



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Allan L. McVey
Insurance Commissioner

March 14, 2022

Re: Mental Health Parity Data Call

The West Virginia Legislature, through W.Va. Code §§33-15-4u, 33-16-3ff, 33-24-7u, 33-25-8r, 33-25A-8u, and W.Va. Rule 114-64-7.3 and 8. charges the West Virginia Offices of the Insurance Commissioner (OIC) to annually issue a mandatory data call and provide a detailed report to the Joint Committee on Government and Finance, on the status of behavioral, mental health and substance used disorder parity. That detailed report must address adverse benefit determinations, quantitative treatment limitations (QTLs), financial requirements (FRs), and comparative analyses of all nonquantitative treatment limitations (NQTLs). Under Section 203 of the Federal Consolidated Appropriations Act and 42 U.S.C. § 300gg-26(a)(8)(A), state-regulated health plans and health insurance issuers are now required to conduct annual compliance reviews of all NQTLs, document their comparative analyses, and submit these analyses including supporting documentation, to the state upon request. This data call was designed to collect the information necessary to complete the annual report, and to provide the OIC with information necessary to determine the state of compliance with State and Federal mental health parity laws generally.

The OIC will hold a conference call, on Tuesday, March 22, 2022, at 1030AM EST to walk health insurance carriers (Carriers) through the data call and answer any questions. Since the conference call is intended to provide a walk-through of the items required, including the OIC's expectations, and to answer any questions you may have, please ensure Carrier personnel representing all areas relevant to the data call (including IT) are scheduled to participate in the conference call, in order to facilitate an efficient and effective discussion process.

- The period of review (Reporting Period) of the data call is January 1, 2021, through December 31, 2021, or the 2021 plan year for plan benefit requested information.
- Regardless of participation on the conference call, the completed response is due to the OIC no later than **5:00 p.m. on April 16, 2022.**

The Carrier's response to each of the requested items below, and the linked Worksheets, must address the entire Reporting Period. Provide responses that are clearly labeled. Address each element of the request with either a comprehensive response, or a statement and explanation that the requested item is not applicable and why it is not available or applicable. The responses provided must contain all necessary information and should not be limited to the enumerated items. Please provide additional information if additional information would be necessary to understand all aspects and components of the related matter. Include with your response, any applicable definitions, illustrative examples, and copies of supporting documentation. Ensure any attached documentation is noted in the Workbook including the title of the document and the page number. The face page of any documents provided should be annotated with the response identifier (Ex. A.1.) and the page, paragraph, and sentence containing the actual text, which supports the explanatory response provided. The Carrier's response

may contain information unknown to the OIC; in order to expedite the review process, provide responses that are anticipative and as comprehensive as possible.

Below is a brief description of the information requested within this data call. The majority of the requests themselves are provided in links below. The MHPAEA NQTL and Claims Worksheet covers Sections A through E described below, the MHPAEA FR and QTL Worksheet and the separate FR and QTL Instructions document cover Section F. All tabs of both Worksheets should be fully completed.

MHPAEA NQTL and Claims

Section A: Carrier Information

Requests information related to the Carrier, the individuals completing the Worksheets, their contact information, and the Carrier staff responsible for development of NQTLs.

Section B: Plans and Claims

This section requests data related to the plans marketed and sold, the number of policies sold, the number of members covered, and the claims experience for the period of review of January 1, 2021, through December 31, 2021.

Section C: Definitions & Medical Necessity Criteria

This section asks for the plan's definitions for pertinent terms and responses to discussion questions related to the plans selection of medical necessity criteria used to determine plan benefits for medical/surgical and mental health and substance use disorder benefits. There are ten (10) questions in this section. If plans within the Carrier utilize differing criteria, the Carrier should copy the table and paste into a new tab, clearly labeling the new tabs and completing a separate table for each unique set of criteria.

Section D: Identification of NQTLs

This section requests a listing all NQTLs that are applied to behavioral health, mental health, and substance use disorder benefits or medical and surgical benefits within each classification or permitted sub-classification of benefits. Add additional rows as necessary. If an NQTL is applicable to more than one classification, create a row for each classification.

While creating the listing keep in mind that NQTLs include those limitations that are applied directly to benefits, such as prior authorization, or step therapy, and also include others that are not directly related to benefits, such as provider credentialing, network adequacy, and provider reimbursement for both in and out of network providers. It is important for the Carriers' plans to identify all such treatment limitations and be able to demonstrate parity for each separately. There are several sources that can provide information and illustrative, but not exhaustive lists of NQTLs that preparers may find helpful. The Department of Labor provides both [DOL NQTL Warning Signs](#) and [The "Six-Step" Parity Compliance Guide for NQTLs](#).

Section E: NQTL Comparative Analysis

Fully complete steps one (1) through seven (7) separately for each NQTL identified in the Section D NQTL List. Separate tables for up to twenty NQTLs are prepared. If additional tables are needed, Carriers are able to copy and paste the entire table into new tabs within this workbook for each additional NQTL. Ensure the tab is clearly labeled. **Failure to include all of the information requested may result in a finding that a Carrier failed to submit a complete analysis report.**

[MHPAEA NQTL and Claims Worksheet](#)

MHPAEA FR and QTL Worksheet and FR and QTL Instructions

Section F: Financial Requirements and Quantitative Treatment Limitations

This Worksheet contains multiple formulas to complete required substantially all and predominant testing and determine the allowable limits that may be applied to behavioral health, mental health, and substance use disorder benefits for the plan. There is a separate Word document provided with detailed instructions for completing the Worksheet. The worksheet requires listing all covered benefits and their classification, prior year plan payment data, as well as all cost-share and quantitative benefit limits.

Please note that a separate Worksheet will need to be created for every plan that contains unique financial requirements and quantitative treatment limitations.

[MHPAEA FR and QTL Worksheet](#) [FR and QTL Worksheet Instructions](#)

Section G: Attestation of Truth, Accuracy and Completeness

Once both Worksheets are fully complete and all supporting documents are logged, prior to returning the response to the OIC, an officer of the Carrier must complete and sign below attesting to the completeness and accuracy of the response.

Attestation of Truth, Accuracy and Completeness

Carrier Name:

HIOS#:

Responsible Officer

Name: (Last) _____ (First) _____ (MI) _____

Title: _____

Street or P.O. Box: _____

City/State/Zip Code: _____

I certify under penalty of law, based upon the information and belief formed after reasonable inquiry and review, that the completed data call response, including both the NQTL Tool and the QTL Tool and any attachments, and statements and information contained in these documents are true, accurate and complete to the best of my knowledge and belief.

Name: (Signed) _____

Name: (Typed) _____ Date: _____

Subscribed and sworn to before me on the ____ day of _____, 2022

Notary Public
My Commission Expires: _____