

Supporting Statement
Nonquantitative Treatment Limitation Analyses and Compliance Under MHPAEA
(CMS-10773/OMB control number 0938-1393)

A. Background

Enacted on October 3, 2008, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), Public Law 110-343, amended the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act (PHS Act), and the Internal Revenue Code of 1986 (Code). MHPAEA expanded existing parity requirements¹ between medical and surgical benefits and mental health benefits, and also extended parity requirements to substance use disorder benefits. The law generally requires that group health plans and group health insurance issuers offering both medical/surgical and mental health or substance use disorder (MH/SUD) benefits do not apply more restrictive financial requirements (e.g., co-pays, deductibles) and/or treatment limitations (e.g., visit limits) to MH/SUD benefits than those requirements and/or limitations as applied to medical/surgical benefits.

The Patient Protection and Affordable Care Act, Public Law 111-148, was enacted on March 23, 2010; and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, was enacted on March 30, 2010 (collectively known as the “Affordable Care Act”, (ACA)). The ACA reorganizes, amends, and adds to the provisions of part A of Title XXVII of the PHS Act relating to group health plans and health insurance issuers in the group and individual markets. The ACA added section 715(a)(1) to ERISA and section 9815(a)(1) to the Code to incorporate the provisions of part A of Title XXVII of the PHS Act into ERISA and the Code, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The ACA extended MHPAEA to apply to the individual health insurance market and redesignated MHPAEA as section 2726 of the PHS Act²

Additionally, section 1311(j) of the ACA applies section 2726 of the PHS Act to qualified health plans (QHPs) in the same manner and to the same extent as such section applies to health insurance issuers and groups health plans. Additionally, the Department of Health and Human Services (HHS) final rule regarding essential health benefits (EHB) requires health insurance issuers offering non-grandfathered health insurance coverage in the individual and

¹ In 1996, Congress enacted the Mental Health Parity Act of 1996 (MHPA 1996), which required parity in aggregate lifetime and annual dollar limits for mental health benefits and medical/surgical benefits. These mental health parity provisions were codified in Employee Retirement Income Security Act of 1974 (ERISA) section 712, PHS Act section 2705, and Internal Revenue Code (Code) section 9812, and applied to group health plans and health insurance coverage offered in connection with a group health plan.

² MHPAEA requirements apply to both grandfathered and non-grandfathered health plans. See section 1251 of the Affordable Care Act and its implementing regulations at 26 CFR 54.9815-1251T, 29 CFR 2590.715-1251, and 45 CFR 147.140. Under section 1251 of the Affordable Care Act, grandfathered health plans are exempted only from certain Affordable Care Act requirements enacted in Subtitles A and C of Title I of the Affordable Care Act. The provisions extending MHPAEA requirements to the individual market and requiring that qualified health plans comply with MHPAEA were not part of these sections.

small group markets, through an Exchange or outside of an Exchange, to comply with the requirements of the MHPAEA regulations in order to satisfy the requirement to cover EHB.³

The MHPAEA 2013 final regulations require that a group health plan or health insurance issuer may not impose a nonquantitative treatment limitation (NQTL) with respect to MH/SUD benefits in any classification unless, under the terms of the plan (or health insurance coverage) as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to MH/SUD benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation to medical/surgical benefits in the same classification.⁴ Under this analysis, the focus is not on whether the final result is the same for MH/SUD benefits as for medical/surgical benefits, but rather on whether the underlying processes, strategies, evidentiary standards, and other factors are in parity. These processes, strategies, evidentiary standards, and other factors must be comparable and applied no more stringently for MH/SUD benefits than for medical/surgical benefits. This process test was designed to prevent plans from imposing more restrictive NQTLs on MH/SUD benefits compared to medical/surgical benefits.

