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MHPAEA July 2025 Update: What Employers and Plans Need to Know about Federal Non-Enforcement

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Key takeaways:

The 2024 Rule is not currently enforced due to litigation and agency reconsideration.

Employers must comply with the 2013 Rule and the CAA.

Enhanced requirements from the 2024 Rule are on hold but may return in future rulemaking.

State enforcement may vary; fully insured plans must monitor both federal and state requirements.

Continue to perform and document NQTL comparative analyses and prepare for further regulatory updates.

Background and purpose of the MHPAEA

The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted to ensure that group health plans and health insurance issuers offering mental health and substance use disorder (MH/SUD) benefits do not impose more restrictive limitations on those benefits than on medical/surgical (M/S) benefits. The law's core purpose is to eliminate discrimination in coverage, so that financial requirements (like copays and deductibles) and treatment limitations (such as visit caps, prior authorization, and network composition) for MH/SUD are on par with those for M/S benefits.

The legal landscape for parity in health benefit coverage hasevolved since 1996, when the Mental Health Parity Act was first passed. Initially, the 1996

law was limited to MH benefits only. SUD was added to MHPAEA in 2008. The industry operated under a 2011 Interim Final Rule until 2013 when the Departments of Labor, Health and Human Services, and Treasury jointly issued Final Regulations (the 2013 Rule) requiring plans to ensure parity in financial requirements, quantitative treatment limitations, and non-quantitative treatment limitations (NQTLs). The 2013 Rule created new definitions and processes for fully insured health insurance and self-funded group health plan coverage for health plans to compare MH/SUD benefits to M/S benefits. Then, Congress enacted the Consolidated Appropriations Act (CAA) in 2021, requiring plans to regularly perform and document comparative analyses of the design and application of NQTLs, and provide these analyses to the departments or state authorities upon request.

The 2024 Final Rule

In September 2024, the departments issued a Final Rule (the 2024 Rule) to further clarify MHPAEA compliance, particularly in regard to NQTLs and comparative analyses. The 2024 Rule was set to take effect in 2025, with certain provisions (such as the "meaningful benefits" standard and data evaluation requirements) delayed until 2026. As discussed in a previous article, the 2024 Rule sought to strengthen MHPAEA compliance in several new ways:

Enhanced NQTL standards: The 2024 Rule introduced more detailed standards for NQTLs, including new definitions for "mental health benefits," "processes," "strategies," "evidentiary standards," and "factors." It explicitly prohibited the use of any factor or standard that is biased or not objective in a way that disfavors MH/SUD benefits. Health plans would also be required to proactively collect and evaluate data on the impact of NQTLs, with mandatory analysis to identify and address material differences in access to MH/SUD care. Also, the 2024 Rule added new network composition requirements, requiring aggregate impact assessments and corrective action when disparities in access are found.

"Meaningful benefits" standard: The "meaningful benefits" requirement in the 2024 Rule ensures health plans cannot offer only minimal or token coverage for MH/SUD benefits in any benefit classification where they offer meaningful M/S benefits. Health plans must provide, at a minimum, coverage for at least one core, evidence-based treatment for each covered MH/SUD condition in every classification where they provide a core treatment for a M/S condition. This requirement, if enforced, would require many plans to expand their MH/SUD coverage and ensure parity not just in quantitative limits or cost-sharing, but in the actual scope and substance of covered benefits.

Expanded definitions and clarifications: The 2024 Rule added new definitions of "medical/surgical benefits," "mental health benefits," and "substance use disorder benefits" to require plans to categorize benefits according to the diagnosis of the member requesting the service and whether that diagnosis is included in the latest versions of the World Health Organization's International Classification of Diseases (currently the ICD-10) or the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (currently the DSM-V). Before the addition of these definitions, MHPAEA deferred to state law, and health plans relied on historical practice, location of the treatment or service, the provider type, health plan benefit structure, and provider treatment standards to categorize a particular benefit as either a MH/SUD or a M/S benefit. The 2024 Rule also clarified that a partial exclusion of a benefit for a covered condition in a relevant classification is a NQTL subject to parity comparative analysis requirements.

Comparative analysis content requirements: The 2024 Rule prescribed detailed content and formatting standards for comparative analyses, including written lists of all NQTLs, identification of all factors and evidentiary standards, and demonstration of comparability and stringency (both as written and in operation).

