

**America's Health
Insurance Plans**

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org



June 18, 2020

Ms. Katie Dzurec
Chair, MHPAEA (B) Working Group
National Association of Insurance Commissioners
444 North Capitol Street NW, Suite 700
Washington, D.C. 20001-1512
Forwarded via email to: Jolie H. Matthews & Joe Touscher

RE: AHIP Comments on MHPAEA Draft QTL Template and Instructions

Dear Chairwoman Dzurec:

America's Health Insurance Plans (AHIP) appreciates the opportunity to provide comments on the draft quantitative treatment limitations (QTL) template and instructions forwarded by the NAIC MHPAEA Working Group on May 28, 2020. Mental health is a key component to a person's overall wellbeing and health insurance providers remain steadfast in our support of promoting safe, evidence-based behavioral health care on par with medical/surgical care. AHIP is committed to working with fellow stakeholders within the Working Group and highlighting best practices in better understanding how to demonstrate parity with financial requirements (FR), QTLs and non-quantitative treatment limitations (NQTLs).

As we and our members reviewed the FR/QTL template and instructions, there were several questions and concerns raised, including: the process of highlighting one specific template without reviewing all other QTL tools and operational issues within this particular template.

Collaboration, Purpose & Process

NAIC is a great laboratory in which states are able to share tools and best practices; however, AHIP respectfully requests additional information about the selection process for this specific draft FR/QTL template and instructions. On the MHPAEA Working Group's call hosted June 5, it was stated there would be one additional discussion to review the comments, and as the template was only "voluntary" there would be no need for votes; the Working Group would then move on to NQTLs. This process is not consistent with the NAIC's standard operating procedure for sharing materials and raises questions on next steps.

- *Collaboration:* States typically share their resources at NAIC by making presentations within the relevant committee. Given there are other states that have templates that measure QTLs in an effective, less complex fashion, it is unclear why this specific FR/ QTL template was chosen to serve as the NAIC framework to highlight. The process NAIC generally uses for model regulations and other NAIC tools typically include ample opportunity for review and comment and allows for collaboration throughout the drafting of the product among all interested parties, which this template did not.

On the first call of the Working Group there was discussion on sharing various resources, and thus an aggregation of state's various templates for review by Commissioners and other stakeholders

was the anticipated next step for this work. As discussed on the March 9 initial conference call, other resources such as the Department of Labor's MHPAEA self-compliance tool and the MHPAEA chapter in the NAIC *Market Regulations Handbook* would be part of resources explored. Other tools should also include Illinois' Supporting Documentation Template and URAC's Parity Manager program.

- *Purpose:* The specific use(s) of the template is unclear. Is the template's purpose to be used for the purpose of replying to insurance department inquiries in response to consumer complaints, or as part of annual rate filings? If the latter, then AHIP has serious concerns with the template as a model for other states. We absolutely agree state insurance agencies should have the ability to see all the data and information they need to ensure plans are complying with federal and state mental health parity laws; however, we need to work collaboratively to identify the exact data the state needs, in a usable format, and a mechanism to gather the data in a way that can be coordinated in an effective, efficient manner across states.

As noted above, previous discussions regarding the template indicated that it is "voluntary," but voluntary to whom? It is assumed that it will be voluntary for each state's insurance regulator. However, is it intended to be voluntary on the part of health insurance providers in a given state? If it is intended to be voluntary for the state's insurance regulator and, where adopted, mandatory for health plans operating in that state's market, we believe a much more thoughtful discussion surrounding the type of information required and the purpose of the information is undoubtedly needed.

- *Charges & Committee Structure:* If the template is to be "approved, endorsed or supported" by the MHPAEA Working Group, then the scope of the tool appears to be beyond the 2020 Working Group Charge as a "supplemental resource" to the Market Regulation Handbook. Specifically, it is unclear whether the template would supplant the MCAS blank. Similar mental health reporting discussions have already taken place within the Market Regulation and Consumer Affairs (D) Committee. The Market Conduct Annual Statement Blanks (D) Working Group has debated and finalized mental health reporting requirements; any related tools which change those decisions should be forwarded to the D Committee as they are no longer within the scope of the B Committee.

Operations & Analysis of FR/QTLs

In addition to concerns regarding the purpose and consistency with the Working Group's charge, we have identified several challenges with operationalizing use of the FR/QTL draft template, as well as various ways it could be improved.

Under MHPAEA, a plan may not apply financial requirements and QTLs to Mental Health / Substance Use Disorder (MH/SUD) benefits within a classification of benefits that is more restrictive than the predominant type and level of FR/QTLs applied to substantially all (at least two-thirds) of the medical/surgical (M/S) benefits within the corresponding classification of benefits. Knowing the goal of the template is to understand whether plans are complying with this parity requirement, we are concerned about how the template illustrates compliance and the type of data collected.

- *Flexibility Needed:* The template does not allow for the separation of multiple networks for the purpose of analysis. At a minimum, additional guidance within the form and/or instructions is needed to assist insurers to complete the analysis manually. The FR/QTL draft template includes very complex formulas in an excel spreadsheet that does not translate easily to manual calculations. The FR/QTL draft template seems to put plans with multiple networks at a disadvantage since they are unable to use it to determine compliance with QTLs.

