

Agencies Extend Comment Period for MHPAEA Proposed Regulations

EBIA Weekly (September 21, 2023)

Requirements Related to the Mental Health Parity and Addiction Equity Act; Extension of Comment Period, 26 CFR Part 54; 29 CFR Part 2590; 45 CFR Parts 146 and 147, __ Fed. Reg. __ (____)

Available at <https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/guidance/technical-releases/requirements-related-to-the-mhpaea-extension-of-comment-period.pdf>

The DOL, IRS, and HHS have announced that they will extend the comment period for recently proposed regulations under the Mental Health Parity and Addiction Equity Act (MHPAEA). The comment period, which was originally scheduled to close on October 2, 2023, will be extended 15 days to October 17, 2023, for both the regulations and the accompanying DOL Technical Release. Instructions are provided for submitting comments either electronically or by mail.

The proposed regulations, which would amend existing rules under the MHPAEA and implement the nonquantitative treatment limitation (NQTL) comparative analysis requirement added by the Consolidated Appropriations Act, 2021, include extensive guidance and new requirements for group health plans and insurers that apply NQTLs to mental health and substance use disorder benefits. The Technical Release focuses on the analysis of plan network composition and discusses a potential enforcement safe harbor for NQTLs related to network composition. According to the agencies, the proposed regulations and Technical Release have generated “considerable interest,” and some interested parties have requested additional time to review and submit comments. The agencies explain that they are extending the deadline because they “value public feedback as they consider whether and how to issue final rules and future guidance.”

EBIA Comment: Plan sponsors, insurers, TPAs, and others with an interest in the mental health parity rules and the NQTL comparative analysis requirement now have additional time in which to submit feedback to the agencies. As a reminder, the proposed regulations largely build on previous guidance regarding requirements that are already in effect, and the agencies have been committed to ensuring compliance through outreach and enforcement efforts. For more information, see EBIA’s Group Health Plan Mandates manual at Sections IX.E (“Mental Health Parity: Nonquantitative Treatment Limitations”) and IX.H (“Mental Health Parity Reporting Requirements”). See also EBIA’s Self-Insured Health Plans manual at Section XIII.C.2 (“MHPA and MHPAEA: Mental Health Parity”).

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