

## Enforcement Relief Coming for MHPAEA Final Rule

In recent court filings, the Departments of Health and Human Services (“HHS”), Labor, and the Treasury (collectively, “the Departments”) announced they will:

- Revisit the 2024 Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”) final regulations; and
- Issue, in the near future, non-enforcement guidance as it relates to the provisions of these rules effective for plan years beginning on or after January 1, 2025 and January 1, 2026.

The Departments have since issued a statement announcing enforcement relief.

### ■ Background

On September 9, 2024, the Departments released final rules pertaining to the MHPAEA with the aim of ensuring that individuals who seek treatment for mental health (“MH”) or substance use disorder (“SUD”) reasons do not face greater burdens than they would face when seeking coverage for medical or surgical (“M/S”) reasons.

Among other things, the 2024 final rule required:

- Use of a meaningful benefit standard. If a plan provides any benefits for a MH condition or SUD in any benefits classification, it must provide meaningful benefits for that condition or disorder in every classification in which meaningful M/S benefits are provided.
- A two-part test for NQTL application. New standards for evaluating whether a non-quantitative treatment limitation (“NQTLs”) may be applied to MH/SUD benefits (the design and application requirements and the relevant data evaluation requirement).

- Additional requirements related to the comparative analysis, including providing a list of all NQTLs to the relevant enforcement agency and, for ERISA plans, a fiduciary certification confirming a prudent process was undertaken to select qualified service providers to perform and document the analyses.

## ■ 2024 Rules Challenged

On January 17, 2025, the ERISA Industry Committee (“ERIC”) filed suit against the Departments arguing that the 2024 rules create an unworkable standard, violate due process, exceed the authority of the Departments and the intent of Congress, and are arbitrary and capricious.

On May 9, 2025, the Departments filed a Motion for Abeyance in the lawsuit. In the filing, the Departments stated that they intend to:

1. Reconsider the 2024 rules, including whether to issue a notice of proposed rulemaking rescinding or modifying the regulations;
2. Issue a non-enforcement policy in the “near future” covering the portions of the 2024 rules that are applicable for plan years beginning on or after January 1, 2025 and January 1, 2026; and
3. Re-examine the Departments’ current MHPAEA enforcement program more broadly.

Prior to the filing, the Departments provided ERIC with a copy of the non-enforcement policy that they expect to publicly release memorializing their intention not to enforce the portions of the 2024 rules that are applicable for plan years beginning on or after January 1, 2025 and January 1, 2026. In response, the Court granted a stay in the lawsuit on May 12, 2025.

## ■ Departments’ Statement

On May 15, 2025, the Departments issued a statement regarding enforcement of the 2024 final MHPAEA rules.

- They will not enforce the 2024 Final Rule or otherwise pursue enforcement actions, based on a failure to comply that occurs prior to a final decision in the litigation, plus an additional 18 months. This enforcement relief applies only with respect to those portions of the 2024 Final Rule that are new in relation to the 2013 Final Rule. The Departments note that MHPAEA’s statutory obligations, as amended by the Consolidated Appropriations Act, 2021 (“CAA-21”), remain in effect.
  - As an example, the requirement to perform an NQTL comparative analysis and furnish it upon request from the Departments remains enforceable as this was included in the statute under CAA-21. However, the ERISA fiduciary certification of the analyses (part of the 2024 Final Rule) is not enforceable during this relief period.
- They will undertake a broader reexamination of each department’s respective enforcement approach under MHPAEA, including provisions amended by the CAA, 2021.
- Plans and issuers may continue to refer to the 2013 Final Rule and other sub-regulatory guidance issued by the Departments (including FAQ 45, addressing changes to MHPAEA under the CAA-21). However, in their process for reconsidering the 2024 Final Rule, the Departments may make updates to the sub-regulatory guidance implementing MHPAEA.

The Departments’ statement acknowledges that they remain committed to ensuring individuals receive protections under the law in a way that is not unduly burdensome to plans and carriers.

## ■ Employer Action

With respect to the 2024 Final Rule, the Departments' announcement of non-enforcement relief and plan to revisit the final rule is welcome news as employers and plans were challenged by these complex requirements.

This announcement only applies to the specific provisions of the 2024 Final Rule. Plans and carriers will need to continue to comply with other aspects of MHPAEA including the statute (as amended under CAA-21), 2013 final regulations and relevant guidance.

The Departments may issue further guidance addressing non-enforcement relief and MHPAEA compliance in light of this statement.

Our Compliance Team is monitoring developments and will release an update when the guidance is available.