

Special Announcement

A Communication from UBA

To all recipients of UBA Compliance Alerts:

The Mental Health Parity and Addiction Equity Act alert has generated two requests for clarification from Members. Because others might have the same questions, we are reproducing them below for your information. **(This information is for your use, and this email is not intended to be distributed directly to clients/prospects.)**

Question #1:

I am distributing the alert you provided this month on the Mental Health Parity and Addiction Equity Act and one of our staff members has asked if there is a typo in the effective dates provided. Can you confirm the accuracy of the dates in the Alert?

Amanda Luman
Communications Specialist, Horan and Associate

Answer #1:

The difference is between the effective date of the statute (plan years beginning after October 3, 2009) and the effective date of the regulations interpreting the statute (plan years beginning after July 1, 2010). Most plan sponsors are already subject to the statutory MHPAEA requirements (which require elimination of most treatment and frequency limitations for mental health and substance abuse). The regulations simply expand on the statute and add some clarifying rules.

Julia M. Vander Weele
Spencer Fane Britt & Browne LLP

Question #2:

Hi, I am attaching a document from United Healthcare (UHC's MHPAEA alert); please see page 3 "under which groups are exempt." You can see that Non ERISA plans are listed as being exempt, specifically government and church plans. This is in direct opposition, based upon my understanding, to the information contained in our Compliance Alert. Can you please have our legal partner comment as soon as possible? Thanks.

Mark W. Bagnall, CLU
President, the bagnall company

Answer #2:

The UHC material is wrong. The MHPAEA requirements are found in parallel provisions of ERISA, the Tax Code, and the Public Health Service Act. Thus, church plans and governmental plans are still subject to the MHPAEA requirements (unless a self-funded governmental plan has "opted out" in accordance with procedures established by the Centers for Medicare and Medicaid Services). In our experience, few governmental employers have jumped through the hoops of the opt out procedures (mostly because you are required to notify employees of the opt-out, which raises potential employee relations issues).

Julia M. Vander Weele
Spencer Fane Britt & Browne LLP