There is an opportunity to improve the "covered services" tab in order to eliminate redundancy by creating in-network and out-of-network columns as opposed to having a different row for each time a service is in-or out-of-network. Another way to streamline the spreadsheet is to consider

pre-populating standard categories (for example under covered services) and then allow for plan customization where necessary.

- Where a service such as, “PCP Office Visit – Preferred Provider” has the first 3 visits subject to only a copayment and then subsequent visits (4 or more) are subject to plan deductible then coinsurance - some states require the claims allocations to be split by what cost share types they are subject to. The template tool does not clearly support that structure. The user would have to load the same service multiple times on the “Covered Services” tab, allocate appropriate claims, and then on the appropriate classification tabs clearly outline in columns 2 through 6 the cost share structures that align with the claims allocations for that service. Detailed instructions would need to be added to explain these types of cost share structures to assure consistency.

The proposed FR/QTL template requires carriers to list each and every M/S benefit on the schedule of benefits (SOB) at a granular level including the page number where the benefit is referenced within the certificate of coverage (COC) and SOB. Many carriers group certain services subject to the same type of cost share together in their testing analyses. For example, rather than listing speech therapy, physical therapy and occupational therapy separately, they may group the services under the broader rehabilitative/habilitative services category. Rather than force carriers to list each and every M/S benefit on the SOB at a granular level, we would prefer a FR/QTL template that provides flexibility consistent with the “any reasonable method” language afforded under the parity rule governing the quantitative analysis of FRs/QTLs.

In addition, the requirement to include the page number where each covered benefit may be referenced within the COC and SOB is an extremely time consuming and burdensome task as it generally requires the manual population of the information for each standard health plan design/product administered by the carrier while offering little to no added benefit.

- *Data Collected:* The FR/QTL template not only requires carriers to include the listing of covered MH/SUD benefits, but requires the listing of all covered MH/SUD benefits by condition or diagnosis. For example, occupational therapy rendered for the treatment of autism; occupational therapy rendered for the treatment of ADHD, etc. Because the type and level of FR/QTLs applied to the MH/SUD classifications of benefits is dictated by the predominant type and level of FRs/QTLs applied to at least two-thirds of the M/S benefits, data relating to covered MH/SUD benefits ought to be excluded from any FR/QTL template as it is irrelevant to the quantitative analysis of the M/S benefits. Overall, the approach taken with regard to classification is very prescriptive and does not offer any flexibility to utilize other approaches to parity calculation in this area

There may also be more efficient ways to sort and add data to an FR/QTL template. For data sorting and analysis purposes, the FR/QTL template would be better designed to limit data fields to one type of information per field. For instance, rather than listing a covered service and adding either in-network or out-of-network after it in the same data field, adding a column specifically for designating whether the service is in-network or out-of-network would be better. Not only will this make it easier to complete the form, it will enable end users to sort if they wish to review all in-network or out-of-network benefits.

Column H of the proposed FR/QTL template instructions requires carriers to identify all NQTLs to which each covered benefit is subject. There are many different types of NQTLs, such as prior authorization requirements, development and application of medical necessity criteria, methodologies for determining in-network and out-of-network provider reimbursements, etc. There are different parity rules governing NQTLs and FR/QTLs. State regulators generally review them separately, with different templates and information for each.

If the Working Group decides to endorse a specific FR/QTL template, then dependent on the purpose, AHIP would be happy to take part in additional detailed discussions.

RECOMMENDATION: AHIP respectfully requests, in lieu of focusing on one template, the Workgroup continues to include various state QTL templates to be placed under the “Related Documents” portion of the website. As the Working Group progresses into the more complicated NQTLs in forthcoming calls we encourage a more inclusive and collaborative conversation on all aspects of future tools from the initial draft through completion.

Importance of Mental Health

Health insurance providers work diligently to ensure compliance with requirements of MHPAEA. Even the most robust template and spreadsheet does not provide the full breadth of dedication and importance health plans are placing on mental health. Examples of the actions our member plans are taking include broadening networks and services to help enrollees navigate issues like loneliness, stress, depression, anxiety and addiction.

COVID-19 has unquestionably exacerbated our nation’s mental health crises. New challenges related to social distancing, financial uncertainty, job loss, and shifting priorities for health care resources impose an emotional toll on many Americans. Health insurance providers have responded to the call by waiving cost sharing for consumers and focusing on the availability of mental telehealth visits. Other innovative approaches include 24-hour crises line for enrollees, as well as opening the support lines to all first responders and health care workers. Insurers are also working with different websites to widen the availability for care, such as the Calm app and developing new emotional wellness apps.

We look forward to working together to identify best practices for reviewing coverage parity both for QTLs and NQTLs. We truly appreciate the Working Group’s commitment in focusing on such an important topic. Please reach out with any questions or concerns related to our comments.

Sincerely,



Kris Hathaway
Vice President, State Affairs
America’s Health Insurance Plans
khathaway@ahip.org / (202) 870-4468

AHIP DESCRIPTION: AHIP is the national association whose members provide insurance coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access and well-being for consumers.