Fiduciary certification (ERISA plans): Under the 2024 Rule, plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) would have been required to certify the prudent selection and ongoing monitoring of service providers conducting and documenting comparative analyses.

The ERIC lawsuit

In January 2025, the ERISA Industry Committee (ERIC) filed a federal lawsuit challenging the 2024 Rule. As discussed in a previous article, ERIC's key arguments included:

The 2024 Rule exceeds statutory authority, especially by imposing a "meaningful benefits" mandate and requiring adherence to third-party clinical standards (like the DSM).

The 2024 Rule is arbitrary and capricious under the Administrative Procedure Act (APA), particularly due to vague or undefined requirements.

It improperly delegates regulatory authority to private organizations.

The new documentation and certification requirements would dramatically increase administrative burden and cost, potentially discouraging employers from offering robust MH/SUD benefits.

ERIC requested that enforcement of the Final Rule be stayed under 5 U.S.C. § 705 while litigation is pending, citing irreparable harm and compliance costs in a letter to the departments.

Non-enforcement announcement

Several months later, in May 2025, the departments requested that the District Court hold the lawsuit in abeyance to allow the departments to reconsider the Final Rule. As part of its announcement the departments stated that they would not enforce the 2024 Rule for non-federal governmental health plans (or pursue enforcement actions for non-compliance) for at least 18 months after a final decision in the ERIC litigation. However, the non-enforcement policy applies only to the new provisions in the 2024 Rule; the 2013 Rule, as amended by the CAA, remains in effect, as does a health plan's obligation to develop comparative analyses of NQTLs.

What remains in effect

Despite the pause on the 2024 Rule, the following requirements continue to apply and are actively enforced:

2013 Rule: Plans must ensure parity in financial requirements, qualitative treatment limitations (QTL), and NQTLs for MH/SUD compared to M/S benefits, across all benefit classifications. Also, any processes, strategies, evidentiary standards, or other factors used in applying NQTLs to MH/SUD benefits must be comparable to, and applied no more stringently than, those for M/S benefits.

CAA: Plans must perform and document comparative analyses of the design and application of NQTLs and provide these analyses to the departments or state authorities upon request. The departments provided that employers and plans should continue to rely on the 2013 Rule and other guidance issued by the departments, such as FAQs Part 45. These FAQs provide detailed information about what plans and issuers must make available and identify specific NQTLs that the DOL focuses on.

State enforcement: State insurance regulators are not bound by the federal non-enforcement policy. Some may continue to enforce parity requirements, including provisions from the 2024 Rule if adopted into state law. Fully insured health plans must monitor both federal and state requirements.

Next steps for employers and plan sponsors

Looking ahead, employers should watch for new rulemaking or guidance as the departments reexamine MHPAEA enforcement. In the meantime, employers and health plans should:

Review plan design with vendors and legal counsel to ensure financial requirements, QTL, and NQTLs are in parity, and any MH/SUD exclusions are supportable.

Maintain and update NQTL comparative analyses as required by the 2013 Rule and the CAA and continue to use pre-2024 federal guidance for compliance.

Maintain thorough documentation of compliance processes and analyses.

Monitor state law, as state-specific parity requirements or enforcement actions may still apply.

Clarify roles and expectations with vendors and service providers regarding NQTL comparative analyses and parity compliance, and update contracts as needed to ensure cooperation and timely information sharing.

What this means to you

While the non-enforcement of the 2024 Rule offers temporary relief from new compliance requirements, the foundational requirements of the 2013 Rule and CAA remain in effect. Employers and health plans must continue to demonstrate parity in plan design and operation, closely monitor federal and state developments, and be prepared to adapt as regulatory changes unfold.

Contact us

Our teams are currently working with several clients undergoing DOL investigations and have substantial experience navigating the non-enforcement policy, responding to agency inquiries, and providing practical guidance when plan sponsors encounter parity issues. We welcome the opportunity to share our insights and help employers and plans address ongoing compliance challenges in this evolving area.

For further assistance with MHPAEA compliance or to discuss how these developments may impact your plan, please contact a member of our Healthcare Regulatory or Employee Benefits teams.