

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 1, 2022

Humana Insurance Company – Missouri – HIOS # 30613  
Humana Health Plan– Texas – HIOS # 32673  
Humana Insurance Company – Texas – HIOS # 63141

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Re: Final Determination Letter - Mental Health Parity and Addiction Equity Act (MHPAEA) Non-Quantitative Treatment Limitation (NQTL) Comparative Analysis Review – Concurrent review treatment limitations for outpatient, in-network services (Humana Insurance Company of Missouri; Humana Health Plan of Texas); Concurrent review treatment limitations for outpatient, out-of-network services (Humana Insurance Company of Texas)

Dear Ms. Daugherty and Ms. Maloney:

This notice is being sent to inform you that a review of the Corrective Action Plan (CAP) and additional comparative analyses submitted to address the instance of non-compliance noted in the MHPAEA NQTL Comparative Analyses Reviews (Reviews) is complete. The purpose of the Reviews was to assess Humana Insurance Company of Missouri's, Humana Health Plan of Texas', and Humana Insurance Company of Texas' (Issuers) (as the Issuers submitted one CAP submission on behalf of all three plans) compliance with the following requirements under Title XXVII of the Public Health Service Act (PHS Act) for the specific NQTL comparative analyses reviewed:

42 U.S.C. § 300gg-26, 45 C.F.R. §§ 146.136 and 147.160 - Parity In Mental Health And Substance Use Disorder Benefits.

The Reviews covered the 2021 plan year for concurrent review treatment limitations for outpatient, in-network services (Humana Insurance Company of Missouri; Humana Health Plan

of Texas) and concurrent review treatment limitations for outpatient, out-of-network services (Humana Insurance Company of Texas).

CMS conducted these Reviews pursuant to PHS Act § 2726(a)(8)(A) and (B), as added by Section 203 of Title II of Division BB of the Consolidated Appropriations Act, 2021.<sup>1</sup> CMS contracted with Examination Resources, LLC to assist CMS with conducting these Reviews.

On September 2, 2021, CMS provided an initial determination letter of non-compliance to the Issuers due to the comparative analyses not adequately demonstrating how they determined whether the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs under review are no more stringently applied in operation. Specifically, the Issuers did not provide stringency assessments for the NQTLs under review demonstrating the relative stringency of the NQTLs as applied to MH/SUD and M/S benefits in operation. CMS requested a CAP and additional comparative analyses to demonstrate compliance. The Issuers provided one stringency assessment, which addressed each issuer, state, NQTL, and benefit classification separately, on March 31, 2022 (CMS\_MO\_TX\_ConcRev\_Final Stringency 03312022). The stringency assessment included behavioral health and physical health concurrent review data, which included number of total concurrent review requests, adverse decisions, and appeals overturned, as well as percentage of timely decisions (CMS\_MO\_TX\_ConcRev\_Final Stringency 03312022, Pg. 3). This data was broken down by each issuer, state, NQTL, and benefit classification. This included concurrent review treatment limitations for outpatient, in-network services for Humana Insurance Company of Missouri; concurrent review treatment limitations for outpatient, in-network services for Humana Health Plan of Texas; and concurrent review treatment limitations for outpatient, out-of-network services for Humana Insurance Company of Texas. The Issuers provided a reasoned discussion regarding the relative stringency of the NQTLs and concluded that they “found no indication that the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs pertaining to authorization are more stringently applied in operation for MH/SUD benefits than for M/S benefits” (CMS\_MO\_TX\_ConcRev\_Final Stringency 03312022, Pg. 4). Therefore, CMS is taking no further action with regard to this instance of non-compliance at this time.

CMS’s findings detailed in this letter pertain only to the NQTLs under review and do not bind CMS in any subsequent or further review of other Plan provisions or their application for compliance with applicable laws, including MHPAEA. If additional information is provided to CMS regarding the NQTLs or Plan, CMS reserves the right to conduct an additional review for compliance with MHPAEA or other applicable PHS Act requirements.<sup>2</sup> CMS’s findings pertain only to the specific Plans offered by Humana Insurance Company of Missouri, Humana Health Plan of Texas, and Humana Insurance Company of Texas to which the NQTLs under review apply and do not apply to any other plan or issuer, including other plans or coverage for which any of the Issuers act as an Administrator.

CMS will include a summary of the comparative analyses and the results of these Reviews in its annual report to Congress pursuant to PHS Act § 2726(a)(8)(B)(iv).

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<sup>1</sup> Pub. L. 116-260 (Dec. 27, 2020).

<sup>2</sup> See PHS Act § 2726(a)(8)(B)(i). See also 45 C.F.R. § 150.303.

Sincerely,

Mary Nugent  
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Oversight Group  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare & Medicaid Services  
cc: Missouri Department of Insurance; Texas Department of Insurance