

Recent Mental Health Parity Guidance Highlights Increased Federal Enforcement Activity

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By way of background, the Mental Health Parity and Addiction Equity Act (MHPAEA) prevents group health plans and health insurance issuers that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations on mental health or substance use disorder benefits versus medical and surgical benefits.

Determining whether mental health or substance use disorder benefits are improperly limited can be very complicated. The U.S. Departments of Labor, Treasury, and Health and Human Services (collectively, the Departments) recently issued several pieces of guidance under the MHPAEA, signaling the Departments' increased focus on compliance and enforcement.

That guidance included:

- (i) proposed FAQs related to non-quantitative treatment limitations, such as pre-authorization requirements;
- (ii) a draft model disclosure request form for participants to use to request detailed information on mental health/substance use disorder benefits under a health plan; and
- (iii) a self-compliance tool to review coverage and compliance with the MHPAEA. In addition, the Departments published numerous reports related to enforcement activity that has and will be taking place, which emphasize that MHPAEA continues to be a priority for the Departments.

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Additionally, DOL auditors expect group health plan sponsors to be actively testing their health plans for compliance purposes. With such heightened focus on MHPAEA, plan sponsors of both fully-insured and self-insured group health plans would be well advised to review their health plan's compliance with the MHPAEA by using the self-compliance tool as a guide.