



June 29, 2016

Warning Signs - Mental Health Parity Compliance

On June 1, 2016, the U.S. Department of Labor (DOL) issued [guidance](#) on the non-quantitative treatment limitation (NQTL) parity requirements under the Mental Health Parity and Addiction Equity Act (MHPAEA).

MHPAEA Background

The MHPAEA requires large group health plans and health insurance issuers to ensure that financial requirements (such as co-pays, deductibles) and treatment limitations (such as visit limits) applicable to mental health or substance use disorder (MH/SUD) benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical/surgical (med/surg) benefits. MHPAEA supplements prior provisions under the Mental Health Parity Act of 1996 (MHPA), which required parity with respect to aggregate lifetime and annual dollar limits for mental health benefits. See the [DOL MHPA webpage](#) and the [CMS MHPA webpage](#) for more information.

A self-insured group health plan does not have to cover MH/SUD benefits. However, to the extent that a plan does cover these benefits, the MHPAEA, building on the MHPA, requires parity between MH/SUD benefits and med/surg benefits with respect to financial requirements and treatment limitations.

Plans Should Examine Non-Quantitative Treatment Limitations

Treatment limitations may be "quantitative treatment limitations" (QTLs), which are numerical in nature (such as visit limits), or NQTLs, which are non-numerical limits on the scope or duration of benefits for treatment (such as preauthorization requirements). The DOL guidance provides [a checklist of specific examples](#) illustrating when further analysis may be indicated to ensure that MH/SUD benefits are in compliance with NQTL rules. These provisions—including prior authorization, pre-service notification, and residential treatment limits— may raise "red flags" for potential MHPAEA violations. Having one or more of these provisions does not necessarily constitute a violation, but if plans do include these provisions, plan sponsors should determine whether they are also applied to med/surg benefits and if so, if they are being applied to MH/SUD and med/surg benefits in a manner that complies with MHPAEA.

The DOL notes in the guidance that further review of the processes, strategies, evidentiary standards, or other factors used in applying the NQTL to both MH/SUD and med/surg benefits will be required to determine parity compliance. The DOL further notes that these plan/policy terms do not automatically violate the law, but the plan or issuer will need to provide evidence to

substantiate compliance with MHPAEA. The list of examples are not exhaustive and are not a substitute for any regulations or other interpretive guidance issued by any of the regulators.

Should you have questions about this or any aspect of the mental health parity rules, contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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