



AHIP Update: Mental Health Parity Provisions of the Consolidated Appropriations Act 2021

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California Association of
Health Plans

Webinar Series

Who is AHIP?

America's Health Insurance Plans (AHIP) is the national association whose members provide coverage and health-related services that **improve and protect the health and financial security of consumers, families, businesses, communities and the nation.**

Agenda

- ❑ MHPAEA Quick Overview
- ❑ CAA Provisions & FAQs
- ❑ Next Steps

MHPAEA Overview

- Generally, MHPAEA requires most health plans (there are a few exceptions) to apply *comparable* rules to MH/SUD benefits as they do for M/S benefits
- Parity means that financial requirements (such as copayments, coinsurance, and deductibles) and QTLs (such as visit limits) must be comparable for M/S and MH/SUD services
- Parity also applies to NQTLs, or rules on how services are accessed and under what conditions services are covered (such as prior authorization requirements)

NQTLs

- NQTLs are limitations that affect the scope or duration of benefits under the plan that are not expressed numerically
 - Any processes, strategies, evidentiary standards or other factors used in applying the NQTL to MH/SUD benefits must be comparable to and applied no more stringently than the processes, strategies, evidentiary standards or other factors used in applying the limitation with respect to M/S benefits in the same “classification”

Consolidated Appropriations Act (CAA) 2021

- Signed into law on December 27, 2020
- No Surprises Act was part of the CAA: Division BB – Private Health Insurance & Public Health Provisions
- INCLUDES:
 - Mental Health Parity
 - Surprise Billing & Air Ambulance
 - Transparency & Advance EOB
 - Consumer Provisions: Provider Directories, APCDs, ID Cards, Gag Clause

Mental Health Provisions of CAA

- Plans must perform and document comparative analyses of the design and application of NQTLs on MH/SUD and M/S benefits
- Beginning February 10, 2021, (45 days after enactment) analyses must be made available to regulators, upon request
- Federal agencies must request minimum of 20 analyses per year from plans and issuers with potential violations
- If a plan is found to be non-compliant, the plan has 45 days to correct
- If Secretary makes a final determination of non-compliance, plan must notify enrollees of noncompliance within 7 days
- **Requires information-sharing with States which will support State enforcement efforts**

Mental Health Provisions of CAA

- Tri-agencies must issue compliance program guidance to include:
 - Examples of instances of compliance/noncompliance on NQTLs
 - Examples of instances of compliance/noncompliance on disclosure requirements
 - Update every 2 years
- Tri-agencies must finalize any draft or interim guidance
 - Deadline by 6/27/2022 (18 months after enactment)
 - Include process and timeline for consumers to file complaints
 - CAA requires notice and comment prior to issuing final guidance

Mental Health Provisions of CAA:

Federal FAQs on MH/SUD Parity Implementation and the CAA

- On April 2, 2021, the Tri-Agencies issued [guidance](#) on the CAA amendments to MHPAEA.
- The FAQs include additional detail on the type of information plans must make available in response to a request for documentation of their comparative analyses.
- Plans that have carefully applied the guidance in the DOL Self-Compliance Tool “should be in a strong position” to comply with the CAA's requirement to submit comparative analyses upon request. (Question 2)
 - The [Self Compliance Tool](#) was updated in 2020.
 - Robust guidance related to requirements for NQTLs
 - Outlines four steps plans/issuers should take to assess their compliance and identifies types of information to support the analysis and conclusions reached about NQTL compliance
 - AHIP continues to be an active stakeholder in the process

Mental Health Provisions of CAA:

Federal FAQs on MH/SUD Parity Implementation and the CAA

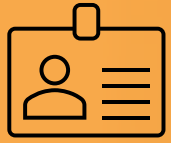
- FAQs state in the near term, DOL expects to focus its enforcement efforts on the following NQTLs (Question 8):
 - Prior authorization for in-network and out-of-network inpatient services;
 - Concurrent review for in-network and out-of-network inpatient & outpatient services;
 - Standards for provider admission to participate in a network, including reimbursement rates; and
 - Out-of-network reimbursement rates (plan methods for determining usual, customary, and reasonable charges).
- *Note*, this initial focus does not limit federal or state ability to request or review different or additional NQTL analyses – plans and issuers are required to perform and document comparative analyses for all NQTLs imposed.

Next Steps

- Federal
 - Due to the expeditious timeframes established under the CAA regarding comparative analyses of NQTLs, the Departments are issuing these FAQs to address several discrete issues. The Departments will engage with stakeholders to determine what additional guidance might be needed. (Question 7)
- State
 - States should leverage the new federal requirements (CAA and guidance) and avoid enacting conflicting requirements.
 - Health plans must complete the mental health component of the NAIC MCAS Handbook.
 - MCAS Handbook requires reporting through NAIC & links to the DOL Compliance Toolkit.
 - 2021 is the first-year data is being reported on mental health (for 2020).
- NAIC
 - AHIP previously requested MHPAEA Working Group delay discussions on other reporting requirements until finalized federal guidance; AHIP will continue to engage with state and federal regulators and stakeholders in any future regulatory work.
 - MHPAEA WG April call is focused on health equity within mental health/SUD benefits.
- AHIP
 - Focused efforts in collaboration with stakeholders on solutions to systemic behavioral health challenges: integration of physical and mental health care, measurement-based care, and tele-behavioral health.

Questions





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Thank you to Groom Law Firm

Several slides are from a presentation Groom provided to the NAIC on the CAA provisions on behalf of AHIP. We thank them for permission to utilize their bullets.