & Dietetics. |
| “A dietitian is a critical part of a treatment team for someone with an eating disorder and is vital to a successful healing process. Dietitians working with individuals who live with eating disorders possess the specialized skills and knowledge base to promote behavioral changes in eating patterns... 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. |
| “Nutrition professionals are essential members of the multidisciplinary clinical team treating individuals with eating disorders. They possess knowledge and expertise that includes nutrition, physiology, and skills for promoting behavior change relative to the psycho‐socio‐cultural aspects of eating…Training and experience in nutrition therapy specific to eating disorders promote a positive outcome in patients. Nutrition professionals are involved in all levels of care, including individual and group treatment in inpatient hospitalization or residential programs, partial hospitalization, and outpatient programs.” | Nutrition Therapy For Eating Disorders. 2010, Journal of Nutrition in Clinical Practice. |
| “The restoration of both nutrient status and weight starts slowly and gradually accelerates as tolerated. There should be a continued focus on nutrient intake, as opposed to caloric intake, coupled with psychotherapy to encourage increasing both the amount and diversity in food selections with the eventual goal of weight and nutrition restoration in mind.” | Nutritional Rehabilitation In Anorexia Nervosa: Review Of The Literature And Implications For Treatment. 2013, BMC Psychiatry Journal. |
| “A personalized treatment approach is required for all patients. The treatment intensity should be matched to the clinical presentation of the patient allowing for stepping up and down in intensity of care as needed, rather than automatically starting patients at the lowest intensity option… Session by session evaluation collaboratively shared with the patient (and family as appropriate) is essential.” | Royal Australian and New Zealand College of Psychiatrists Clinical Practice Guidelines For The Treatment Of Eating Disorders. 2014, Australia New Zealand Journal of Psychiatry. |
| “Treatment of eating disorders should be multidisciplinary, including a medical practitioner, mental health professional and a dietitian if accessible… All clinicians must practice within the scope of their profession and know when to refer to another clinician with focused eating disorder skills. However, all clinicians will need to have an interdisciplinary working knowledge of medical, mental health, nutritional and psychiatric aspects of eating disorders.” | Royal Australian and New Zealand College of Psychiatrists Clinical Practice Guidelines For The Treatment Of Eating Disorders. 2014, Australia New Zealand Journal of Psychiatry. |
| “The role of the dietitian in providing eating disorder treatment as part of the multidisciplinary team has been widely recognised. Dietitians play a pivotal role in helping individuals with eating disorders and their families understand the interaction between food, nutrition and well-being, as well as supporting eating behaviors that align with their treatment and recovery goals. Eating disorders have high morbidity and mortality rates, and failure to provide early intervention is associated with a longer duration and severity of illness, serious physical health consequences and a higher risk of mortality including risk of suicide. However, 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.” | Australia New Zealand Eating Disorder Organization Practice and Training Standards for Dietitians Providing Eating Disorder Treatment. 2020, International Journal of Eating Disorders. |

1. Consolidated Appropriations Act, 2023, Public Law No: 117-328 [↑](#footnote-ref-1)
2. Requirements Related to the Mental Health Parity and Addiction Equity Act, *Federal Register*, vol. 89, no. 184, September 23 2024, pp. 77586–77751; FR doc. 2024‑20612. [↑](#footnote-ref-2)