Nonquantitative Treatment Limitation
(NQTL) Comparative Analysis Guidance Document

This document is intended to be a companion guide for carriers as they are completing NQTL comparative analyses for compliance with the Mental Health Parity Addication and Equity Act (MPHAEA).

For Additional Guidance: *

U.S. Department of Labor. Mental Health and Substance Use Disorder Parity. https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity.*

> ***The below documents are particularly helpful when conducting comparative analyses:***
>
> Mental Health Parity Implementation (ACA FAQs Part 39). https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-39-final.pdf.
>
> Mental Health Parity Implementation (ACA FAQs Part 45). https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-45.pdf.
>
> Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act (MHPAEA). https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf.

***This website is updated frequently, with new FAQs and other guidance documents as they become available.**

The Examples provided in each Step do not represent a comprehensive response and are being provided for illustrative purposed only. For more comprehensive guidance, please refer to the links above.

Step 1:

Specify the specific plan or coverage terms or other relevant terms regarding the NQTL that apply to such plan or coverage and provide a description of all mental health or substance use disorder and medical or surgical benefits to which the NQTL applies (or for which it does not apply).

DO:

1) Provide all the Mental Health/Substance Use Disorder (MH/SUD) and Medical/Surgical (M/S) benefits/services, classifications, and plan terms to which the NQTL applies, separated by MH/SUD and M/S.
2) Provide all the plan product names/types to which the NQTL applies.
3) Provide the plan (and product) definition of the NQTL.
4) Provide information on where the NQTL is described, e.g., plan documents located on a particular website, with the website link provided. If documents are provided, provide the name of the document and specific location of the supporting information.
5) Provide an explanation of what triggers the NQTL, and any associated timelines.

DO NOT:

1) Combine multiple NQTL types into a single submission unless all the steps of the analysis can be fully and clearly addressed for each of the limitations being reviewed.
2) Combine MH/SUD and M/S services when stating the services to which the NQTL applies.
3) Solely reference the MH/SUD benefits/services to which the NQTL applies, without referencing the M/S services to which the NQTL applies.
4) Reference applicable forms for the NQTL without providing link(s) to the forms or attaching them as supplemental documents.

Examples:[1]

NQTL = Prior authorization

The NQTL of prior authorization applies to all inpatient services (in and out-of-network), and all outpatient services (in and out-of-network) for MH/SUD and for M/S. It is triggered when a provider initiates an inpatient stay for a member.

NQTL = Medically necessary applied to SUD services

The NQTL of medically necessary, also referred to as medical necessity, is defined as a service that is:

a. Consistent with generally accepted standards of medical practice;
b. Clinically appropriate in terms of type, frequency, extent, site and duration;
c. Demonstrated through scientific evidence to be effective in improving health outcomes;
d. Representative of "best practices" in the medical profession;
e. Is not primarily for the convenience of the member, the prescribing provider, or another provider.

NQTL = Experimental/Investigational Services

MH/SUD and M/S outpatient treatments that are considered experimental or investigational are not covered.

Experimental/investigational services are defined as medical, surgical, diagnostic, or other healthcare technologies, supplies, treatments, procedures, drug therapies, or devices that have not been demonstrated to be safe and effective for treating or diagnosing the condition or sickness for which its use is proposed and are not approved by the U.S. FDA or other appropriate regulatory agency to be lawfully marketed for the proposed use.

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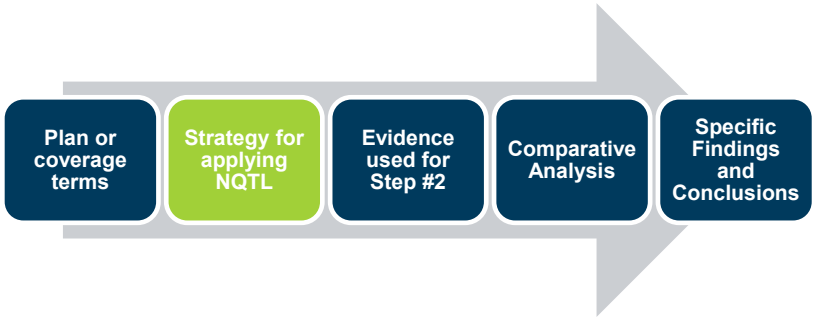
Step 2:



Identify the factors used to determine that the NQTL will apply to mental health or substance use disorder benefits and medical or surgical benefits.

