

# Plan's Comparable (but Not Identical) Medical Necessity Guidelines Comply With MHPAEA

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*L.D. v. United Healthcare Insurance, 2023 WL 4847421 (D. Utah 2023)*

A group health plan participant sued the plan and its insurer after coverage for her child's stay at a residential treatment center was denied as not medically necessary. In addition to seeking benefits under the terms of the plan (which the court partially granted), the participant claimed that the plan violated the Mental Health Parity and Addiction Equity Act (MHPAEA) by applying the "medically necessary" treatment limitation more restrictively for mental health benefits than for medical/surgical benefits. The plan used one set of guidelines (the Optum Level of Care Guidelines) to review the medical necessity of mental health residential treatment and another (the Milliman Care Guidelines) to review the medical necessity of medical/surgical treatment at skilled nursing facilities.

The court explained that to comply with the MHPAEA, the plan must apply the medical necessity limitation to mental health treatment using processes, strategies, evidentiary standards, or other factors that are "comparable to and not more stringent than" those used for applying the limitation to medical/surgical benefits. Although the plan used two different sets of guidelines to review the two types of claims, the court found the guidelines comparable in that (1) the plan applied an identical definition of "medically necessary" to both types of benefits; (2) the guidelines used for applying the medical necessity limitation were developed using similar processes; and (3) the differences between the guidelines were insufficient to show disparity. Emphasizing that the guidelines do not need to be identical, just comparable, the court concluded that the medical necessity limitation was applied comparably to mental health and medical/surgical benefits and ruled in the plan's favor.

**EBIA Comment:** Ensuring that nonquantitative treatment limitations (NQTLs) such as medical necessity limitations comply with the MHPAEA is currently a high enforcement priority for the agencies. Recently proposed regulations would, if finalized, implement extensive requirements related to NQTLs and the comparative analysis required by the Consolidated Appropriations Act, 2021. For more information, see EBIA's Group Health Plan Mandates manual at Sections IX.E ("Mental Health Parity: Nonquantitative Treatment Limitations") and IX.H.1 ("NQTL Comparative Analysis"). See also EBIA's Self-Insured Health Plans manual at Section XIII.C.2 ("MHPA and MHPAEA: Mental Health Parity").

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