

WHAT YOU NEED TO KNOW



DOL Asks for MHPAEA Related Comments; Clarifies Eating Disorder Benefit Requirements

In June 2017, the Department of Labor (DOL) provided an [informational FAQ](#) relating to the Mental Health Parity and Addiction Equity Act (MHPAEA) and the 21st Century Cures Act (Cures Act). This is the DOL's 38th FAQ on implementing the Patient Protection and Affordable Care Act (ACA) provisions and related regulations. The DOL is requesting comments on a draft model form for participants to use to request information regarding nonquantitative treatment limitations, and confirms that benefits for eating disorders must comply with the MHPAEA.

The MHPAEA amended various laws and regulations to provide increased parity between mental health and substance use disorder benefits and medical/surgical benefits. Generally, financial requirements such as coinsurance and copays and treatment limitations for mental health and substance use disorder benefits cannot be more restrictive than requirements for medical and surgical benefits. Regulations also provide that a plan or issuer may not impose a nonquantitative treatment limitation (NQTL) unless it is comparable and no more stringent than limitations on medical and surgical benefits in the same classification.

On December 13, 2016, President Obama signed the [21st Century Cures Act](#) into law. The Cures Act has numerous components including directing the Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury (collectively, the Agencies) to issue compliance program guidance, share findings with each other, and issue guidance to group health plans and health insurance issuers to help them comply with the mental health parity rules.

The Agencies must issue guidance to group health plans and health insurance issuers; the guidance must provide information and methods that plans and issuers can use when they are required to disclose information to participants, beneficiaries, contracting providers, or authorized representatives to ensure the plans' and issuers' compliance with the mental health parity rules.

The Agencies must issue the compliance program guidance and guidance to group health plans and health plan issuers within 12 months after the date that the Helping Families in Mental Health Crisis Reform Act of 2016 was enacted, or by December 13, 2017.

UBA ACA Advisor

In the June 2017 FAQ, the DOL reiterated its request for comments on the following questions, originally asked in the fall of 2016:

- a) Whether issuance of model forms that could be used by participants and their representatives to request information with respect to various NQTLs would be helpful and, if so, what content the model forms should include. For example, is there a specific list of documents, relating to specific NQTLs, that a participant or his or her representative should request?
- b) Do different types of NQTLs require different model forms? For example, should there be separate model forms for specific information about medical necessity criteria, fail-first policies, formulary design, or the plan's method for determining usual, customary, or reasonable charges? Should there be a separate model form for plan participants and other individuals to request the plan's analysis of its MHPAEA compliance?
- c) Whether issuance of model forms that could be used by States as part of their review would be helpful and, if so, what content the model form should include. For example, what specific content should the form include to assist the States in determining compliance with the NQTL standards? Should the form focus on specific classifications or categories of services? Should the form request information on particular NQTLs?
- d) What other steps can the Departments take to improve the scope and quality of disclosures or simplify or otherwise improve processes for requesting disclosures under existing law in connection with mental health/substance misuse disorder MH/SUD benefits?
- e) Are there specific steps that could be taken to improve State market conduct examinations and/or Federal oversight of compliance by plans and issuers?

The DOL is also asking for input on a [draft model form](#) that participants, enrollees, or representatives could use to request information from their health plan or issuer regarding NQTLs that may affect their MH/SUD benefits.

The Cures Act also requires that benefits for eating disorders be consistent with the requirements of MHPAEA. The DOL clarified that the MHPAEA applies to any benefits a plan or issuer may offer for treatment of an eating disorder.

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