

## NQTL REPORTING TEMPLATE INSTRUCTION GUIDE

The instructions in this Guide provide companies that offer health plans, insurance policies, and/or Medicaid and CHIP managed care benefits (collectively referred to in this document as “Plans”) with an in-depth description of each step that is delineated for each non-quantitative treatment limit (NQTL) analysis for mental health and substance use disorder Parity (“Parity”) compliance reports.

The purpose of federal and state Parity laws is to ensure that Plan benefit design and operations offer beneficiary access to mental health and substance use disorder (“MH/SUD”) services that is comparable to and no more stringent than beneficiary access to medical/surgical (“M/S”) services. Thus the guiding principle for NQTL compliance analyses and documentation should be to demonstrate the effect of the Plan design and operations on beneficiary access to services. In developing NQTL compliance analyses using these templates, Plans should focus on features of Plan design and operations for MH/SUD and M/S that ultimately impact beneficiary access to covered treatments services. Differences between Plan design and operations for MH/SUD and M/S that do not meaningfully impact beneficiary access are not a priority for enforcement and should not be a focus of compliance analyses.

For companies that offer multiple commercial health plans or products in Illinois, it is assumed that most policies and procedures that are relevant to most NQTLs are applied consistently across all of the company’s product offerings. Where specific data are required, and/or where significant, substantive variations exist among the policies and procedures that are applied for an NQTL across different products, the company may limit its reporting to the required information for the top three largest plans by enrollment.

### *General Instructions*

- (a) Plans should develop a separate response for each step of each analysis that answers the specific instructions of the prompt for that step, as further explained in this guide. Prompts for each step are designed to be distinct and non-overlapping, and responses should generally avoid repeating information that was provided in a previous step.
- (b) Information regarding plan design and operations analyzed in this report should be current, not retrospective. In other words, the Plan’s analyses should reflect the Plan’s current benefits, policies and procedures, operations, data, and related information as of the reporting date. Although operations measure data are by necessity retrospective, the interpretation of these data for the purposes of the compliance analysis should focus on the extent to which these data reflect the current plan design and operations. If changes to the plan design or operations mean that the operations measure data do not reflect the current plan design, this should be noted. Analyses should be maintained internally and updated on a periodic basis, such as annually.
- (c) Responses may be supplemented by attachments as necessary. For example, Plans may attach lists of benefits subject to a given NQTL, policies and procedures containing full

details regarding the response to a given prompt, supporting evidence or operations data for a response, and/or other related information that may be useful for reference. However, a brief summary of the key information contained in the attachment should be provided within the relevant step response. All analyses should be wholly provided within the compliance report itself.

- (d) Supporting documentation is generally not required to be attached or included in Parity compliance reports. Examples of supporting documentation include relevant policies and procedures, details about how policies and procedures were designed or applied, data used to apply factors/processes in the implementation of NQTLs, operations measure data, and/or any other analysis or documentation used by the Plan to sustain its basis for compliance with a given NQTL. However, Plans should be prepared to provide copies of all internal or public documentation of the factors, processes, evidentiary standards, or other information that is relied upon to implement, analyze, and demonstrate compliance with an NQTL upon request or in the event of a market conduct exam or other enforcement action. (As a best practice for compliance, Plans may find it useful to maintain internal crosswalks or indices of the specific Plan documents that are relevant for each analysis. This practice will create efficiency in keeping the analysis up to date and in responding to any need to provide such supporting documentation.)
- (e) The term “benefits” is not defined in federal or state statute or regulation, and Plans have flexibility to determine the specificity with which to define benefits for their own coverage and operations. In general, Plans should align their use of the term “benefits” in their Parity analyses with the way this term is defined and applied in other Plan documents. An individual benefit may include a wide range of service codes, or it may be as narrow as a single service code. The analyses in this report do not require you to identify the logic used to define benefits, or to provide specific definitions for specific benefits. However, the logic for defining benefits should be consistent between MH/SUD and M/S coverage, and benefit definitions should be consistent across all Parity analyses.
- (f) In any Step where the reporting template stipulates that it provides examples of factors, processes, or evidentiary standards, the provided examples are purely illustrative. For these Steps, the Plan is not required to respond or provide information with regard to any of the example factors, processes, or evidentiary standards that are listed, and may instead report on its own factors, processes, or evidentiary standards.
- (g) Where specific operations measures are required, the plan may apply any technical specifications and/or data definitions that are reasonable and necessary to define and report on the identified measure. The technical specifications and data definitions must not conflict with the instructions in this Guide, but otherwise should be designed to align as well as possible with the Plan’s coverage design and operations, including existing data collections. Plans may also choose to supplement these required operations measures with additional oversight factors, processes, and/or operations measures that provide further context and support for the Plan’s determination of compliance for the NQTL.