The Consolidated Appropriations Act, 2021 (the CAA, 2021) was enacted on December 27, 2020.⁵ The CAA, 2021 amended MHPAEA to provide important new protections. The Departments of Labor (DOL), HHS, and the Treasury (collectively, “the Departments”) prepared a Frequently Asked Questions (FAQ) document to help stakeholders understand these amendments.⁶

Under the CAA, 2021, group health plans and health insurance issuers offering group or individual health insurance coverage must document and be prepared to submit their comparative analysis with respect to each NQTL imposed on MH/SUD benefits when requested by any of the Departments or an applicable State authority. For an analysis to be treated as sufficient under the CAA, 2021, it must contain a detailed, written, and reasoned explanation of the specific plan terms and practices at issue, and include the bases for the plan’s or issuer’s conclusion that the NQTLs comply with MHPAEA.

In the September 2024 final rules “Requirements Related to the Mental Health Parity and Addiction Equity Act” (2024 final rules), the Departments finalized regulatory amendments to the 2013 final regulations implementing MHPAEA and finalized new regulations implementing the NQTL comparative analyses requirements under MHPAEA, as amended by the CAA, 2021. The 2024 final rules maintain the process test from the 2013 final rules and also require plans and issuers to collect and evaluate relevant data in a manner reasonably designed to assess the impact of NQTLs on access to MH/SUD benefits and medical/surgical benefits. The 2024 final rules require plans and issuers to collect and evaluate relevant data as part of each comparative analysis, including but not limited to

³ See 45 CFR §§147.150 and 156.115 (78 FR 12834, February 25, 2013).

⁴ 26 CFR 54.9812-1(c)(4)(i); 29 CFR 2590.712(c)(4)(i); and 45 CFR 146.136(c)(4)(i) and 147.160.

⁵ Public Law 116-260 (Dec. 27, 2020).

⁶ Available at <https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/MHPAEA-FAQs-Part-45.pdf>.

claims denials, data relevant to the NQTL required by State law or private accreditation standards, utilization rates, network adequacy metrics, and provider reimbursement rates, in fulfillment of the existing requirement that they evaluate and document their evaluation as part of the analysis of the application of NQTLs related to network composition.

Additionally, the 2024 final rules codify content requirements for the NQTL comparative analyses required by MHPAEA as amended by the CAA, 2021, clarify when the comparative analyses need to be performed, and outline the timeframes and process for plans and issuers to provide their comparative analyses to the Departments or an applicable State authority upon request.

The Centers for Medicare & Medicaid Services (CMS) is revising this information collection request (ICR) to account for the burden related to provisions finalized in the 2024 final rules.

B. Justification

1. Need and Legal Basis

Section 203 of Title II of Division BB of the CAA, 2021 amended MHPAEA, in part, by expressly requiring group health plans and health insurance issuers offering group or individual health insurance coverage that offer both medical/surgical benefits and MH/SUD benefits and that impose NQTLs on MH/SUD benefits to perform and document their comparative analyses of the design and application of NQTLs. Further, beginning 45 days after the date of enactment of the CAA, 2021, these plans and issuers must make their comparative analyses available to the Departments or an applicable State authority, upon request.

As described in section A of this supporting statement, the 2024 final rules amend the regulations implementing MHPAEA in 45 CFR 146.136 and finalize new regulations for the NQTL comparative analyses required under MHPAEA, as amended by the CAA, 2021, in 45 CFR 146.137.

2. Information Users

CMS will request the comparative analyses from self-funded non-Federal governmental plans and issuers offering group and individual health insurance coverage in direct enforcement States for MHPAEA for reviews related to potential violations of MHPAEA or complaints regarding noncompliance with MHPAEA that concern NQTLs, and any other instances deemed appropriate.

The CAA, 2021 also requires the Departments, after review of the comparative analyses, to share information on findings of compliance and noncompliance with the State where the plan is located or the State where the issuer is licensed to do business for the coverage offered by the issuer in the group market.

Additionally, not later than one year after enactment of the CAA, 2021 and annually by

October 1 thereafter, the Departments must submit to Congress and make publicly available a report as described in section B.10 below.

3. Use of Information Technology

Plans and issuers must submit all information electronically to CMS.

4. Duplication of Efforts

DOL may require plans and issuers to provide the comparative analyses information as well. However, only CMS oversees non-Federal governmental health plans and, in direct enforcement States, issuers of individual and group health insurance coverage, therefore there will be no duplication of effort with DOL.

