Baum, Beth - EBSA

From: Terry Cahill [thc@perspectivesltd.com]
Sent: Wednesday, March 31, 2010 12:37 PM
To: EBSA, E-OHPSCA - EBSA; OHPSCA.EBSA@dol.gov; E -
Subject: Comment on Interim Final Rules under Mental Health Parity and Addiction Equity Act (MHPAEA)

To Whom It May Concern:

It seems that the IFR ruling regarding EAP as a gatekeeper was made with the understanding that EAP gatekeeping means "exhausting" first the EAP benefit (i.e. – the "EAP" being a number of counseling sessions, sessions that may even be part of the mental health benefit). For many EAP firms, especially those that have been in existence for decades, this ruling does not seem to apply. Or minimally, our traditional EAP model may not have been considered when looking at EAPs as gatekeepers.

As stand-alone EAPs that are not incorporated in any way into the mental health benefit or network, we have never operated from an "exhaust EAP sessions first" model. Rather, we assess client need first, and then if their identified issue is amenable to EAP problem-resolution counseling within the EAP, we conduct that counseling, but if the client has a mental health/substance abuse (MH/SA) diagnosis, we refer the client into the separate MH/SA benefit, and here is the key, *prior to* using up all the EAP sessions available. Our goal is to get the client what they need and sometimes EAP problem-resolution counseling is inappropriate clinically and clients, per our contract language, are referred into the MH/SA benefit, even if there are more EAP sessions potentially available. And when referred, they are referred to a provider within the MH/SA benefit that matches their assessed need. Our employer/union clients want us , the traditional stand-alone EAP, to make that assessment and referral match because we stand separate from the MH/SA benefit and provider network and have no fiduciary interest in the diagnosis or the determination of who in the network would be the best matched provider. This insures the MH/SA benefit is being used appropriately and therefore, many of our employer clients use us as a gateway to that benefit, requiring their employees to be assessed by us prior to MH/SA benefit use, to determine if EAP problem-resolution counseling is appropriate or if a referral into the MH/SA provider is appropriate. If the EAP as the gateway, determining the appropriate course of care, is no longer allowed, many of our employer clients will drop MH/SA benefit coverage all together, because while they see MH/SA benefit coverage is valuable, they also see it as a form of treatment that must be carefully matched to the correct MH/SA provider and they do not want the MH/SA providers themselves to make those determinations. They want an independent body to do so.

We look forward to your response to this comment and hope that the department will note the different role of the stand alone EAP as it relates to the "gatekeeper" issue. We thank you for your time.

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