

From: [E. Teresa Touey](#)
To: [E-OHPSCA-FAQ.ebsa](#)
Subject: MHPAEA FAQ
Date: Wednesday, January 08, 2014 8:12:58 PM
Attachments: [MHPAEA Stakeholders Roundtable Recommendations and Requests for Clarification FINAL SUBMITTED TO DOL at 8PM Jan 8 2014 \(1\).doc](#)

Responding to FAQ released with the final rule, the Departments requested comments on "what additional steps, consistent with the statute, should be taken to ensure compliance with MHPAEA through health plan transparency, including what other disclosure requirements would provide more transparency to participants, beneficiaries, enrollees, and providers, especially with respect to individual market insurance, non-Federal governmental plans, and church plans".

See attachment.

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**MHPAEA STAKEHOLDER ROUNDTABLE
RECOMMENDATIONS and
REQUESTS FOR CLARIFICATION**

regarding the

Mental Health Parity Addiction Equity Act of 2008

The undersigned Stakeholders submit this report seeking clarification from the Department of Labor following the release of the final rule on November 8, 2013.

Introduction

Stakeholders in the Mental Health Parity Addiction and Equity Act gathered for a business roundtable in Washington D.C. on November 18, 2013. With the release of the final rule by the Obama administration on November 8, 2013, the roundtable focused on addressing two questions: 1) How can we use the final rule to advance the intent and the spirit of the law; and, 2) what recommendations should we provide to the federal departments in response to their request for comments on the details of the final rule.

Recommendations

- ***On Medicaid:***

We urge that MHPAEA apply to Medicaid Managed Care, CHIP contracts and the ACA Medicaid expansion population.

- ***On Transparency:***

We support the necessary transparency required by specific issues such as whether *prospective* subscribers and providers have access to medical necessity criteria (as the MHPAEA statute requires), and if so how broad that access will be, and whether plans can refuse to disclose proprietary medical necessity criteria (although the statute provides no exception allowing such refusal).

- ***On Enforcement:***

We support full and transparent enforcement by relevant state and federal agencies. For fully-insured plans over which state insurance commissioners/agencies have primary enforcement responsibility, if a state cannot or will not enforce MHPAEA promptly and effectively, the federal government must act promptly to enforce the law. We also urge that where the parity enforcement agencies resolve a parity complaint, they make that resolution transparent so that parity stakeholders and the public can understand how the agencies are applying the often flexible standards of the Final Rule to specific fact scenarios.

Requests from certain Stakeholders for clarification from the Parity Enforcement Agencies:

- 1: What is the impact on Mental Health Parity to the plans affected by the “fix” announced by President Obama on November 14, 2013 to grandfather some plans? How will it work? Are there unintended consequences?**
- 2: Are there potential impact/consequences of ACA implementation difficulties that might be relevant to Parity?**
- 3: What are some examples of Med Surg and mental health services that would be considered intermediate care?**
- 4: How is the release of the rules affecting Medicaid in each state?**
- 5: What will enforcement look like in individual states? What is the mechanism for complaint? How will enforcement be coordinated between the states and the federal jurisdiction?**
- 6: How is Parity being enforced at the state level for new exchange plans?**
- 7: If plans allow patients to go out of state for medical services, must plans also allow patients who need mental health services to go out of state?**
- 8: Is there a new obligation to create analog intermediate service outside of inpatient services? What will the thirty day residential partial hospitalization day treatment be?**
- 9: Please provide clarification regarding the Clinical Guideline Exception.**
- 10: We would appreciate clarification of the Integrated Pharmacy Benefit.**
- 11: What is the large employer baseline of enforcement and implementation from HHS for NQTL Analysis Consistency?**

Attendees (*)

American Psychiatric Association

National Association of State and Alcohol and Drug Abuse Directors

Parity Implementation Coalition

Signed Stakeholders and Attendees

American Psychological Association Practice Organization

CHADD

JED Foundation

National Alliance on Mental Illness

National Council of Behavioral Health

Pearson

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Note (*)

(The following members were present but have not signed on to these recommendations. The lack of signature does not indicate that these parties are necessarily opposed to the recommendations).