



Recap of 2023 Mental Health Parity Guidance for Plan Sponsors

The addition of the non-quantitative treatment limitation (NQTL) comparative analysis requirement in the Consolidated Appropriations Act, 2021, has placed renewed emphasis on group health plan compliance with the Mental Health Parity and Addiction Equity Act of 2008, as amended (MHPAEA). Regulators released a significant amount of information related to MHPAEA compliance during 2023, including the following:

- **Proposed Regulations.**¹ The proposed regulations would impose significant additional requirements on plans to collect and evaluate certain plan-specific data to determine NQTL compliance and to include certain information in the comparative analysis.
- **Technical Release 2023-01P.**² The Technical Release outlines the types of data the U.S. Departments of Labor, Health and Human Services, and Treasury (the Departments) may require plans to collect and evaluate as part of the NQTL comparative analysis, with a focus on plan provider networks.
- **Fact Sheet FY 2022 MHPAEA Enforcement.**³ This report highlights DOL and CMS enforcement efforts and investigations of MHPAEA compliance.
- **MHPAEA Guidance Compendium.**⁴ This document includes links to guidance applicable to the violations discussed in the Fact Sheet.
- **MHPAEA Comparative Analysis Report to Congress, July 2023.**⁵ This Report outlines the Departments' NQTL comparative analysis enforcement and includes helpful information about specific problematic plan provisions and information

about the areas of enforcement prioritized by the Departments.

In 2024, employers and plan sponsors should continue to work with legal counsel and plan providers to focus on MHPAEA compliance guided by insights included in these documents and should closely monitor developments related to the proposed rules and be prepared to adjust compliance efforts to align with any changes to the rules that are ultimately finalized.

This blog was drafted by Natalie Miller, an attorney in the Spencer Fane Overland Park, Kansas office. For more information, visit www.spencerfane.com.

¹ [The proposed regulations](#) were published on August 3, 2023; if finalized, the regulations would be effective for the first plan year beginning on or after January 1, 2025.

² [The Technical Release](#) (developed in collaboration with the U.S. Departments of Health and Human Services and the Treasury).

³ [The Fact Sheet](#)

⁴ [The Guidance Compendium](#)

⁵ [The Report](#)