States in which HHS does not perform direct enforcement of MHPAEA with respect to issuers may require issuers to provide the information as well. However, no duplication should occur because CMS will only request information from issuers when CMS has direct enforcement responsibility for MHPAEA in a State.⁷

5. Small Businesses

Small businesses are not significantly affected by these information collections.

6. Less Frequent Collection

These information collections are required to fulfill the statutory requirements in the CAA, 2021. CMS will not be able to conduct reviews of the NQTL analyses and ensure regulatory compliance without collecting the information from plans and issuers. CMS will also need to perform the comparative analyses reviews, submit the annual report to Congress, and make it available to the public as required by statute.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

The proposed regulation “Requirements Related to the Mental Health Parity and Addiction Equity Act” was published in the Federal Register on August 3, 2023 (88 FR 51552), providing the public with a 60-day period to submit written comments on this ICR. The Departments received more than 9,500 comments on the proposed rules, some of which are related to this ICR. A summary of pertinent comments and responses are included in the Attachment. The final rule published

9. Payments/Gifts to Respondents

⁷ CMS is responsible for enforcement of MHPAEA with regard to issuers in Texas and Wyoming.

No payments or gifts are associated with these information collections.

10. Confidentiality

The CAA, 2021 requires the Departments, after review of the comparative analyses, to share information on findings of compliance and noncompliance with the State where the group health plan is located or the State where the issuer is licensed to do business for the coverage offered by the issuer in the group market. Additionally, not later than one year after enactment of the CAA, 2021, and annually by October 1 thereafter, the Secretary of HHS must submit to Congress and make publicly available a report that contains:

1. A summary of the comparative analyses requested, including the identity of each plan or issuer that is determined not to be in compliance after a final determination by the Secretary;
2. The Secretary's conclusions as to whether each plan or issuer submitted sufficient information for the Secretary to review the comparative analyses requested for compliance with MHPAEA;
3. For each plan or issuer that submitted sufficient information for the Secretary to review the comparative analyses requested, the Secretary's conclusion as to whether and why the plan or issuer is in compliance with MHPAEA;
4. The Secretary's specifications with respect to the additional information that each plan or issuer that did not submit sufficient information must submit for the Secretary to review the comparative analyses for compliance with MHPAEA; and
5. The Secretary's specifications of the actions each plan or issuer that the Secretary determined is not in compliance must take to be in compliance with MHPAEA, including the reason the Departments determined the plan or issuer was not in compliance.

11. Sensitive Questions

These information collections do not involve any sensitive questions.

12. Burden Estimates (Hours & Wages)

The burden estimates below have been updated based on recent data on the number of issuers, the number of non-Federal governmental plans, and labor and mailing costs. We generally used data from the Bureau of Labor Statistics as the basis for the labor costs for estimating the burden associated with these information collections.⁸ We also assume that it will take a team of lawyers, actuaries, and data analysts to satisfy some of the content requirements for the NQTL comparative analyses required by MHPAEA as amended by the CAA, 2021, and have estimated a composite wage rate.⁹ Table 1 below presents the adjusted hourly wages accounting for the cost of fringe benefits and other indirect costs.

⁸ See the 2024 final rules for details.

⁹ The wage rate of a lawyer, actuary, and data analyst is respectively \$165.71, \$177.11, and \$159.61. The composite wage rate is estimated in the following manner: $[\$165.71 \times (1/3) + \$177.11 \times (1/3) + \$159.61 \times (1/3) = \$167.48]$.

TABLE 1: Adjusted Hourly Wages Used in Burden Estimates

Occupation Title	Occupational Code	Adjusted Hourly Wage (\$/hr.)
General and Operations Managers	11-1021	\$137.67
Business Operations Specialists	13-1199	\$114.36
Lawyers	23-1011	\$165.71
Secretaries and Administrative Assistants	43-6014	\$65.99
Actuaries	15-2011	\$177.11
Data Analysts	15-1251	\$159.61
Composite (Lawyer, Actuary, Data Analyst)	Composite	\$167.48

NQTL Comparative Analysis Documentation and Data Requirements:

