



# The Guardian



Helping to Protect You from Employment Law Claims

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## CONGRESS PASSES NEW MENTAL HEALTH PARITY BILL

After many years of debate, Congress has finally passed what is being referred to as a Mental Health Parity Bill. At the present time, the full impact of the Bill cannot be fully known and Congress has instructed the Departments of Labor, Health and Human Services and the Treasury to issue regulations within one year.

Essentially, the new Bill requires covered employers that provide health plans to cover mental illness and substance abuse on the same basis as physical conditions. This means that the Bill prohibits employers who offer mental health coverage from charging higher co-pays for mental health services than is charged for other services.

Some of the highlights of this new Bill include:

- The requirements apply to group health plans with 51 or more employees. Businesses with 50 or fewer employees are exempt from the requirements.
- This Bill forbids covered employers and insurers from placing stricter limits (for example, higher co-pays or covering fewer doctor visits) for mental health care than on other health conditions.
- The requirements also apply to out-of-network coverage, so that plans that offer out-of-network coverage for medical conditions also must provide out-of-network coverage for mental conditions on the same basis.

The Bill does not go into effect until one year after the date it was signed by former President Bush (which was on October 3, 2008). During that year, specific regulations implementing the Bill will be published.

### BITS AND PIECES

There have been many recent changes in the employment law area. These changes include:

- New Family and Medical Leave Act regulations took effect on January 16, 2009. All FMLA policies and procedures must be updated to reflect the changes.
- President Obama signed the new Lilly Ledbetter Fair Pay Act which makes it easier for employees to file job bias claims in connection with compensation. Employers should review their pay practices for pay discrimination issues.
- New amendments to the Americans With Disabilities Act took effect on January 1, 2009. Changes include a broader definition of disability and a new definition for "major life activity".
- The recent stimulus package creates new COBRA rules and notice requirements. New notices can be obtained at

<http://www.dol.gov/ebsa/COBRAModelnotice.html>.

For additional information on any of the above laws, or any other employment law questions, please contact the attorney of your choice at BPCWS.

**If you would like to have someone added to our mailing list or want your name removed, please contact Bridget at 928-445-0122**

### BUT DID YOU KNOW?

We all know that an employee who makes a discrimination complaint may not be retaliated against. But did you know that the United States Supreme Court recently expanded retaliation protection to include an employee who participates in an employer's internal investigation of a discrimination claim. Merely answering questions about allegedly unlawful discrimination during an internal company investigation is sufficient to satisfy the "opposition" criteria of a retaliation claim. As a result, an employee who participates in an internal investigation cannot be retaliated against because of his or her participation or what he or she said during that investigation.

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