

WHAT YOU DON'T KNOW ABOUT MENTAL HEALTH AND THE WORKPLACE COULD HURT YOU



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Employers today face a seemingly endless host of rules and regulations that affect how they treat employees with mental and behavioral health issues. Insurance coverage, antidiscrimination laws, medical leave notice provisions and more weave a vastly complex net, one that can threaten to catch even the most careful employers. Employers of every size should learn and fully understand how various federal laws affect how they deal with employees with mental or behavioral health issues.

Recently, the Patient Protection and Affordable Care Act ("ACA") dramatically changed the way mental and behavioral health issues receive insurance coverage. Employer-sponsored insurance plans are now required to cover a wide array of mental health and substance abuse treatments, while Medicaid and Medicare now offer similar coverage. Employees who need treatment for mental or behavioral health issues might not be aware of the available coverage, and untreated health issues of any variety could lead to problems in the work place.



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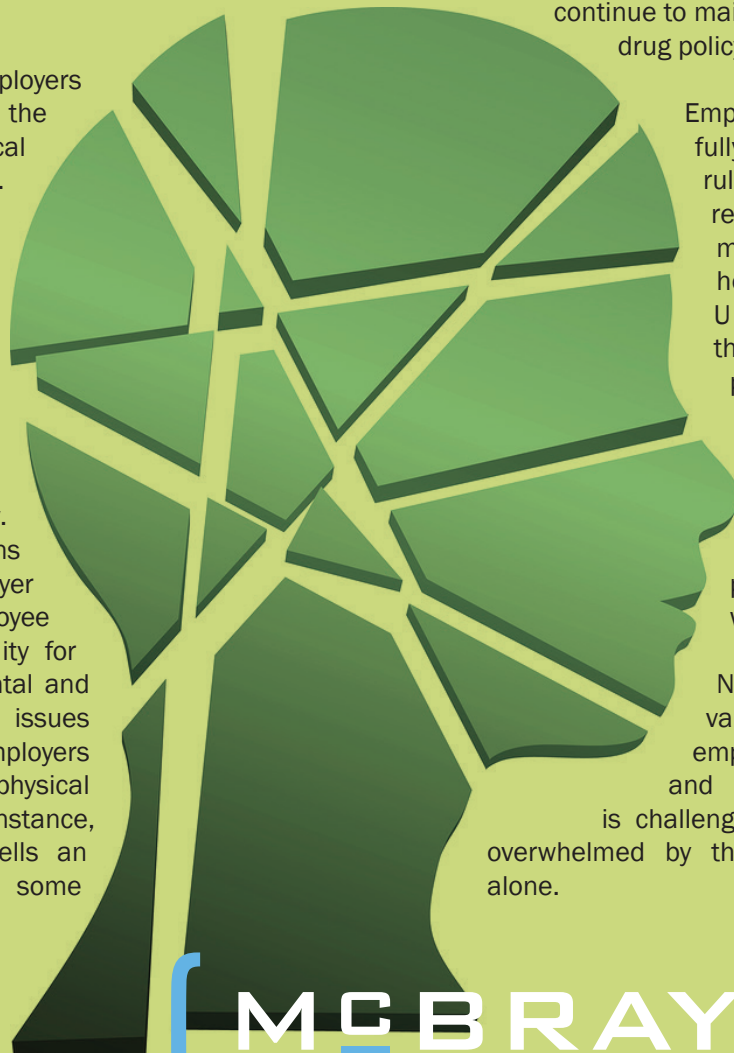
Another area that employers can find puzzling is the Family and Medical Leave Act ("FMLA"). There are certain basic provisions of compliance, but the most challenging aspect of the law is when employees taking leave for medical reasons trigger notice provisions of the law. These notice provisions require the employer to inform an employee of her or his eligibility for FMLA leave, but mental and behavioral health issues are far harder for employers to discern than physical health issues. For instance, an employee who tells an employer she needs some

time off because she's incredibly depressed might well trip FMLA notice provisions if that employee meets the basic eligibility requirements.

The Americans with Disabilities Act governs employer/employee interactions where an employee has a real or perceived disability. Employers must offer reasonable accommodations to these employees and refrain from making hiring or firing decisions based on them. That sounds simple enough, but the reality is that the line between acceptable and unacceptable employer behavior isn't always clear. For instance, is it acceptable to fire an employee with a mental disorder that causes him or her to act out in the work place? What about an employee who repeatedly shows up late and hungover because of a substance abuse disorder? Employees also might need to be on certain prescriptions or even controlled narcotics that may affect workplace performance as well. Should medicinal marijuana become legal in Kentucky, can an employer continue to maintain a no-tolerance drug policy in the workplace?

Employers need to be fully aware of the myriad rules and regulations regarding employee mental health and how they interact. Understanding the rules and best practices can help employers avoid costly mistakes while simultaneously promoting a positive and inclusive work environment.

Negotiating the various rules regarding employee mental and behavioral health is challenging, and if you feel overwhelmed by the task, you're not alone.



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