

APPENDIX II: Comment & Response Summary

Non-Quantitative Treatment Limitation Analyses and Compliance Under MHPAEA (CMS-10773/OMB control number 0938-1393)

The Department of Labor (DOL) received two comments on the information collection requirements (ICRs). Both commenters stressed that currently, different regulators take disparate approaches to collecting information, performing an analysis, and determining compliance. Both requested the adoption of national guidelines and methodology for enforcing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), evaluating non-quantitative treatment limitation (NQTL) analyses, and pursuing examinations. One commenter suggested providing a uniform collection method, such as a standard template that plans may use to prepare the NQTL comparative analysis. This commenter suggested providing an enforcement grace period with respect to the new documented comparative analysis, and extending the comment period for the ICRs. The other commenter urged DOL to pursue notice and comment rulemaking to promote uniformity, including by defining a set of standard or “core” NQTLs that issuers and plans must analyze and document and provide a clear, comprehensive best-practice example analysis for each.

One commenter raised questions about the discrepancy between DOL’s and the Department of Health and Human Services’ (HHS) information collection and disclaimers on the Frequently Ask Questions document. This commenter stated that the ICR included many unrealistic assumptions, which flow from a conclusion that plans and issuers have operationalized what the agencies refer to as “best practices.” Therefore, the commenter stated that the burden estimate was not realistic.

Additionally, this commenter thanked DOL for clarifying that the collection will not include Personally Identifiable Information or Proprietary and Confidential Information. The commenter requested DOL validate this part of the ICR and institute appropriate safeguards to protect against the inadvertent collection of such information.

HHS, DOL and the Department of the Treasury (the Departments) are considering commenters’ suggestions, as well as the potential benefits and costs of such changes, as the Departments consider what, if any, additional guidance and regulation is needed to ensure compliance with MHPAEA, including in light of the amendments of the Consolidated Appropriations Act, 2021.