



Mental Health Parity: Government Announces Non-Enforcement of NQTL 2024 Final Rule

For more than four years, sponsors of group health plans have struggled to document – in a way that satisfies regulators – that their plans satisfy the nonquantitative treatment limitations (NQTLs) rules under the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) as amended by the Consolidated Appropriations Act 2021 (CAA). A recent joint announcement by the U.S. Departments of Labor, Health and Human Services, and Treasury may have led sponsors to believe that those documentation requirements no longer apply. That understanding would be mistaken.

We previously [summarized final regulations](#) issued in September 2024 pertaining to the manner in which NQTLs are treated under the MHPAEA. Those regulations require group health plan sponsors to take additional steps to demonstrate that their plan's NQTLs applicable to mental health and substance use disorder benefits are applied in parity with the NQTLs applicable to medical/surgical benefits.

Among other things, the 2024 final regulations required fiduciaries of group health plans to prepare and execute a certification related to the plan's NQTL comparative analysis and create a separate list of the plan's NQTLs. Those requirements were effective for the 2025 plan year. In addition, beginning in the 2026 plan year the regulations required plan sponsors to collect and evaluate certain data to assess the impact of NQTLs.

Non-Enforcement Announcement

On May 15, the Departments [announced](#) that they will not enforce the September 2024 final regulations due to pending litigation and an Executive Order from the

current presidential administration regarding deregulatory initiatives. The current administration is considering whether to rescind or modify the final regulations and is examining its approach to mental health parity enforcement generally.

What Now?

While the Departments will not enforce the additional NQTL compliance measures added by the 2024 final rules that would have been required in the 2025 and 2026 plan years, the NQTL comparative analysis rule enacted as part of the CAA is *not* impacted by this non-enforcement announcement.

Plans still must conduct and document a comparative analysis of their NQTLs. The preamble to the 2024 final regulations makes it clear that regulators expect plans to be in compliance with the MHPAEA requirements added by the CAA, including the comparative analysis requirement.

It is important to note that the 2024 final regulations have not been modified or rescinded – instead, regulators have simply announced that they will not enforce those regulatory requirements at this time. Plan sponsors should continue to monitor this issue and pay attention to any additional guidance that may be issued.

If you have questions about the MHPAEA NQTL rules, please contact any member of the Spencer Fane Employee Benefits Team.

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