



## Regulatory Affairs and Action Update

**TO: Our Valued Clients and Brokers**  
**FROM: Health Plans, Inc.**  
**DATE: April 23, 2021**  
**RE: Regulatory Affairs and Action Update**

Health Plans, Inc. (HPI) recently issued Compliance Bulletins and Alerts advising our clients about new regulations related to the: Transparency in Coverage Final Rule; No Surprises Act; Enhancements to the Mental Health Parity and Addiction Equity Act (MHPAEA) and; COBRA Subsidies. These Bulletins and Alerts are posted to our website at <https://www.hpitpa.com/your-resources/for-employers/health-care-reform-compliance/>. This communication provides an update on HPI's work and progress on the regulations as we move towards implementation for our clients.

### COBRA Subsidy

- The COBRA subsidy provisions enacted under the American Rescue Plan Act (ARPA) included a six-month 100% premium subsidy for eligible individuals. Since the release of ARPA, there has been much debate on who qualifies for the subsidy.
- Detailed model notices and additional guidance were released by the DOL on April 7<sup>th</sup>, which provide some clarity, however the debate over and the understanding of involuntary vs. voluntary termination of employment continues.
- HPI has completed our review of the additional guidance and model notices and we are in the process of operationalizing all requirements. We will be issuing a detailed Compliance Alert next week to advise of the steps we are taking to implement the COBRA subsidy provisions. Some of these steps are as follows:
  - We will use the new Federal model notices that contain the form for individuals to request the subsidy. When HPI receives the individual's request, we will require clients to confirm that the individual who completed the notice and claimed eligibility is indeed eligible for the subsidy (i.e. lost coverage due to involuntary termination or reduction in hours).
  - We will send the appropriate notifications to all individuals letting them know about the subsidy and the opportunity to enroll/re-enroll without having to pay back premiums.
  - Notices will be sent next week to already identified individuals currently receiving COBRA.
  - Notices will be sent to individuals seeking new election periods by the week of May 10.

### The Transparency in Coverage Final Rule and No Surprises Act:

- HPI is continuing to work towards solutions for the January 1, 2022 implementation date of the Transparency in Coverage Final Rule. We have implemented a project team with various work streams. We have also reached out to and issued RFPs to multiple vendors to determine if we can implement a vended solution and we are currently reviewing received responses. Additionally, we have engaged with existing network partners for solutions, and we are reviewing internal system capability to support the specific regulatory requirements.

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- Due to overlapping timeframes of some requirements within the No Surprises Act and The Transparency in Coverage Final Rule, our work on the No Surprises Act has been rolled into the same project team. We are continuing to assess the requirements of the Act and have reached out to our external vendor partners that work in payer/provider negotiations and price OON claims for our clients' plans. These partners are working on solutions to the new requirements in order for HPI to administer your plan in compliance with the Act. Please note that in addition to the information included in our Compliance Alert, the Act requires plan INN and OON deductibles and out-of-pocket maximums to be included on the member's ID Card. Since this information is not currently on HPI's ID cards, we will include it for all clients' plans beginning with plan year start dates on or after January 1, 2022 and issue new ID cards to all members.

### Enhancements to the Mental Health Parity and Addiction Equity Act (MHPAEA)

- The new enhancements to the MHPAEA issued under the Consolidated Appropriations Act 2021 (Act) require plans to perform and document comparative analyses of the design and application of non-quantitative treatment limitations (NQTLs) (e.g., preauthorization requirements, network sufficiency, medical management standards) applicable to mental health and substance use disorder (MH/SUD) benefits. The analysis must be provided, upon request, to the secretaries of the Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of the Treasury (Treasury). The Act does not provide any guidance on how the comparative NQTL analysis should be conducted or what information it must contain, and the secretaries are required to issue guidance no later than June 2022. The DOL has, however, issued a Self-Compliance Tool found at [www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf](http://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf), which plans can use to conduct the analysis. The Tool not only covers the analysis of the NQTL's, but addresses all of the MHPAEA requirements (which the Act has not modified) including the quantitative financial and treatment limitations (QTLs) (e.g., copays/coinsurance, visit limits, day limits). The agencies have issued the Tool for plans to use as a good faith effort to evaluate compliance with the entirety of the MHPAEA, correct any areas to bring the plan into compliance and document the results and actions taken.
- Recent clarification within federally issued FAQs found at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebbsa/our-activities/resource-center/faqs/aca-part-45.pdf>, confirm that plans which have applied the guidance in the Self-Compliance Tool should be in a strong position to comply with the Act's requirement to submit comparative analyses upon request. While the MHPAEA previously required group health plans to provide parity between MH/SUD and medical/surgical benefits with respect to QTLs and NQTLs, the enhancements create more formal analyses and reporting requirements. The data format and presentation is still not clear, but the new FAQs have narrowed the focus as to what data federal agencies may request.
- HPI is reviewing the Tool and FAQs to determine what information we can provide to clients for the analysis of NQTLs. We are also working with actuarial firms and partners to determine the services such entities could provide for our clients, upon request, to assist with the actuarial calculations related to the QTL analysis requirements.

Thank you for your patience with HPI as we work and move forward with understanding, implementing, and communicating the impacts of the new regulations. We will continue to update you as our work progresses. If you have any questions, please feel free to reach out to your HPI Account Services Team.

*The information in this Compliance Alert is intended to provide a summary of our understanding of recent regulatory developments which may affect our clients' plans. It should not be construed as specific legal advice or legal opinion.*