Proskauer

Departments Press Pause on Final Mental Health Parity Regulations

Employee Benefits & Executive Compensation on **May 16, 2025**

Yesterday, the Departments of Labor, Treasury, and Health and Human Services announced a non-enforcement policy with respect to final regulations issued under the Mental Health Parity and Addiction Equity Act of 2008 ("MHPAEA") in September 2024. The Departments recently indicated that this policy was imminent when they requested that litigation challenging the final regulations be paused while they considered rescission or modification of the regulations.

The 2024 final regulations, which we blogged about here, included sweeping changes that would have impacted virtually all group health plans that cover mental health and substance use disorder (MH/SUD) benefits.

What the non-enforcement policy does and does not do

The non-enforcement policy states that the Departments will not enforce the final regulations issued in 2024. However, this applies only to the portions of the 2024 final regulations that were "new" in relation to the 2013 final regulations.

What remains in effect: Thus, plan sponsors should keep in mind that MHPAEA and the final regulations issued in 2013 (including subsequent sub-regulatory guidance, such as agency FAQs) remain in place and should continue to be relied upon for guidance. Additionally, the statutory obligation for a plan to maintain non-quantitative treatment limitation (NQTL) comparative analyses for MH/SUD benefits and provide them to the Departments upon request remains in effect. (This statutory obligation was added as part of the Consolidated Appropriations Act, 2021.)

What is paused: The significant changes in the 2024 final rule that were new compared to the 2013 final rule—including the fiduciary certification requirement, the "meaningful benefits" standard, and revised standards for evaluating NQTLs—are all paused for the time being while the Departments reconsider their mental health parity compliance and rulemaking approach.

It bears noting that the Departments stated not only that they intend to reconsider the final rule, but also that they are conducting a "broader reexamination of each department's respective enforcement approach." This, and other language in the non-enforcement policy, suggests that the Departments will be looking at whether changes are necessary to balance the important goals of MHPAEA and the burdens that the current enforcement has imposed on plan sponsors.

How long does the non-enforcement policy last?

The Departments will not enforce the 2024 final rule or pursue enforcement actions based on a failure to comply that occurs prior to the final decision in the litigation, plus an additional 18 months. Plan sponsors should monitor subsequent updates from the Departments to confirm compliance.

* * *

Takeaways for group health plan sponsors: Given the challenges plan sponsors have faced in connection with the implementation of the current regulatory and enforcement scheme, the non-enforcement policy is likely welcome news. However, plan sponsors should remain mindful that the 2013 final rule and MHPAEA statutory obligations are still in place and not impacted by the non-enforcement policy. For now, while plan sponsors can pause compliance efforts related to the 2024 final rule, plans may want to consider pressing ahead with any current compliance projects related to the 2013 final rules and statutory obligations related to NQTL comparative analyses.

View original.

Related Professionals

- **Jennifer Rigterink**
  Senior Counsel
- **Robert M. Projansky**
  Partner