

Submitted electronically: e-ohpsca-MHPAEA-SCT-2020@dol.gov

The Virginia State Corporation Commission Bureau of Insurance submits the following comments regarding the proposed updates to the 2020 Self-Compliance Tool for consideration:

1. The suggested addition to Page 6 includes the following:

NOTE: If a plan defines a condition as a mental health condition, it must treat benefits for that condition as mental health benefits. For example, if a plan defines autism spectrum disorder (ASD) as a mental health condition, it must treat benefits for ASD as mental health benefits. Therefore, for example, any exclusion by the plan for experimental treatment that applies to ASD should be evaluated for compliance as a nonquantitative treatment limitation (NQTL) (and the processes, strategies, evidentiary standards, and other factors used by the plan to determine whether a particular treatment for ASD is experimental, as written and in operation, must be comparable to and no more stringently applied than those used for exclusions of medical/surgical treatments in the same classification). *See FAQs About Mental Health And Substance Use Disorder Parity Implementation And the 21st Century Cures Act Part 39, Q1, available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-39-final.pdf>.*

It would be helpful if DOL could provide further guidance on how benefits generally considered to be medical benefits should be counted for determining parity for financial requirements and QTLs when those medical benefits are also used to treat a mental health condition. For example, physical therapy, occupational therapy, and speech therapy can be used to treat both Med/Surg and MH/SUD conditions.

2. Regarding the “TOOL FOR COMPARING PLAN REIMBURSEMENT RATES TO MEDICARE” in Appendix II, it would be helpful if DOL could also provide a completed chart with examples of acceptable entries and red flags.

The Departments’ work to update the MHPAEA Self-Compliance Tool is much appreciated, as well as the opportunity to provide these comments.

Sincerely,

Brant Lyons, MCM
Life and Health Market Conduct
Virginia State Corporation Commission