

Session 2:

Achieving Mental Health Parity Compliance

DECEMBER 12, 2024



The Central Florida Health Care Coalition, Incorporated d/b/a Florida Alliance for Healthcare Value is providing this information to you solely in our capacity as a 501c3 nonprofit education organization with knowledge and experience in the industry and not as advice in any capacity.



Agenda

- * Introduce our presenters
- * Quick review of the Part 1 Webinar
- * Review of the Cover letter to the Employer/Healthcare Purchaser
Mental Health Parity Toolkit and the NQTL Multi-Step Assessment
- * Gain Feedback from the Attendees
- * Timing for Release of Final Toolkit

Our Presenters

- ▶ Henry Harbin, MD – Psychiatrist and Advisor to the Bowman Family Foundation
- ▶ Beth Ann Middlebrook, JD – Health Lawyer specializing in behavioral health law, owner of B. Middlebrook Consulting, and advisor to the Bowman Family Foundation
- ▶ Foong-Khwan Siew – MHPAEA Administrator, Maryland Insurance Administration

What we covered in Session 1



Why is Mental Health Parity important?



The final rules on Mental Health Parity



What should you be doing now to ensure compliance?



What are you hearing from your health plan partner about your plan's compliance?



Toolkit being developed – to be shared on the December 12 webinar



Volunteers needed to review draft tools

The ABC's of Mental Health Parity

CAA: Consolidated Appropriations Act

DOL: Department of Labor

MBHO: Managed Behavioral Health Organization

MHPAEA: Mental Health Parity and Addiction Equity Act

M/S: Medical/Surgical

MH/SUD: Mental Health/Substance Use Disorder

NQTL: Non-Quantitative Treatment Limit

OON: Out-of-Network

OOP: Out-of-Pocket

QTL: Quantitative Treatment Limit

EMPLOYERS/HEALTHCARE PURCHASERS NEED TO TAKE ACTION NOW FOR MENTAL HEALTH PARITY COMPLIANCE

Employer/Healthcare Purchaser Fiduciary Responsibility

Employers/healthcare purchasers have a fiduciary responsibility to the participants in their employee benefit plans to provide compliant Financial Requirement (FR), Quantitative Treatment Limits (QTL), and Non-Quantitative Treatment Limit (NQTL) comparative analyses to DOL/CMS upon request.

Remember, employers/purchasers **are liable** for the **accuracy and completeness** of NQTL, FR, and QTL comparative analyses.

DOL/CMS is Escalating Enforcement

Employers/healthcare purchasers have been subject to significant enforcement of mental health parity for the past several years. Beginning January 2025, if DOL requests documentation of your compliance, you only have 10 business days to respond.

Are you ready?

EMPLOYERS/HEALTHCARE PURCHASERS NEED TO TAKE ACTION NOW FOR MENTAL HEALTH PARITY COMPLIANCE

DOL/CMS Reports that Most Employers/Purchasers are Noncompliant in the Area of NQTLs

DOL/CMS report that to date, there continues to be a significant lack of compliance by employers/healthcare purchasers and that in the second year of the CAA implementation, they did not see any substantive improvement in the comparative analyses they received.

Do You Know How to Comply?

Most employers/healthcare purchasers typically rely on their TPAs/service providers for the administration and management of their employee benefit health plans. Employers/healthcare purchasers also typically do not know how to prepare or assess comparative analyses for NQTLs because of the complexity of the analysis and the data that is needed to conduct the analysis is not typically available to them.

Employers/purchasers have significant liability.

MENTAL HEALTH PARITY REQUIREMENTS

<https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/mental-health-parity-compliance-tool.pdf>

WHAT IS CURRENT THINKING ABOUT ACCESS TO IN-NETWORK BEHAVIORAL HEALTH PROVIDERS?

The 2023 Voice of the Purchaser survey of 220 employers conducted by the National Alliance of Healthcare Purchaser Coalitions and the HR Policy Association found that **only 31% of employers** were satisfied with their members' access to in-network behavioral health providers.

This survey finding signals that there may be a lack of parity between M/S and MH/SUD access.

THE EMPLOYER/HEALTHCARE PURCHASER TOOLKIT FOR NQTL COMPLIANCE

This NQTL toolkit is intended to help employers/healthcare purchasers hold their carriers/TPAs and/or MBHO accountable for ensuring that their plan participants have comparable access to MH/SUD benefits as compared to M/S benefits for **the most common NQTLs**.

This NQTL toolkit is for employers/healthcare purchasers to give to their carriers/TPAs and/or MBHOs to complete.

WHAT IS IN THE TOOLKIT FOR NQTL COMPLIANCE?

Multi-Step Instructions for how to conduct a comparative analysis

These are typical instructions for responding to a regulator's request for the plan's NQTL comparative analysis. These instructions include specific quotes to the MHPAEA statutory and regulatory guidance. The instructions also highlight common non-compliant responses identified in the 2023 Report to Congress and provide guidance on how to correct these deficiencies.

Detailed Instructions and Excel Tables for measuring quantitative outcomes data on how NQTLs are applied

These types of quantitative data measures have been required for several years. The 2023 Report to Congress identified deficiencies in carrier's/TPA's submitted quantitative outcomes data, including: “[Plans] ***often failed to explain numerical inputs, underlying methodologies, or calculations behind summary data that were presented as evidence of a comparable application.***” These data templates are designed to address these deficiencies and provide consistent and reliable methods for data analyses.

THE FIVE KEY QUANTITATIVE MEASURES

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1. Out-of-Network Use (claims data)
 2. In-Network Reimbursement Rates for Office Visits (claims data)
 3. Network Provider Actual Participation (claims data)
 4. Denial Rates (claims data)
 5. UM Frequency/Proportion
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MBHO CARVE-OUT SCENARIOS

If your TPA carves out behavioral health benefits management to an MBHO, your TPA is responsible for providing comprehensive comparative analyses for both itself and the MBHO.

If you - the employer/purchaser – carve out behavioral health benefits management to an MBHO, then you are responsible for ensuring that your TPA and MBHO collaborate to provide a comprehensive comparative analysis.

ACTION CHECKLIST

- ➔ Notify your TPAs/service providers that they need to complete the Multi-step comparative analysis with information specific to your plan(s)
- ➔ Document communications with your TPAs/service providers when requiring them to perform these comparative analyses for your plan(s)
- ➔ Talk to your broker, benefits consultant, and/or legal counsel about their ability to review the responses you receive from your TPAs/service providers
- ➔ Require your TPAs/service providers to correct any insufficient responses and noncompliant areas, including disparities in outcomes data.
- ➔ Require your TPAs/service providers to update and have available these comparative analyses on an annual basis, especially if new or different NQTLs or programs are implemented, such as, value-based purchasing, narrow networks, etc.

Next Steps



Incorporate your feedback into the cover letter and overall approach

Finalize the cover letter and put it in a “user friendly” format

Finalize the multi-step instructions

Disseminate the final toolkit

FEEDBACK? QUESTIONS?

YOU MAY CHAT YOUR QUESTIONS OR
RAISE YOUR HAND AND WE WILL
CALL ON YOU

