

# Five Things You Need to Know About the Final Mental Health Parity and Addiction Equity Act Rule

## 1. What is the rule?

The Departments of Labor (DOL), Treasury, and Health and Human Services (HHS) released the final [Mental Health Parity and Addiction Equity Act rule](#) on September 9, 2024.

It requires employer health plans that cover mental health and substance use disorder benefits to provide such coverage **on par with medical/surgical benefits**. Employer plans cannot impose requirements or limitations that are more restrictive than those applied to medical/surgical benefits, including:

<b>Financial requirements</b> <i>(e.g., deductibles, copays)</i>	<b>Quantitative treatment limitations</b> <i>(e.g., number of covered days, visits, or treatments)</i>	<b>Non-quantitative treatment limitations</b> <i>("NQTLs", e.g., prior authorization requirements, reimbursement rates)</i>
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## 2. When does the rule take effect?

While much of the rule is effective for plans beginning on or after **January 1, 2025**, there are several provisions which have a delayed effective date.

- Due to their complexity, the provisions related to meaningful benefits, the design and application analysis, outcomes analysis, prohibition on discriminatory factors and evidentiary standards, and the new comparative analysis requirements will be effective for plans beginning **January 1, 2026**.



**January 1, 2025**

**January 1, 2026**

### 3. What are the main changes?

- a. **Fiduciary certification (eff. 1/1/25):** For ERISA plans, the plan fiduciary must certify that it **engaged in a prudent process** when selecting and monitoring a service provider to perform comparative analyses.
- b. **“Meaningful benefits” (eff. 1/1/26):** A plan must offer at least one “core treatment” for every covered condition. A core treatment must be standard in the treatment of a condition and generally recognized by independent standards of medical practice (*e.g.*, ICD and DSM). Plans should ensure they are offering mental health/substance abuse benefits in every classification that medical/surgical benefits are provided and that a standard course of treatment is covered for each condition.
- c. **Two-part analysis for NQTLs (eff. 1.1.26):** To demonstrate that the plan meets parity requirements for non-quantitative treatment limitations, employers must pass both a design and application test and a relevant data test. Material differences (not defined in the rule, but could include a higher rate of denials based on prior authorization) discovered in the review are considered a “strong indicator” of a violation.
  - **Design and application analysis:** Plans are required to conduct an analysis demonstrating the design and application of any non-quantitative treatment limitation applied to mental health benefits is not the result of factors that discriminate against these conditions (*e.g.*, the evidence, sources, or standards used are not objective). If the analysis shows discrimination, you must correct the biased information and outline it in the comparative analysis.
  - **Relevant data analysis:** Plans must collect and review data related to network composition and utilization, claims denials, and provider reimbursement rates to assess whether an NQTL impacts outcomes differently for mental health benefits than for medical/surgical benefits.

### 4. How do I prepare for an audit?



- a. **Assess the budget impact:** Expect higher costs for plan administration, premiums, indemnification and legal review, and higher provider reimbursement rates for MH/SUD claims. DOL also expects there to be higher utilization of mental health services given the focus on expanded networks.
  - a. Employers can balance increased costs related to achieving parity through reducing medical/surgical benefits, rather than reducing limitations on mental health services.
  - b. Continue to focus on proven strategies like expanding telehealth services and working with integrated mental health and primary care providers to reduce costs.
  - c. Providing mental health benefits is voluntary and some employers may revisit their benefits strategy as a result of increased costs.



- b. Review plan design for red flags:** As fiduciaries, employers should prioritize identifying red flags in their plan design. Consider using DOL's [self-compliance tool](#) to help.



### **Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA)**



- c. Tick the box on NQTL comparative analysis:** This requirement has been in effect since 2021, and investigations are active and ongoing. Your obligation to perform and document the comparative analysis is not dependent upon a DOL audit request and employers have just ten business days to provide their analysis and other documentation.
- The analysis must identify the non-quantitative treatment limitation, its classification, evidentiary standards, factors, or clinical support used in creating and applying it, and the comparison between mental health and medical/surgical benefits.



- d. Revise carrier and TPA contracts:** Contractually delegate responsibility to the TPA/carrier for compliance with the new requirements. For example, the contract can include a provision that states the carrier/TPA provides a complete comparative analysis on any NQTLs it imposes.
- In cases where a carrier and/or TPA exercises discretionary control over a plan, like interpreting plan provisions or adjudicating claims, then they can be deemed a co-fiduciary under ERISA. Contracts should ensure that carriers and/or TPAs acknowledge fiduciary status.



- e. Document all attempts to improve access.** The Departments did acknowledge that the lack of mental and behavioral health providers can limit an employer's ability to build a strong network. In this case, the employer should document all its efforts to attract providers, including offering telehealth services, increasing reimbursement rates, and revising credentialing standards. It is *not* acceptable to simply state there is a lack of providers in a geographical area.

## **5. Will the new rule be challenged?**

There is a high likelihood that the rule will be challenged, particularly after the recent Supreme Court decision overruling *Chevron* deference. Pending final resolution of any legal challenges, the current rules will still stand, so make sure you are complying with those requirements.