DO:

1) Provide a list (preferably bulleted) of the factors (i.e., strategies or reasons) for the existence of the NQTL (e.g., cost control, patient safety) that clearly state to which benefits/services they apply.
2) Provide specific state and federal laws/guidelines that the NQTL applies to.
3) Provide a precise definition for each factor listed and explain any differences in definitions applied to MH/SUD and M/S.
4) Explain how each factor is applied to MH/SUD and M/S services and provide a detailed comparison of these applications and explanations of any discrepancies.
5) Provide information about any third-party entity or contractor that is involved with creation, application, or review of the NQTL for both MH/SUD and M/S.
6) Provide a list of **all** factors relevant to the NQTL.
7) For factors that are used to determine which benefits should be subject to the NQTL, documentation demonstrating the factor's application and documentation regarding decision-making should be provided.
8) Explain how the factors shaped the design of the NQTL for MH/SUD and M/S benefits.
9) Provide quantitative thresholds, when applicable, that were used in the design and application of the NQTL.

DO NOT:

1) Provide a narrative response without structure that does not specifically respond to the Step's prompt.
2) Reference multiple strategies without clearly differentiating to which benefits they apply.
3) Use internal terminology without clearly defining and explaining what it means.
4) Refer to staff without providing their expertise, and without referring to which benefits (i.e., MH/SUD, M/S, or both) fall under their purview.
5) Refer to general state and federal laws/guidelines without providing the specific applicable laws/guidelines.

6) Provide unrelated plan documents that are irrelevant to the statements provided in the response.
7) State that this is not an inclusive list of factors; all factors must be provided.

Examples:[2]

Potential factors:

a. Excessive utilization
b. Recent cost increases
c. Varying lengths of stay
d. Varying cost per episode of care
e. Patient safety/Clinical efficacy of the treatment or service

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Step 3:

Provide the evidentiary standards used for the factors identified in Step 2, when applicable, provided that every factor shall be defined, and any other source or evidence relied upon to design and apply the NQTL to mental health or substance use disorder benefits and medical or surgical benefits.

DO:

1) Provide supporting documents, stating the name of the relevant document, and the specific page number(s).
2) Ensure evidentiary standards are provided for each factor delineated in Step 2.
3) Provide information about whether the evidence used has a hierarchy, or is weighted by importance/significance, and what the hierarchy and/or weighting specifics are. Also explain the rationale for the hierarchy and weighting used.
4) Provide information about review committees; how often they meet, their composition, their qualifications/expertise (including clinical specialties), and how decisions are made.
5) Provide links, or supporting documents, to associated plan policies and procedures that informed the design and application of the NQTL.
6) Provide the sources used to determine any quantitative thresholds, and explain the rationale for each threshold, and any points of difference between MH/SUD and M/S thresholds. Include explicit citations for the sources referenced, e.g., the credentialing requirements, the expert(s), etc.

DO NOT:

1) Introduce new factors that were not stated in Step 2.
2) Refer to reviews, processes, levels, criteria, etc. without specifying what they are (e.g., what each explicitly is and entails).
3) Provide outdated evidentiary standards, or standards used to address a different plan product.
4) Restate legal standards without specifying the supporting evidence and explaining its applicability.

Examples:[3]

Potential sources:

a. Claims analyses based on internal or external data
b. Medicare physician fee schedules
c. ASAM guidelines (for MH/SUD)
d. Published randomized control trials
e. State and federal regulatory requirements – specifying the relevant requirements
f. Algorithms developed by a third-party vendor
g. National provider/practice association policies or guidelines
h. Expert medical review
i. National accreditation standards
j. Internal studies on quality standards

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Step 4:

Provide the comparative analyses demonstrating that the processes, strategies, evidentiary standards, and other factors used to apply the NQTL to mental health or substance use disorder 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 NQTLs to medical or surgical benefits.

