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Guest Column: Compliance FYI: Nonenforcement of Mental Health Parity Regulations Issued September 2024

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On May 15, 2025, the Departments of Labor, Health and Human Services (HHS), and the Treasury (the Departments) announced they will not enforce the September 2024 regulations implementing the non-quantitative treatment limitation (NQTL) comparative analysis requirement under the Mental Health Parity and Addiction Equity Act (MHPAEA) as required by the Consolidated Appropriations Act, 2021.

The Department's nonenforcement position stems from the January 2025 ERIC lawsuit challenging the 2024 regulations and Executive Order 14219 directing federal agencies review and exercise enforcement discretion for regulations that impose undue burdens on small businesses or significant costs on private parties that do not outweigh the public benefits.

Specifically, the Departments will not enforce the 2024 regulations prior to the final decision in the ERIC lawsuit, plus an additional 18 months. Critically, the **Departments' nonenforcement position only applies to the 2024 regulations**; it does not extend to the 2013 MHPAEA regulations or eliminate the need to have an NQTL comparative analysis as statutorily required by the CAA, 2021.

The Departments confirm that the 2013 regulations and subregulatory guidance, such as FAQs About Mental Health and Substance Use Disorder Parity Implementation and the Consolidated Appropriations Act, 2021 Part 45, should continue to be referred to for guidance despite the nonenforcement of the 2024 regulations.

Next Steps for Plan Sponsors

In light of the announced non-enforcement policy employers may be well served to review their MHPAEA compliance strategy. Employers, as plan sponsors, are responsible for ensuring their plans are compliant with the MHPAEA which, since February 2021, includes the requirement to have an NQTL comparative analysis. The 2024 regulations provided specific information about what an NQTL comparative analysis required and even though the 2024 regulations will not be enforced, the requirement to have an NQTL comparative analysis still exists.

Key Takeaway

The 2024 regulations regarding the requirements of the NQTL comparative analysis will not be enforced for the time being. Employers, as plan sponsors, should continue to monitor the status of the 2024 regulations and watch for additional action by government regulators. Employes should also be aware that the nonenforcement policy only impacts the 2024 regulations and does not eliminate the requirement to have an NQTL comparative analysis.



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