- (h) A brief comparability and stringency analysis should be provided for each data point, factor, or process that is reported in the “in operation” analyses in Step 6 of each analysis. If the data provided for a given measure appear to indicate a more stringent design or application of the NQTL to MH/SUD benefits relative to M/S benefits, the Plan should provide an explanation for the disparity in the data or justification for the difference in approach, including the reasons for which it determined that the underlying factors, processes, and evidentiary standards were in fact comparable and no more stringent. For example, a very small denominator or sample size for a given metric may lead to results that are heavily skewed by a small number of idiosyncratic instances or circumstances.
- (i) A Plan may wish to include, but is not required to provide, a discussion of actions that it is taking to amend processes or outcomes for MH/SUD benefits and services, especially in Step 6 of any given analysis. Such disclosures or actions may not be interpreted to indicate or imply non-compliance with Parity. However, should the State make a determination of non-compliance based on other information provided in a given analysis, the State may decide to consider the Plan’s existing improvement actions as a mitigating factor for any resulting non-compliance penalty, requirement for corrective action, or other enforcement action.
- (j) Although these templates do not require Plans to submit definitions for MH, SUD, and M/S conditions, definitions for benefit classifications, or lists of MH/SUD and M/S benefits by classification, Plans should be prepared to submit such documentation to regulators in instances where such documentation may be necessary to determine compliance.
- (k) For all analyses of the prescription drugs classification, Plans should identify the evidentiary standard used to classify drugs as M/S drugs or MH/SUD drugs for the purpose of this analysis.

### *Filling out the Template*

- (l) For each step, the instructions below should be applied separately to the response for M/S benefits and the response for MH/SUD benefits.
  - If the information for MH/SUD benefits is substantively identical to the response that is provided for M/S benefits within a given step, write "same" in the MH/SUD box and "N/A" in the comparability and stringency analysis box for that step.
  - If there are any differences between the information for MH/SUD benefits and the information for M/S benefits for a given step, provide an analysis of the comparability and stringency of the responses for that step.
  - The comparability and stringency analysis and conclusion provided in step 6 may include a discussion of the weight or probative value that should be given to

individual factors, processes, or operations measures that are used to monitor and evaluate compliance. For NQTLs for which certain specific operations measures are required, the Plan's comparability and stringency analysis in step 6 may include a discussion of the reasons why a Plan has determined that any additional factors, processes, or operations measures that it applies should be given more weight or probative value than the operations measures that are required.

- Discussion should be provided to explain why any apparent disparity in operations measure data or other oversight factor or process is misleading or not truly indicative of noncompliance. This discussion should conclusively explain the Plan's rationale and substantive basis for determining that compliance has been achieved.

(m) Although the instructions below are not duplicated for each classification, separate reporting must be provided for each classification as set forth in the reporting templates.

- If the NQTL is not applied to any MH/SUD benefits within a classification, stop and do not complete the analysis for that benefit classification. (However, Plans may find it useful to complete and maintain an NQTL analysis for internal purposes as a best practice for compliance.)
- If the NQTL is applied to one or more MH/SUD benefit(s) within a classification but does not apply to any medical/surgical benefits within that classification, the NQTL does not comply with MHPAEA.<sup>1</sup>
- If the NQTL is applied to all MH/SUD benefits within a classification but does not apply to all medical/surgical benefits within that classification, the NQTL is unlikely to comply with MHPAEA.<sup>2</sup>
- Plans that sub-classify Outpatient benefits into Outpatient-Office Visit and Outpatient-All Other may create additional templates as needed to reflect these subclassifications.
- Plans that provide benefits through multiple tiers of in-network providers (such as an in-network tier of preferred providers with more generous cost-sharing to participants than a separate in-network tier of all other participating providers) may create additional templates as needed to reflect these provider network tiers.
- Medicaid and CHIP managed care organizations (MCOs) and health plans that do not offer out-of-network benefits (e.g. an Exclusive Provider Organization) can omit all out-of-network classification templates, since the Parity rules for

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<sup>1</sup> See 78 FR 68240, 68245 (Nov. 13, 2013). See also FAQs About Affordable Care Act Implementation (Part VII) and Mental Health Parity Implementation (November 17, 2011) at Q&A-2.

<sup>2</sup> See 78 FR 68240, 68245 (Nov. 13, 2013). See also FAQs About Affordable Care Act Implementation (Part VII) and Mental Health Parity Implementation (November 17, 2011) at Q&A-5.

Medicaid and CHIP do not distinguish between in-network and out-of-network classifications.

- (n) Within each step, please present paragraphs on the same topic for MH/SUD and M/S starting on the same line or row of the page.
  - As a general rule, short paragraphs with narrowly-defined topics are preferred, as long narrative paragraphs often sacrifice clarity of thought or ease of analysis. However, the response must sufficiently respond to the step's prompt.