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Certain Mental Health/Substance Abuse Plan Provisions Raise Red Flags

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The Department of Labor has provided sample mental health/substance abuse (MH/SA) plan provisions that require scrutiny to determine compliance with the federal Mental Health Parity rules (MHPAEA). Here are some common red flags:

Pre-Authorization or Pre-Service Notification requirements

- Blanket requirements for all MH/SA services
- Review required following a certain number of days of in-patient treatment
- Medical necessity and prescription drug reviews that differ from those imposed on medical services (such as deferring to attending physicians for medical reviews but not MH/SA or requiring authorization every 90 days for prescriptions relating to MH benefits but not medical)
- Pre-notification requirements for extended out-patient visits

Fail-First Protocols

- Lack of progress with less intensive treatment required prior to intensive out-patient treatment
- In-patient SA rehabilitation is not authorized unless patient first fails with out-patient treatment
- In-patient MH treatment is not authorized unless patient first completes a partial hospitalization treatment option

Probability of Improvement

- Residential treatment is covered only if there is a likelihood it will result in measurable improvement

Written Treatment Plan Required

- Plan requires a written treatment plan for MH/SA benefits

Other

- Benefits excluded if patient fails to comply with treatment plan requirements
- Exclusion of residential level of treatment
- Geographical limitations that differ from those imposed on medical benefits
- Licensure requirements imposed for MH/SA facilities but not for medical facilities

Plans with these types of provisions should carefully compare them to the rules imposed for medical/surgical benefits to ensure compliance with the MHPAEA. For more information, please click here to view the fact sheet released by the Department of Labor.