The CAA, 2021 requires plans and issuers to perform and document comparative analyses for all NQTLs imposed on MH/SUD benefits. For an analysis to be treated as sufficient under the CAA, 2021, it must contain a detailed, written, and reasoned explanation of the specific plan terms and practices at issue, and include the bases for the plan's or issuer's conclusion that the NQTLs comply with MHPAEA. We expect that plans and issuers were already conducting NQTL analyses as best practice when creating benefit packages to ensure that the NQTLs are imposed in a manner that is compliant with MHPAEA. Also, the 2024 final rules require that issuers and plans document the action that has been or is being taken by the issuer or plan to mitigate any material differences in access between MH/SUD benefits and medical/surgical benefits as necessary to ensure compliance. As discussed in section A of this supporting statement, the 2024 final rules require plans and issuers to collect and evaluate relevant data as part of each comparative analysis, including but not limited to claims denials, data relevant to the NQTL required by State law or private accreditation standards, utilization rates, network adequacy metrics, and provider reimbursement rates, in fulfillment of the existing requirement that they evaluate and document their evaluation as part of the analysis of the application of NQTLs related to network composition.

We estimate there is a total of:

- 479 health insurance companies nationwide¹⁰ offering individual and group health coverage across the country, with 1,467 issuers (health insurance company/State combinations);
- 32,901 self-funded non-Federal governmental plan sponsors; and
- 205 third-party administrators (TPAs) that will provide services to a large subset of group health plans.

Although sponsors of self-funded non-Federal governmental plans are responsible for complying with the CAA, 2021 and the 2024 final rules, we assume that most self-funded non-Federal governmental plan sponsors, will likely seek assistance from their TPAs to comply with the NQTL comparative analysis documentation and data requirements. Nevertheless, of the 32,901 self-funded non-Federal governmental plan sponsors, we estimate that 505 plan sponsors will collect the data required under the 2024 final rules and document their own required analysis and the remaining 29,490 plan sponsors will rely on a TPA to collect the data required under the 2024 final rules and document the required analyses. Additionally, we estimate that 2,906 plan sponsors (of the 29,490 plan sponsors) will receive a generic comparative analysis from the TPA that will require customizing to suit the plan's specific needs.

As DOL, the Treasury Department and HHS share jurisdiction, HHS will account for 50 percent of the total burden imposed on TPAs (approximately 103 TPAs). As noted in Table 2 below, HHS will account for the burden of 4,981 entities related to the NQTL comparative analyses documentation and data requirements.

TABLE 2: Number of Entities Impacted by the NQTL Comparative Analyses Documentation and Data Requirements (HHS Burden)

Entity Type	Number of Entities
Issuers (health insurance company/State combinations)	1,467
Self-funded non-Federal governmental plans that will conduct the comparative analysis themselves	505
Self-funded non-Federal governmental plans that will initially receive a generic comparative analysis from a TPA that will require customizing to suit the plan's specific needs	2,906
TPAs	103
Total	4,981

To meet the NQTL comparative analysis documentation and data requirements, CMS

¹⁰ For purposes of this ICR, *health insurance company* refers to a single entity that offers health insurance coverage in one or multiple states, which might own or be affiliated with one or multiple entities that are separately required to be licensed to engage in the business of insurance in each such State. *Health insurance issuer* or *issuer* means an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law that regulates insurance.

expects that each issuer, self-funded non-Federal governmental plan sponsor conducting their own analysis, and TPA will require a team of lawyers, actuaries, and data analyst (at a composite hourly labor cost of \$167.48) and, on average, perform 10 NQTL comparative analyses. This is based on the Departments' experience in reviewing comparative analyses and in response to commenters' concerns that the Departments previously underestimated the number of NQTLs. Once the comparative analyses are performed and documented, plans and issuers will need to update the analyses in subsequent years when making changes to the terms of the plan or coverage, including changes to the way NQTLs are applied to MH/SUD or medical/surgical benefits.

