

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



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September 23, 2025

Aetna Health Insurance Company – Missouri – HIOS #32898

Darcey Gartner  
Executive Director Corporate Compliance  
dxgartner@aetna.com

Re: Revised Final Determination Letter – Mental Health Parity and Addiction Equity Act (MHPAEA) Non-Quantitative Treatment Limitation (NQTL) Comparative Analysis Review- Concurrent review requirements for outpatient, in-network services.

Dear Darcey Gartner:

The Centers for Medicare & Medicaid Services (CMS), on behalf of the U.S. Department of Health and Human Services, has completed its review of the initial comparative analysis submitted in response to CMS’ review of the MHPAEA NQTL Analysis Review (Review).

The purpose of the Review was to assess Aetna Health Insurance Company’s (Issuer) compliance with the following requirements under Title XXVII of the Public Health Service Act (PHS Act) and its implementing regulations:

Section 2726 of the PHS Act and implementing regulations at 45 C.F.R. §§ 146.136<sup>1</sup> and 147.160 - Parity In Mental Health And Substance Use Disorder Benefits (MHPAEA and its implementing regulations).

The Review covered concurrent review requirements for outpatient, in-network services for the 2022 plan year, within the small group market<sup>2</sup> (hereinafter referred to as “the NQTL”).

CMS conducted this Review pursuant to section 2726(a)(8)(A) and (B) of the PHS Act, as added by section 203 of Title II of Division BB of the Consolidated Appropriations Act, 2021.<sup>3</sup> CMS contracted with Examination Resources, LLC to assist CMS with conducting this Review.

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<sup>1</sup> In this document, references to 45 C.F.R. § 146.136 refer to the regulations applicable during the 2022 plan year.

<sup>2</sup> Section 2707 of the PHS Act, section 1302(b) of the Patient Protection and Affordable Care Act and implementing regulations at 45 C.F.R. §§ 156.110(a)(5) and 156.115(a)(3) require non-grandfathered small group market coverage to comply with MHPAEA and its implementing regulations.

<sup>3</sup> Pub. L. 116-260 (Dec. 27, 2020).

CMS' May 19, 2023 Initial Determination Letter identified the following instances of non-compliance with section 2726 of the PHS Act and implementing regulations at 45 C.F.R. §§ 146.136 and 147.160:

- the treatment plan is required to be reevaluated every six months for concurrent review determinations for applied behavior analysis (ABA), a mental health/substance use disorder (MH/SUD) benefit, but such reevaluation is not required for any medical/surgical (M/S) benefits within the outpatient, in-network classification;
- specific validated assessments are required in order to demonstrate response to intervention for concurrent review determinations for ABA services but such assessments are not required for any M/S benefits within the outpatient, in-network classification;
- failure to provide sufficient information and supporting documentation regarding the application of the factors considered in the design and application of the NQTL;
- failure to provide sufficient information and supporting documentation for the sources or evidence used to develop the factors identified in the design and application of the NQTL;
- failure to provide sufficient information and supporting documentation regarding the comparative analysis provided to demonstrate the comparability and stringency of the processes, strategies, evidentiary standards, and other factors used to apply the NQTL; and
- failure to provide a sufficient reasoned discussion of findings and conclusions as to the comparability of the processes, strategies, evidentiary standards, factors, and sources identified and their stringency.

On January 14, 2025, CMS issued a final determination letter of non-compliance with MHPAEA and its implementing regulations and identified corrective actions to be taken by February 27, 2025. The Issuer was also directed to notify all individuals enrolled in health insurance coverage offered by the Issuer subject to this NQTL that CMS has determined the coverage is not in compliance with the requirements under MHPAEA and its implementing regulations. This notification letter was due by January 24, 2025. On February 12, 2025, the Issuer, through its legal representative, informed CMS that the Issuer had no enrollment in the small group market in Missouri during the 2022 plan year. As such, at this time, CMS has determined no further corrective actions are required by the Issuer for this Review. However, subsequent comparative analyses by the Issuer should be able to demonstrate compliance with MHPAEA and its implementing regulations.

CMS' conclusions detailed in this letter pertain only to the NQTL under review and do not bind CMS (or any other government agency or entity) in any subsequent or further review of other plan provisions or their application for compliance with governing law, including MHPAEA and its implementing regulations. If additional information is provided to CMS regarding this NQTL or Issuer, CMS reserves the right to conduct an additional review for compliance with MHPAEA or other applicable PHS Act requirements.<sup>4</sup>

CMS' conclusions pertain only to the specific plans or coverage to which the NQTL under review applies and are offered by the Issuer and do not apply to any other plan or issuer,

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<sup>4</sup> See section 2726(a)(8)(B)(i) of the PHS Act. See also 45 C.F.R. § 150.303.

including other plans or coverage for which the Issuer acts as an Administrator. However, these findings should be shared with affiliated entities, and steps should be taken as appropriate to ensure compliance with applicable requirements.

CMS will include a summary of the comparative analysis and the results of CMS' review in its annual report to Congress pursuant to section 2726(a)(8)(B)(iv) of the PHS Act. In addition, CMS posts all Final Determination Letters to our webpage at <https://www.cms.gov/marketplace/private-health-insurance/consumer-protections-enforcement>.

Sincerely,

Mary M.  
Nugent -S



Digitally signed by Mary M. Nugent -S  
Date: 2025.09.19 10:25:28 -0400

Mary Nugent  
Director, Division of Plan and Issuer Enforcement  
Oversight Group  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare & Medicaid Services

cc: Missouri Department of Insurance  
Groom Law Firm