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Guiding Principles for NQTL Enforcement

On September 8, 2026, the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) issued Field Assistance Bulletin 2026-03 (FAB 2026-03) to provide clarity to plan sponsors regarding EBSA's enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA).

MHPAEA prohibits health plans and health insurance issuers from applying more restrictive requirements or limitations to mental health and substance use disorder benefits than to medical or surgical benefits.

The Consolidated Appropriations Act of 2021 amended MHPAEA to require plan sponsors to perform and document a comparative analysis of their health plans' non-quantitative treatment limitations (NQTLs). Final regulations were subsequently approved and contained additional NQTL-related compliance requirements. Although regulators announced in 2025 that they would not enforce those final regulations for 2025 and 2026, the statutory requirements of MHPAEA, including the NQTL comparative analysis added by CAA, continue to apply.

FAB 2026-03 identifies three categories on which EBSA will focus when enforcing the NQTL requirements.

1. Separate treatment limitations applicable only to mental health and substance use disorder benefits, particularly blanket exclusions.
2. Medical necessity standards and review processes, such as prior authorization, concurrent review, and retrospective review, and whether those used for mental health and substance use disorder benefits are comparable to those used for medical or surgical benefits.
3. Standards affecting network adequacy, including network admission standards and provider reimbursement methodologies, that may create barriers to

obtaining treatment for mental health and substance use disorders compared to medical or surgical care.

EBSA views these categories as creating the "highest potential for significant harm to participants and beneficiaries." However, EBSA may investigate other categories as issues or complaints arise.

EBSA also released an enforcement guidance tool identifying "red flag" issues observed during NQTL compliance investigations. The tool provides insight into EBSA's expectations for plan sponsors and issuers regarding NQTL compliance. The guidance includes examples of potential plan compliance issues in plan documents, questions to ask health plan service providers, and best practices for monitoring compliance.

With this additional clarity regarding EBSA's enforcement approach for MHPAEA and NQTL requirements, plan sponsors should review their health plan documents and service provider agreements and practices to identify and address potential compliance issues.

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