As noted in Table 3, we assume that in the first year issuers, self-funded non-Federal governmental plans that will conduct the comparative analysis themselves, and TPAs will require 60 hours per NQTL with an equivalent cost of \$100,488.¹¹ Whereas the self-funded non-Federal governmental plans that will initially receive a generic comparative analysis from a TPA that will require customizing to suit the plan's specific needs will require 30 hours per NQTL with an equivalent cost of \$50,244.¹²

In subsequent years, we assume that reviewing and revising their comparative analysis will require 12 hours per NQTL for issuers, self-funded non-Federal governmental plans that will conduct the comparative analysis themselves, and TPAs, with an equivalent cost of \$20,098.¹³ Whereas it will require 6 hours per NQTL for self-funded non-Federal governmental plans that will initially receive a generic comparative analysis from a TPA that will require customizing to suit the plan's specific needs, with an equivalent cost of \$10,049.¹⁴

¹¹ The burden is estimated as follows: (1 plan or issuer × 10 NQTLs × 60 hours for a team of lawyers, actuaries, and data analysts × a composite wage rate of \$167.48) = \$100,488.

¹² The burden is estimated as follows: (1 plan × 10 NQTLs × 30 hours for a team of lawyers, actuaries, and data analysts × a composite wage rate of \$167.48) = \$50,244.

¹³ The burden is estimated as follows: (1 plan or issuer × 10 NQTLs × 12 hours for a team of lawyers, actuaries, and data analysts × a composite wage rate of \$167.48) = \$20,098.

¹⁴ The burden is estimated as follows: (1 plan × 10 NQTLs × 6 hours for a team of lawyers, actuaries, and data analysts × a composite wage rate of \$167.48) = \$10,049.

TABLE 3: Burden Hours for Self-funded Non-Federal Governmental Plans, TPAs, and Issuers Related to the NQTL Comparative Analyses Documentation and Data Requirements

Entity Type	Number of Entities	Number of NQTLs	Number of Hours per NQTL
Year 1			
Issuers (health insurance company/State combinations)	1,467	10	60
Self-funded non-Federal governmental plans that will conduct the comparative analysis themselves	505	10	60
Self-funded non-Federal governmental plans that will initially receive a generic comparative analysis from a TPA that will require customizing to suit the plan's specific needs	2,906	10	30
TPAs	103	10	60
Subsequent Years			
Issuers (health insurance company/State combinations)	1,467	10	12
Self-funded non-Federal governmental plans that will conduct the comparative analysis themselves	505	10	12
Self-funded non-Federal governmental plans that will initially receive a generic comparative analysis from a TPA that will require customizing to suit the plan's specific needs	2,906	10	6
TPAs	103	10	12

In summary, we estimate that for all 4,981 entities, the total burden in the first year will be 2,116,800 hours with an equivalent cost of approximately \$354.5 million.¹⁵ In subsequent years, we estimate the total annual burden for all issuers, plan sponsors, and TPAs will be 423,360 hours, with an equivalent cost of approximately \$70.9 million.¹⁶ We estimate the average burden over 3 years will be approximately 987,840 hours, with an equivalent cost of approximately \$165.4 million.

¹⁵ The burden is estimated as follows: (1,467 issuers × 10 NQTLs × 60 hours for a team of lawyers, actuaries, and data analysts) + ([505 self-funded non-Federal governmental plans + 103 TPAs] × 10 NQTLs × 60 hours for a team of lawyers, actuaries, and data analysts) + (2,906 self-funded non-Federal governmental plans × 10 NQTLs × 30 hours for a team of lawyers, actuaries, and data analysts) = 2,116,800 hours. A composite median labor rate of \$167.48 is applied in the calculation as: (1,467 issuers × 10 NQTLs × 60 hours for a team of lawyers, actuaries, and data analysts × \$167.48) + ([505 self-funded non-Federal governmental plans + 103 TPAs] × 10 NQTLs × 60 hours for a team of lawyers, actuaries, and data analysts × \$167.48) + (2,906 self-funded non-Federal governmental plans × 10 NQTLs × 30 hours for a team of lawyers, actuaries, and data analysts × \$167.48) = \$354,521,644.

