

CHECKLIST | MENTAL HEALTH PARITY: COMPARATIVE ANALYSIS OF NQTLs

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The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) is a federal law that generally prohibits health plans and health insurance issuers from imposing barriers on access to mental health or substance use disorder (MH/SUD) benefits that do not apply to medical and surgical (M/S) benefits. MHPAEA's parity requirements apply to **financial requirements** (such as deductibles, copayments and coinsurance), **quantitative treatment limitations** (such as day or visit limits) and **nonquantitative treatment limitations (NQTLs)**, which generally limit the scope or duration of benefits (such as standards related to network composition).

MHPAEA applies to group health plans sponsored by employers with more than 50 employees. However, insured health plans in the small group market must also comply with federal parity requirements for MH/SUD benefits.

MHPAEA requires health plans and issuers to conduct **comparative analyses** of the design and application of NQTLs used for MH/SUD benefits compared to M/S benefits. Health plans and issuers must make their comparative analysis available upon request to the Departments of Labor, Health and Human Services, and the Treasury (Departments), as well as applicable state authorities and covered individuals.

On Sept. 23, 2024, the Departments published a [final rule](#) to strengthen MHPAEA's requirements. The final rule establishes minimum standards for developing comparative analyses to assess whether each NQTL, as written and in operation, complies with MHPAEA's parity requirements. The final rule generally applies for plan years beginning on or after **Jan. 1, 2025**. However, some key requirements are delayed until plan years beginning on or after **Jan. 1, 2026**.

Employers with fully insured health plans should reach out to their issuers to confirm comparative analyses will be completed for their plan's NQTLs for the 2025 plan year in accordance with the final rule's requirements. Employers with self-insured health plans should contact their third-party administrators or other service providers for assistance with their comparative analyses.

This checklist outlines key steps for complying with MHPAEA's comparative analyses requirement for NQTLs for plan years beginning in 2025.

Comparative Analysis: Step-by-Step Requirements	Complete
<p>Step One: Identify and describe each NQTL imposed on the plan's MH/SUD benefits.</p> <p>Identify each NQTL, including the specific terms of the plan regarding the NQTL, the internal or external policies or guidelines describing the NQTL, and the applicable sections of any other relevant documents describing the NQTL, such as provider contracts. Examples of common NQTLs are listed below.</p>	<input type="checkbox"/>

Comparative Analysis: Step-by-Step Requirements	Complete
<p>Also, identify all MH/SUD and M/S benefits the NQTL applies to and list which benefits are treated as MH/SUD benefits and which are treated as M/S benefits. Describe which benefits are included in each classification of benefits under MHPAEA (i.e., inpatient, in-network; inpatient, out-of-network; outpatient, in-network; outpatient, out-of-network; emergency care; and prescription drugs).</p>	
<p>Examples of NQTLs: The Departments have provided the following illustrative, nonexhaustive list of NQTLs:</p> <ul style="list-style-type: none"> • Medical management standards (such as prior authorization) limiting or excluding benefits based on medical necessity or medical appropriateness or based on whether the treatment is experimental or investigative; • Formulary designs for prescription drugs; • Network tier design for plans with multiple network tiers, such as preferred providers and participating providers; • Standards related to network composition, such as standards for provider and facility admission to participate in a network or for continued network participation, methods for determining reimbursement rates, credentialing standards, and procedures for ensuring the network includes an adequate number of each category of provider and facility to provide services under the plan; • Methods for determining out-of-network rates, such as allowed amounts; usual, customary and reasonable charges; and application of other external benchmarks for out-of-network rates; • Fail-first policies or step-therapy protocols (e.g., refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective); • Exclusions based on failure to complete a course of treatment; and • Restrictions based on geographic location, facility type, provider specialty or other criteria that limit the scope or duration of benefits for service provided under the plan. 	
<p>Step Two: Identify and define the factors or evidentiary standards used to design or apply the NQTL.</p> <p>Identify every factor and evidentiary standard considered or relied upon and the sources from which each evidentiary standard was derived in determining which benefits (MH/SUD and M/S) are subject to the NQTL. Include the following information:</p> <ul style="list-style-type: none"> • A definition and detailed description of each factor; • A description of each evidentiary standard used to design or apply each factor (and the source of each evidentiary standard); and • A description of any steps the plan has taken to correct, cure or supplement any information, evidence, sources or standards that would otherwise have been considered biased or not objective in the absence of such steps. 	<input type="checkbox"/>