DO:

1) Provide data (when relevant) as a supporting document, or within the response, for a complete calendar year, separated by quarter (e.g., denial data, appeal data, etc.).
2) Ensure that a complete response addressing both how the NQTL applies as written, and how it applies in operation, is provided.
3) Provide information on any meeting(s) that occur regularly to address and implement the NQTL, including meeting minutes.
4) Provide a comparison of outcomes resulting from applying the NQTL to MH/SUD and M/S services. Note that outcomes are not necessarily a determinant of parity.
5) Include an analysis the compares the stringency of the sources used and include citations to any specific evidence.
6) Provide detailed information and explanation regarding any variations of the application of any factor or standard between MH/SUD services and M/S benefits.
7) Provide the date that the analyses were conducted and the name, title, and position of the individuals who performed or participated in the comparative analyses.

DO NOT:

1) Refer to data that is reviewed without providing the actual data (as supporting document[s] or within the response).
2) Conflate compliance with state and regulatory guidelines as compliance with MHPAEA.
3) Provide outdated data that is no longer relevant or applicable.
4) Provide a large volume of supporting documents without explaining their relevance to the NQTL.
5) Provide claims metrics without providing contextual information, such as a description of the methods used, the source data, and the calculations used to generate the numbers that are being compared.

6) State that the written processes are the same for MH/SUD and M/S benefits without providing additional analysis of the NQTL applied in operation.
7) State that the written processes are applied no more stringently to MH/SUD benefits compared to M/S benefits in operation without providing supporting data and documentation.

Examples:[4]

Data could include:

# of PA Requests Outpatient				
Quarter	**Q1 2022**	**Q2 2022**	**Q3 2022**	**Q4 2022**
MH/SUD	254	264	248	261
M/S	599	604	612	601
# of PA Requests Denied Outpatient				
Quarter	**Q1 2022**	**Q2 2022**	**Q3 2022**	**Q4 2022**
MH/SUD	11	9	10	8
M/S	33	35	41	30

Additional data could be comparison of MH/SUD and M/S:

a. Utilization rates
b. Lengths of stays authorized
c. Reasons for denials
d. Review turnaround times
e. Application processing time
f. Latitude granted rate negotiators

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Step 5:

The specific findings and conclusions reached by the Plan or issuer with respect to the health insurance coverage, including any results of the analyses described in the previous steps that indicate the Plan or issuer is or is not in compliance with the MHPAEA requirements.

DO:

1) Summarize Steps 1-4 and provide an explanation, supported with evidence, on how these prior steps lead to the conclusion.
2) Provide a cohesive summary based on evidence provided in prior steps.
3) Discuss the findings and conclusions regarding the comparability of the processes, strategies, evidentiary standards, factors, and sources identified in the prior steps.
4) Ensure that the response covers how each step demonstrates that the measures are related to parity, and coverage and benefits design/administration.

DO NOT:

1) Provide a conclusionary statement of compliance without explanation of support.
2) Introduce new information when providing the conclusion.

Example:[5]

Step 1 indicates that the same definition of experimental and investigational is used for MH/SUD and for M/S services.

Step 2 reflects that ensuring clinical efficacy and patient safety of the proposed treatment or service is the strategy for this NQTL.

Step 3 provided academic medical literature as the source for Step 2, and the evidentiary standard of three randomized control trials demonstrating the safety and efficacy of the proposed treatment or service, with review conducted by the Medical Technology Assessment Committee whose members have comparable membership of MH/SUD and M/S providers with comparable credentials.

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Step 4 indicated the experimental and investigational procedure, and provided documentation demonstrated comparability of the review process in operation. The weighted findings of investigational/experimental are similar for MH/SUD and M/S, and audits confirm that the process is comparable in operation.

Given what has been demonstrated in Steps 1 through 4, the process for exclusion of experimental/investigative services is comparable in writing, and is applied no more stringently in operation, thus maintaining compliance with MHPAEA requirements.