¹⁶ The burden is estimated as follows: (1,467 issuers × 10 NQTLs × 12 hours for a team of lawyers, actuaries, and data analysts) + ([505 self-funded non-Federal governmental plans + 103 TPAs] × 10 NQTLs × 12 hours for a team of lawyers, actuaries, and data analysts) + (2,906 self-funded non-Federal governmental plans × 10 NQTLs × 6 hours for a team of lawyers, actuaries, and data analysts) = 423,360 hours. A composite median labor rate of \$167.48 is applied in the calculation as: (1,467 issuers × 10 NQTLs × 12 hours for a team of lawyers, actuaries, and data analysts × \$167.48) + ([505 self-funded non-Federal governmental plans + 103 TPAs] × 10 NQTLs × 12 hours for a team of lawyers, actuaries, and data analysts × \$167.48) + (2,906 self-funded non-Federal governmental plans × 10 NQTLs × 6 hours for a team of lawyers, actuaries, and data analysts × \$167.48) = \$70,904,333.

TABLE 4: Annual Burden for Self-funded Non-Federal Governmental Plans, TPAs, and Issuers Related to the NQTL Comparative Analyses Documentation and Data Requirements

Year	Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
Year 1	4,981	4,981	2,116,800	\$354,521,664
Year 2	4,981	4,981	423,360	\$70,904,333
Year 3	4,981	4,981	423,360	\$70,904,333
3-year Average	4,981	4,981	987,840	\$165,443,443

Initial Submission of Comparative Analyses:

Under the CAA, 2021, plans and issuers must submit their comparative analysis with respect to each NQTL imposed on MH/SUD benefits when requested by CMS. CMS will only request this information from issuers in States where CMS has direct enforcement responsibility for MHPAEA. The CAA, 2021 requires CMS to collect not fewer than 20 comparative analyses per year, but it also provides that CMS shall request that a plan or issuer submit the comparative analyses for plans that involve potential MHPAEA violations or complaints regarding noncompliance with MHPAEA that concern NQTLs, and any other instances in which CMS determines appropriate. Thus, CMS expects to request comparative analyses from at least 20 plans or issuers each year.

We estimate that for each plan sponsor or issuer, a business operations specialist will need 4 hours (at an hourly labor cost of \$114.36) and a general and operations manager will need 1 hour (at an hourly labor cost of \$137.67) on average to gather and submit the documents (including the additional documentation that is required under the 2024 final rules) to CMS. We estimate the total burden for each plan or issuer will be 5 hours, with an equivalent cost of approximately \$595. For 20 plans or issuers, we estimate the total annual burden will be 100 hours, with an equivalent cost of approximately \$11,902.

TABLE 5: Annual Burden for Self-Funded Non-Federal Governmental Plans and Issuers Related to Initial Submission of Comparative Analyses

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
20	20	100	\$11,902

Submission of Additional Documentation for Comparative Analyses:

Based on previous experience, we assume that upon review, all plans and issuers will be found to have not submitted sufficient documentation and will have to provide additional documentation. This is likely an overestimation, since we anticipate that the 2024 final rules will provide clarity and lead to better compliance with the documentation requirements. We estimate that for each plan or issuer, a business operations specialist will need 4 hours (at an hourly labor cost of \$114.36) and a general and operations manager will need 1 hour (at an hourly labor cost of \$137.67) on average to gather and submit the additional documents to

CMS. We estimate the total burden for each plan or issuer will be 5 hours, with an equivalent cost of approximately \$595. For 20 plans or issuers, we estimate the total annual burden will be 100 hours, with an equivalent cost of approximately \$11,902.

TABLE 6: Annual Burden for Self-Funded Non-Federal Governmental Plans and Issuers Related to Submission of Additional Documentation for Comparative Analyses

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
20	20	100	\$11,902

In instances where CMS, upon review of documentation submitted, determines that the plan or issuer is not in compliance with MHPAEA, the CAA, 2021 requires the plan or issuer to specify the actions the plan or issuer will take to come into compliance and submit additional comparative analyses that demonstrate compliance not later than 45 days after the initial determination of noncompliance. Based on the potential impact of the 2024 final rules and previous experience,¹⁷ we expect that 18 issuers and plan sponsors will be found to be non-compliant with the MHPAEA NQTL requirements and will need to complete corrective actions to bring the NQTL into compliance.

