

24-Hour Nursing Requirement for Residential Treatment Facilities May Violate MHPAEA

EBIA Weekly (October 2, 2025)

Brady K. v. Health Care Serv. Corp., 2025 WL 2734542 (N.D. Ill. 2025)

A group health plan participant sought preauthorization for residential mental health treatment for his child, also covered under the plan. The plan administrator denied the preauthorization, explaining that coverage for the treatment would be denied due to the lack of 24-hour on-site nursing care at the treatment facilities. After exhausting the plan's internal appeals process, the participant sued, alleging that the administrator (1) breached its ERISA fiduciary duties by denying coverage in violation of the plan terms and failing to provide adequate review and explanation of the denial, and (2) violated the Mental Health Parity and Addiction Equity Act (MHPAEA) by imposing more stringent criteria (the 24-hour on-site nursing requirement) for mental health benefits than for substantially all analogous medical or surgical benefits. The plan administrator asked the court to dismiss the case.

The court first noted that the ERISA claim “rises or falls” with the MHPAEA claim. Because a plan provision that violates a statute is void, the participant could recover under ERISA if the 24-hour nursing requirement is determined to violate MHPAEA. Turning to the MHPAEA claim, the court explained that MHPAEA requires plans to ensure that nonquantitative treatment limitations (NQTLs) such as the 24-hour nursing requirement do not disfavor, “as written or in operation,” mental health or substance use disorder benefits. The court concluded that the participant had plausibly alleged an “as written” MHPAEA violation in that the 24-hour nursing requirement was imposed only on residential mental health treatment facilities—not on comparable medical/surgical analogs. While the administrator argued that it effectively imposed the same requirement on medical/surgical facilities because it required them to meet state licensing or federal Medicare/Medicaid requirements (which in turn required 24-hour nursing), the court ruled that a requirement that is expressly written into the plan is facially different than the incorporation of extrinsic licensing standards, even if those standards impose the same requirement in practice. The court further concluded that the participant had plausibly alleged an “as applied” MHPAEA violation by claiming that the 24-hour nursing requirement, combined with the plan's medical necessity requirement, was more restrictive in operation for mental health benefits than for medical/surgical benefits. Denying the plan administrator's request for dismissal, the court set the case for further proceedings.

EBIA Comment: Plan limitations that disfavor mental health or substance use disorder benefits as written can raise red flags for disgruntled participants—even if the requirements are applied equally in operation. Thus, plan language and operational practices should both be carefully reviewed to ensure MHPAEA compliance. For more information, see EBIA's Group Health Plan Mandates manual at Section IX.E (“Mental Health Parity: Nonquantitative Treatment Limitations”). See also EBIA's Self-Insured Health Plans manual at Section XIII.C.2 (“MHPA and MHPAEA: Mental Health Parity”).

Contributing Editors: EBIA Staff.