

## February Deadline to Have Mental Health Parity Documentation in Place

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February 3, 2021

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The Consolidated Appropriations Act, 2021 (the **CAA**) requires an employer-sponsored group health plan that imposes nonquantitative treatment limitations (**NQTLs**) on mental health or substance use disorder benefits to perform and document a comparative analysis of the design and application of NQTLs. For example, a plan that imposes prior authorization requirements on any mental health or substance use disorder benefits would need to document: (i) all the benefits that require prior authorization; (ii) the factors used to determine which benefits were subject to prior authorization, such as excessive utilization or high variability in cost per episode of care, and whether any factors were given more weight than others and why; (iii) the sources used to define the factors, such as internal claims analysis or national accreditation standards; and (iv) that the process, strategies, and evidentiary standards used in applying prior authorization requirements are comparable and no more stringently applied to mental health or substance use disorder benefits than to medical or surgical benefits, as written and in operation.

As of February 10, 2021, a group health plan must make available to federal agencies, upon request, this comparative analysis, including the specific findings and conclusions reached by the plan and any results of the comparative analysis that indicate the plan is or is not in compliance. Prior to the enactment of the CAA, a group health plan would conduct this analysis to ensure compliance with mental health parity laws. However, the CAA now specifically requires documentation of this analysis and directs federal agencies to request copies of this analysis if a plan has potentially violated mental health parity laws or there is a complaint regarding noncompliance. Even prior to the CAA, a participant could request this information. See our prior post [here](#) and the DOL model disclosure form [here](#).

We recommend that employers consult with their benefits counsel and other advisors to ensure this analysis is timely completed and properly documented.