We estimate that for each such plan or issuer, a business operations specialist will need 36 hours (at an hourly labor cost of \$114.36) and a general or operations manager will need 4 hours (at an hourly labor cost of \$137.67) on average to prepare and submit documentation demonstrating compliance to CMS. We estimate the total burden for each plan or issuer will be 40 hours, with an equivalent cost of approximately \$4,668 and for 18 plans or issuers, the total burden will be 720 hours with an equivalent cost of approximately \$84,018.

TABLE 7: Annual Burden for Self-Funded Non-Federal Governmental Plans and Issuers Related to Corrective Action Plans

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
18	18	720	\$84,018

Following the 45-day corrective action period, if CMS makes a final determination that the plan or issuer is still not in compliance, not later than 7 days after such determination, the plan or issuer must notify all individuals enrolled in the plan or coverage that the coverage is determined to be noncompliant with MHPAEA. We anticipate that issuers and plan sponsors will take corrective action to become compliant with MHPAEA NQTL requirements. If a plan or issuer is still not in compliance, we estimate that it will take a lawyer (at an hourly labor cost of \$165.71) 1 hour to prepare the required notice that will be sent to all individuals enrolled in the plan or coverage for a cost of approximately \$166.

¹⁷ See the 2022 MHPAEA Report to Congress, available at: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2022-realizing-parity-reducing-stigma-and-raising-awareness.pdf>.

TABLE 8: Annual Burden for Self-Funded Non-Federal Governmental Plans and Issuers Related to Notification of Non-Compliance

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
1	1	1	\$166

Submission to States Upon Request:

Under the CAA, 2021, plans and issuers must be prepared to submit their comparative analysis with respect to each NQTL imposed on MH/SUD benefits when requested by the applicable State authority. Of the 48 States and the District of Columbia that enforce MHPAEA, we are unable to estimate how many States will request this information and how often. However, the cost of submitting the information to state authorities electronically will be minimal.

Request for Comparative Analyses by Participants, Beneficiaries, and Enrollees:

The 2024 final rules require plans and issuers to make the comparative analyses and other applicable information required by the CAA, 2021 available upon request to participants, beneficiaries, and enrollees in non-grandfathered group health plans and non-grandfathered group or individual health insurance coverage who have received an adverse benefit determination.

We estimate that each non-Federal governmental plan and each issuer will receive one request annually and that plans and issuers will annually incur a burden of 5 minutes for an administrative assistant (at an hourly labor cost of \$65.99) to prepare and send the comparative analyses to each requesting participant, beneficiary, or enrollee. For 90,887 non-Federal governmental plans and 1,467 issuers, this will result in a total burden of 7,696 hours annually with an equivalent cost of approximately \$507,859.

TABLE 9: Annual Burden for Non-Federal Governmental Plans and Issuers Related to Requests for Comparative Analyses by Participants, Beneficiaries, and Enrollees

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
92,354	92,354	7,696	\$507,859

Recordkeeping Requirement:

We expect that plans and issuers already maintain records as part of their regular business practices. We therefore estimate a minimal additional burden associated with recordkeeping requirements. We estimate that each non-Federal governmental plan nationwide or issuer will annually incur a burden of 5 minutes, on average, for an administrative assistant (at an hourly labor cost of \$66.99) to meet the additional recordkeeping requirements. For all 90,887 non-Federal governmental plans and 1,467 issuers, this will result in a total burden of approximately 7,696 hours annually with an equivalent cost of approximately \$507,859.

TABLE 10: Annual Burden for Non-Federal Governmental Plans and Issuers Related to Recordkeeping Requirement

Number of Respondents	Number of Responses	Total Estimated Annual Burden (hours)	Total Estimated Labor Cost
92,354	92,354	7,696	\$507,859

