To: Appeals

Date:

Re: MEMBER NAME, DOB, POLICY NUMBER

Appeal of Improperly Denied Services DATES OF SERVICE

It has come to my attention that this company is 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:

1. Eating disorders are mental health conditions subject to mental health regulations.
2. Mental health benefits must comply with MHPAEA, even when treatment is by a medical provider.
3. Insurance coverage provided by an employer of over 50 employees must comply with MHPAEA.
4. A plan that offers mental health or substance use disorder benefits of any kind must do so in accordance with MHPAEA.

It is possible that your regulatory affairs and compliance departments are not up to date and do not realize that the provision of MHPAEA that allows self-funded policies to “opt out” of compliance with MHPAEA has been discontinued. EBSA (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.”

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]