

Ninth Circuit Refuses to Dismiss Class Action Challenging Insurer's Use of Algorithms to Process Mental Health/Substance Use Disorder Claims

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Ryan S. v. UnitedHealth Grp., Inc., 2024 WL 1561668 (9th Cir. 2024)

A group health plan participant has alleged in a class action lawsuit that the plan's insurer violated the Mental Health Parity and Addiction Equity Act (MHPAEA) by applying a more stringent review process to benefits claims for outpatient, out-of-network mental health and substance use disorder ("MH/SUD") treatment than to otherwise comparable medical/surgical treatment. In support of the allegations, the participant cited a state report concluding that the insurer's use of an algorithmic process that triggered additional levels of review for certain MH/SUD claims (but not for comparable medical/surgical claims) violated the MHPAEA. The participant also claimed that the violations were a breach of the insurer's ERISA fiduciary duties. A federal trial court dismissed the case, concluding that the participant had (1) failed to allege that his claims had been categorically denied, and (2) insufficiently identified analogous medical/surgical claims that he had personally submitted that the insurer had processed more favorably.

On appeal, the Ninth Circuit reversed the dismissal, concluding that the participant had adequately stated a claim for a violation of the MHPAEA and breach of fiduciary duties. The court explained that it is enough for a participant who is claiming that an insurer applied a more stringent internal process to MH/SUD claims than to medical/surgical claims to allege the existence of a claims review procedure that is more restrictive toward MH/SUD benefit claims than to medical/surgical claims under the same classification. The participant does not have to allege a categorical practice or differential treatment for medical/surgical claims. The court determined that by alleging a systematic denial of his MH/SUD benefit claims and citing the state report's conclusion that the insurer was applying a more stringent algorithmic review process to such claims, the participant had plausibly alleged that the insurer had applied an improper internal process to his claims in violation of the MHPAEA.

EBIA Comment: The preamble to MHPAEA regulations proposed in August 2023 points out that participants often have little or no choice under their plan but to utilize out-of-network MH/SUD providers and facilities, whereas that is typically not the case with medical/surgical providers and facilities. To address this disparity, the proposals provide specific examples that make clear that plans and insurers cannot (among other things) use more restrictive factors to determine out-of-network reimbursement rates for mental health and substance use disorder providers. 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 ERISA Compliance manual at Section XXVIII ("Fiduciary Duties Under ERISA") and EBIA's Self-Insured Health Plans manual at Section XIII.C ("Federally Mandated Benefits").

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