TABLE 11: Estimated Annual Average Burden

Information Collection	Type of Respondent	Number of Respondents	Number of Responses	Average Burden Hours Per Response	Total Burden Hours (rounded)	Total Labor Cost (rounded)
NQTL Comparative Analyses Documentation and Data Requirements	Issuers, Self-Funded Non-Federal Governmental Plans, & TPAs	4,981	4,981	198	987,840	\$165,443,443
Initial Submission of Comparative Analyses	Issuers & Self-Funded Non-Federal Governmental Plans	20	20	5	100	\$11,902
Submission of Additional Documentation for Comparative Analyses	Issuers & Self-Funded Non-Federal Governmental Plans	20	20	5	100	\$11,902
Corrective Actions	Issuers & Self-Funded Non-Federal Governmental Plans	18	18	40	720	\$84,018
Notification of Noncompliance	Issuer or Self-Funded Non-Federal Governmental Plan	1	1	1	1	\$166
Consumer Requests for Comparative Analyses	Issuers & Non-Federal Governmental Plans	92,354	92,354	0.1	7,696	\$507,859
Recordkeeping Requirement	Issuers & Non-Federal Governmental Plans	92,354	92,354	0.1	7,696	\$507,859
Total		92,457*	189,748		1,004,153**	\$166,567,149**

* Unique number of respondents (1,467 issuers and 90,887 non-Federal governmental plans).

** Numbers do not sum exactly to these totals due to rounding.

13. Capital Costs

Request for Comparative Analyses by Participants, Beneficiaries, and Enrollees

We assume that 58.3 percent of requests for comparative analyses by participants, beneficiaries, and enrollees will be delivered electronically, resulting in a de minimis cost. The remaining 41.7 percent of requests will be mailed. We estimate that the average page length for comparative analyses is 15 pages. We also estimate that the average paper and printing cost per page is \$0.05, and that the mailing cost¹⁸ is \$2.04. Therefore, each mailed response will cost \$2.79 in materials and postage, on average. The annual cost burden to 90,887 non-Federal governmental plans and 1,467 issuers to mail the comparative analyses to participants, beneficiaries, and enrollees upon request will therefore be approximately \$107,400.

14. Cost to Federal Government

We estimate that the cost of each review will be approximately \$100,000, with a total cost of \$2 million for all 20 reviews annually.

15. Changes to Burden

Although there was a decrease in the estimated number of issuers (from 1,553 to 1,467), the estimated burden related to the NQTL comparative analyses documentation and data requirements for issuers has increased by 327,933 hours (from 82,827 to 410,760). This is due to the new data requirements necessary to comply with the 2024 final rules. In contrast, due to a decrease in the assumed number of self-funded non-Federal governmental plans that will do their own comparative analysis, the estimated burden related to the NQTL comparative analyses documentation and data requirements for self-funded non-Federal governmental plans has decreased by approximately 353,027 hours (from 930,107 to 577,080). This is largely driven by the understanding that TPAs heavily support self-funded non-Federal governmental plan sponsors to meet the NQTL comparative analysis documentation and data requirements. The estimated burden to issuers and self-funded non-Federal governmental plans associated with the initial submission of comparative analyses has increased by 100 hours (from 0 to 100). The estimated burden to issuers and self-funded non-Federal governmental plans associated with the submission of additional documentation for comparative analyses has increased by 50 hours (from 50 to 100), due to an increase in the number of plans and issuers that are expected to submit additional documentation (from 10 to 20). Further, due to an increase in the estimated number of issuers and self-funded non-Federal governmental plans needing to complete corrective actions (from 8 to 18) to bring their NQTLs into compliance, the estimated burden related to corrective actions has increased by 520 hours (from 200 to 720). Additionally, there is a new burden to issuers and non-Federal governmental plans associated with consumer requests for comparative analyses (of approximately 7,696 hours).

¹⁸ The mailing costs is based on the United States Postal Service price for a Large Envelope weighing up to 3 ounces (15 pages weigh approximately 2.4 ounces).

Lastly, there is a new burden to issuers and non-Federal governmental plans associated with the recordkeeping requirement in the 2024 final rules (of approximately 7,696 hours). Therefore, total burden hours have decreased by approximately 9,032 hours (from 1,013,185 to 1,004,153).

16. Publication/Tabulation Dates

CMS is required to publish reports using review results as described in item 10 above. Additionally, CMS will publish all final determination letters on the CMS website, including the letters of plans or issuers that were found to have no compliance issues.

17. Expiration Date

There are no instruments associated with these information collections.

18. Certification Statement

There are no objections to the certification statement.