

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to respond to the request for comments on disclosures related to non-quantitative treatment limitations (NQTL). BCBSA is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield companies that collectively provide healthcare coverage for more than 106 million members – one-in-three Americans.

(a) Whether issuance of model forms that could be used by participants and their representatives to request information with respect to various NQTLs would be helpful and, if so, what content the model forms should include. For example, is there a specific list of documents, relating to specific NQTLs, that a participant or his or her representative should request?

We believe that voluntary model forms could be helpful when consumers seek information from plans and issuers about NQTLs.

However, since this request for comments was issued before enactment of the 21st Century Cures Act, we recommend that model forms or any other guidance related to this request for comments be subject to formal rulemaking to implement the MHPAEA provisions of CURES.

- Any model form(s) should be subject to formal notice and comment through the Administrative Procedures Act and the Paperwork Reduction Act, not issued through FAQs. This is essential because the list of NQTLs is not exhaustive, which raises concerns about additional confusion resulting from new disclosures not currently required by law or regulation – thus, PRA analyses should consider the potential costs associated with having NQTLs, without limitation, form the basis for disclosures.

(b) Do different types of NQTLs require different model forms? For example, should there be separate model forms for specific information about medical necessity criteria, fail-first policies, formulary design, or the plan's method for determining usual, customary, or reasonable charges? Should there be a separate model form for plan participants and other individuals to request the plan's analysis of its MHPAEA compliance?

Whether different types of NQTLs, and which types, require different model forms should be subject to careful consideration of the costs and benefits associated with having NQTLs form the basis for disclosures (through the formal rulemaking process). Tailoring model forms to NQTLs that are non-exhaustive and defined by example may result in a proliferation of additional disclosures, which in turn would lead to confusion (and higher administrative costs) as to what disclosure is being requested and what must be supplied in response. These issues should be carefully considered through the rulemaking process.

- (c) *Whether issuance of model forms that could be used by States as part of their review would be helpful and, if so, what content should the model form include? For example, what specific content should the form include to assist the States in determining compliance with the NQTL standards? Should the form focus on specific classifications or categories of services? Should the form request information on particular NQTLs?*

We recommend deferring these questions to the public meeting of stakeholders required under §13002 of the Cures Act (including representatives from the federal government and state governments) that is intended to identify specific strategic objectives regarding how the various Federal and State agencies charged with enforcement of MHPAEA requirements will collaborate to improve enforcement.

- (d) *What other steps can the Departments take to improve the scope and quality of disclosures or simplify or otherwise improve processes for requesting disclosures under existing law in connection with MH/SUD benefits?*

If the Departments were to provide an enforcement safe harbor for disclosures that meet specific quality requirements – designed not to be a floor, but to promote innovation through flexibility – plans and issuers would have incentive to explore innovative ways of improving disclosures.

- (e) *Are there specific steps that could be taken to improve State market conduct examinations and/or Federal oversight of compliance by plans and issuers?*

We recommend deferring discussion about specific steps to the public meeting of stakeholders required under §13002 of the Cures Act.

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The Blue Cross Blue Shield Association is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield companies that collectively provide healthcare coverage for more than 106 million members – one-in-three Americans. For more information on the Blue Cross Blue Shield Association and its member companies, please visit www.BCBS.com. We encourage you to connect with us on [Facebook](#), check out our videos on [YouTube](#), follow us on [Twitter](#) and check out [The BCBS Blog](#) for up-to-date information about BCBSA.