Comparative Analysis: Step-by-Step Requirements	Complete
<p>Step Three: Describe how factors are used in the design and application of the NQTL.</p> <p>Describe how each factor is used in the design or application of the NQTL. Include the following information:</p> <ul style="list-style-type: none"> • A detailed explanation of how each factor is used to determine which benefits (MH/SUD and M/S) are subject to the NQTL; • An explanation of the evidentiary standards considered or relied upon in designing or applying the NQTL; • If the application of the factor depends on specific decisions made in the administration of benefits, an explanation of the nature and timing of the decisions, and the professional qualifications of each decisionmaker; • If more than one factor is used, an explanation of how the factors relate to each other, the order of applying the factors, whether and how any factors are given more weight than others, as well as the reasons for these rules; and • If there are any deviations or variations from a factor or its application or definition, an explanation of how the factor is used differently when applying the NQTL to MH/SUD benefits as compared to M/S benefits. 	<input type="checkbox"/>
<p>Step Four: Demonstrate comparability and stringency as written.</p> <p>Evaluate whether, in any classification, as written, the factors used in designing and applying the NQTL to MH/SUD benefits are comparable to and applied no more stringently than those used for M/S benefits. Include the following information:</p> <ul style="list-style-type: none"> • Documentation of each factor, including quantitative data, calculations or other analyses, and plan records documenting the consideration and application of all factors and evidentiary standards, as well as the results of their application; • A comparison of how the NQTL, as written, is designed and applied to MH/SUD benefits and M/S benefits, including the specific provisions of any forms, checklists, procedure manuals, or other documentation that addresses the application of the NQTL; • Documentation demonstrating how the factors are comparably applied; and • An explanation of the reasons for any deviations or variations in applying the factors and how the plan established the deviations or variations. 	<input type="checkbox"/>
<p>Step Five: Demonstrate comparability and stringency in operation.</p> <p>Evaluate whether, in any classification, in operation, the factors used in designing and applying the NQTL to MH/SUD benefits are comparable to, and are applied no more stringently than, those used for M/S benefits. Include the following information:</p> <ul style="list-style-type: none"> • Any methodology or underlying data used; and 	<input type="checkbox"/>

Comparative Analysis: Step-by-Step Requirements	Complete
<ul style="list-style-type: none"> The sample period, inputs used in any calculations, definitions of terms used and other criteria. <p>In addition, discuss actions that have been taken or are being taken by the plan to address any material differences in access to MH/SUD benefits as compared to M/S benefits.</p> <p><i>Effective for plan years beginning on or after Jan. 1, 2026, plans and issuers must collect and evaluate relevant data in a manner reasonably designed to assess the impact of the NQTL on relevant outcomes related to access to MH/SUD and M/S benefits and carefully consider the impact as part of the plan’s evaluation. Beginning in 2026, a plan’s comparative analysis must identify this data and include documentation of the outcomes that resulted from the application of the NQTL to MH/SUD and M/S benefits.</i></p>	
<p>Step Six: Address findings and conclusions.</p> <p>Address the plan’s findings and conclusions as to the comparability and stringency of the NQTLs, both as written and in operation. Include the following information:</p> <ul style="list-style-type: none"> Any findings or conclusions indicating that the plan is (or is not) in compliance with MHPAEA’s comparability standards and any additional actions the plan has taken or intends to take to address any noncompliance; Citations to any additional information not otherwise included in the comparative analysis that supports the findings and conclusions; The date the analysis is completed and the title and credentials of all relevant persons who prepared the analysis; An assessment of the qualifications of each expert who was involved with preparing the analysis; and If the plan is subject to the Employee Retirement Income Security Act (ERISA), a certification by one or more named fiduciaries that they have engaged in a prudent process to select one or more qualified service providers to perform and document the analysis and that they have satisfied their ERISA duties to monitor the service providers. 	<input type="checkbox"/>