

SERF Filing Update to Reflect New Federal Requirements

The Mental Health Parity Checklist has been updated to reflect recent amendments to the Mental Health Parity And Addiction Equity Act (MHPAEA; 42 U.S.C. 300gg-26) added by Section 203 of Division BB of the Consolidated Appropriations Act, 2021 (P.L. 116-260). Section 203 created new compliance requirements for insurers. The United States Departments of Health and Human Services, Labor, and Treasury issued guidance on April 2, 2021 ([FAQ 45](#)) that further explained the requirements of Section 203.

Section 203 requires insurers to perform and document comparative analyses regarding the design and application of nonquantitative treatment limitations that are imposed on both mental health or substance use disorder benefits (MH/SUD) and medical/surgical benefits. Insurers must make those analyses available to the applicable state authority upon request, in this case the North Carolina Department of Insurance. The Mental Health Parity Checklist now includes the exact language for performing comparative analyses of nonquantitative treatment limitations that was added by Section 203. That language is as follows:

- 1) The specific plan or coverage terms or other relevant terms regarding the NQTL and a description of all MH/SUD and medical or surgical benefits to which each such term applies in each respective benefits classification;
- 2) The factors used to determine that the NQTL will apply to MH/SUD benefits and medical or surgical benefits;
- 3) The evidentiary standards used for the factors identified, when applicable, provided that every factor shall be defined, and any other source or evidence relied upon to design and apply the NQTL to MH/SUD benefits and medical or surgical benefits;
- 4) The comparative analyses demonstrating that the processes, strategies, evidentiary standards, and other factors used to apply the NQTL to MH/SUD benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, and other factors used to apply the NQTL to medical/surgical benefits in the benefits classification; and
- 5) The specific findings and conclusions reached by the issuer, including any results of the analyses that indicate that the issuer is or is not in compliance with the MHPAEA requirements.

Please review Q2 and Q4 of FAQ 45 issued by the Federal Departments for guidance about the information needed to satisfy the comparative analysis requirements. Additionally, please carefully review Q3 of FAQ 45 for guidance about what is considered insufficient information for satisfying the comparative analysis requirements.