

2025 Report to Congress Highlights Deficient NQTLs Gallagher

In March, the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury, collectively the Departments, published their fourth annual report to Congress detailing Mental Health Parity and Addiction Equity Act (MHPAEA) enforcement for the reporting period of August 1, 2023 through July 31, 2025. At a mere 32 pages, the [2025 Report](#) is much shorter in length than prior 100+ page reports, and comes almost a year after enforcement paused portions of the 2024 MHPAEA regulations. While the Report reflects a general increase in many types of letters issued, it also shows a reduction in insufficiency letters, which the Departments noted was the result of plans and insurers promptly removing problem limitations prior to an insufficiency finding.

Background

MHPAEA requires parity in a group health plan's financial requirements (e.g., copays, deductibles), quantitative treatment limitations (e.g., visit limits), and non-quantitative treatment limitations (NQTLs) between a plan's mental health or substance use disorder (MH/SUD) benefits and medical/surgical (M/S) benefits. After passage of the Consolidated Appropriations Act, 2021 (CAA), plans began to be required to perform a comparative analysis on the plan's NQTLs and produce that report when requested by a participant, provider, or federal or state enforcement agency.

The Departments issued final regulations on the NQTL comparative analysis (the 2024 regulations). The components of the analysis were technical and required cooperation with all medical and prescription drug carriers, who through their administration of the plan's claims, are the entities that most frequently create and administer the NQTLs. After litigation was filed challenging the legality of the 2024 regulations, and an intervening presidential election, in May 2025, the Departments issued a non-enforcement policy on portions of the 2024 MHPAEA regulations that amended the 2013 MHPAEA final rules, which required NQTL compliance.

The [non-enforcement policy](#) extends 18 months after the conclusion of the litigation. Despite the non-enforcement policy, the NQTL comparative analysis is statutorily required by the CAA and non-enforcement does not eliminate the requirement for group health plans to prepare and disclose, upon request, the NQTL comparative analysis, nor does it eliminate the comparative analysis parameters found in [FAQs Part 45](#).

2025 Report Conclusions

The Report focuses on NQTLs most obstructive to care access, with the following specific types of NQTLs highlighted as the most likely to cause compliance issues:

- Issues with provider network admission standards;
- Exclusion of speech or occupational therapy, limits on autism services (e.g., age limit, parental participation requirement, diagnostic confirmation by specific specialist, etc.) but not an Applied Behavioral Analysis (ABA) therapy exclusion;
- Exclusion of nutritional counseling for eating disorders;
- Exclusion of ABA therapy; and

- Exclusion of residential care or partial hospitalization.

The most common areas of initial noncompliance involved prior authorization requirements, provider network admission issues, and out-of-network provider reimbursement, though the Report notes that plans and insurers who received such determinations were generally responsive with a corrective action plan (CAP) to correct the violations. Often, an insufficiency letter or noncompliance determination was not issued due to the reporting entity's prompt "removal of a MHPAEA limitation, especially an exclusion or limitation that applied only to MH/SUD benefits and not to any M/S benefits in a classification," which demonstrates that at least in some instances, good faith corrections were sufficient to address compliance concerns.

While in many instances voluntary fixes helped some plans avoid an insufficiency letter, the Departments note that MHPAEA compliance ultimately belongs to the plan sponsor, regardless of whether the plan has contracted with a TPA. The Report includes specific examples of TPA failures that ultimately caused the plan's noncompliance, including one who utilized an ABA therapy exclusion with self-insured plans that included Autism Spectrum Disorder as a covered mental health benefit. Another example highlighted a TPA assisting a large, self-insured plan that covered methadone to treat M/S conditions (e.g., chronic pain) but excluded methadone maintenance treatments for opioid use disorder. In both instances, the plans worked with the Departments to correct the violations. After noting additional examples, the Departments instruct that plans must review all information and process details for any TPAs contracting with the plan to ensure compliance.

Although the Report acknowledges the "numerous challenges" plans face in achieving MHPAEA compliance and that these issues can obstruct care access, the Departments comment that they "observed a continued trend of zero comparative analyses that were sufficient at first submission." Plan sponsors should confirm that their NQTL comparative analyses are accurate and complete in advance of any review request. Though many of the reviews identifying deficiencies were cured with additional information, those plans that were proactively prepared for the Departments' compliance investigations resolved deficiencies faster with better outcomes. The Departments also note that they are reviewing the 2024 rules and expect to broadly reexamine their enforcement approach prior to the next report to Congress. This aligns with the government's status report in the ongoing MHPAEA litigation, which recently notified the court of their intent to re-propose and/or rescind the 2024 regulations by the end of 2026.

Employer Action Steps

Plan sponsors should create, in cooperation with their insurers, TPAs, and PBMs and disclose NQTL comparative analyses as required by law. Ideally, through that process, plan sponsors should work through commonly cited NQTL violations. For a detailed review of comparative analysis requirements, see our [Guide to Mental Health Parity](#). Lastly, though litigation on the 2024 MHPAEA regulations is ongoing, the Report makes clear that MHPAEA obligations, including the requirement to create written NQTL comparative analyses, are still in effect. Until further guidance is issued, plan sponsors should continue to verify parity compliance and prepare an NQTL comparative analysis in accordance with the 2013 rules and FAQs Part 45.

The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.