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# Mental Health Parity

## FAQ 38

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The Mental Health Parity and Addiction Equity Act (MHPAEA) applies to employers with at least 51 employees offering a group health plan that includes any mental health and substance use disorder (MH/SUD) benefits. MHPAEA also applies to non-grandfathered insured plans in the small group market.

Briefly, MHPAEA generally requires parity between MH/SUD benefits and medical surgical benefits. This means that coverage limits that apply to MH/SUD benefits cannot be more restrictive than the coverage limits that apply to medical and surgical benefits. The types of limits covered by MHPAEA include:

- Financial requirements, such as deductibles, copayments, coinsurance or out-of-pocket limits.
- Treatment limits, such as limits on the number of days or visits covered, or other limits on the scope or duration of treatments (for example, pre-authorization requirements).

The Departments of Health and Human Services, Treasury and Labor (collectively, the Departments) issued FAQ 38 to:

- Clarify that eating disorder treatment is a mental health benefit as defined by MHPAEA, and
- Seek public comment on disclosure requirements.

## MHPAEA and Eating Disorders

FAQ 38 clarifies that MHPAEA applies to any benefits a plan or health insurance carrier offers for treatment of an eating disorder. Eating disorders are mental health conditions and therefore treatment of an eating disorder is a “mental health benefit” within the meaning of that term as defined by MHPAEA.

The Departments request comments on whether any additional clarification is needed regarding how the requirements of MHPAEA apply to treatment of eating disorders. Comments can be submitted via email to [e-ohpsca-mhpaea-eatingdisorders@dol.gov](mailto:e-ohpsca-mhpaea-eatingdisorders@dol.gov) by September 13, 2017.

Additionally, the Departments are soliciting comments on a draft model form that participants, enrollees, or their authorized representatives could use to request information from their health plan or carrier regarding nonquantitative treatment limitation (NQTLs) that may affect their MH/SUD benefits, or to obtain documentation after an adverse benefit determination involving MH/SUD benefits to support an appeal.

## Disclosure Requirements

MHPAEA also imposes several disclosure requirements on group health plans and health insurance carriers. A plan or carrier must:

- Disclose the criteria for medical necessity determinations with respect to MH/SUD benefits to any current or potential participant, beneficiary, or contracting provider upon request, and
- Make available the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits to the participant or beneficiary.

The Departments are requesting comments on a series of previously asked questions related to MHPAEA disclosures included in [FAQ 34](#).