

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

6 H S W H P, 2023U

RIN: 1210AC11
Docket No. REG-120727-2

Attention: Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration, Room 5653
U.S. Department of Labor
200 Constitution Avenue NW, Washington, DC 20210

Staff Comment from the Federal Trade Commission on Proposed Amendments to
Regulations Implementing the Mental Health Parity and Addiction Equity Act

The staff of the Bureau of Consumer Protection of the Federal Trade Commission (“FTC”) submit this comment in support of the proposed amendments to regulations implementing the Mental Health Parity and Addiction Equity Act, 1210AC11.¹ FTC staff share the concerns of the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services regarding the devastating toll of substance use disorders (“SUDs”) on individuals, families, and communities, and are deeply concerned about the ways in which those seeking treatment may be preyed upon by unscrupulous actors. Consumers faced with financial impediments, such as lack of insurance coverage, may be particularly susceptible to scams, which may in turn further impede their access to treatment and derail treatment entirely.

In addition to over a century of promoting free and fair competition in the U.S. economy, the FTC has worked for decades to protect consumers from unfair and deceptive business

¹ This comment expresses the views of staff of the FTC’s Bureau of Consumer Protection. It does not necessarily represent the views of the Federal Trade Commission or of any individual Commissioner. The Commission has, however, voted to authorize the submission of this comment.

practices, including in the health care sector. The agency has brought hundreds of law enforcement actions challenging deceptive health claims and has obtained significant injunctive and monetary relief. In 2018 Congress passed the Opioid Addiction Recovery Fraud Prevention Act (“OARFPA”), which gave the FTC additional enforcement tools to combat SUD treatment scams, including the authority to obtain civil penalties. In the past two years the FTC has brought four enforcement actions under OARFPA. The cases illustrate the labyrinth of potential deception that people seeking SUD treatment must navigate to access care, in addition to financial and other impediments addressed in the proposed amendments.

The FTC’s first case under OARFPA, *FTC v. R360 LLC*,² filed in May, 2022, targeted allegedly false statements that the defendants would connect patients seeking addiction treatment with “handpicked” and “cream of the crop” treatment centers after evaluating patients’ individualized needs. In reality, incoming calls from consumers were automatically routed to treatment centers without any individualized assessments. Moreover, R360 allegedly did little to no vetting of any of the treatment centers to which it referred patients. The Order settling the FTC’s complaint included a \$3.8 million civil penalty judgment against R360 and its owner, Steven Doumar, and enjoined them from continuing to make their misrepresentations.

In March 2023, the FTC sued AWAREmed Health & Wellness Resource Centers owner Dr. Dalal A. Akoury for allegedly making a wide range of false or unsupported claims about the success of their

advertisement

FTC staff are concerned that a lack of insurance coverage high out-