

August 7, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Chiquita.Brooks-LaSure@cms.hhs.gov

The Honorable Lisa M. Gomez
Assistant Secretary for Employee Benefits Security
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210
gomez.lisa.m@dol.gov

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224
Daniel.L.Werfel@irs.gov

Re: CMS-9902-P Requirements Related to the Mental Health Parity and Addiction Equity Act: Proposed Rules and Technical Release 2023-01P Request for Comment on Proposed Relevant Data Requirements for Nonquantitative Treatment Limitations (NQTLs) Related to Network Composition and Enforcement Safe Harbor for Group Health Plans and Health Insurance Issuers Subject to the Mental Health Parity and Addiction Equity

Dear Administrator Brooks LaSure, Assistant Secretary Gomez, and Commissioner Werfel:

The undersigned health plans, employers, and associations hereby request that the Department of Labor (DOL)/Employee Benefits Security Administration (EBSA), U.S. Department to Health and Human Services (HHS)/Centers for Medicare & Medicaid Services (CMS), and Department of Treasury/Internal Revenue Service's (IRS) (collectively the Tri-Departments) extend the comment periods provided for commenting on the recently released *Notice of Proposed Rulemaking CMS-9902-P Requirements Related to the Mental Health Parity and Addiction Equity Act* (Proposed Rule) and *Technical Release 2023-01P Request for Comment on Proposed Relevant Data Requirements for Nonquantitative Treatment Limitations (NQTLs) Related to Network Composition and Enforcement Safe Harbor for Group Health Plans and Health Insurance Issuers Subject to the Mental Health Parity and Addiction Equity Act* (Technical Release). For the reasons stated below, we are specifically requesting that the

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comment period on the Proposed Rule be extended an additional 60 days and that the comment period on the Technical Release be extended an additional 90 days.

The Proposed Rule, released by the Tri-Departments on July 25, 2023, contains significant and broad-reaching proposals which stakeholders must have sufficient time to fully consider in order to develop and submit meaningful comments. Comments on the Proposed Rule are due October 2, 2023, 60 days from the date that the Proposed Rule was published in the Federal Register. Those subject to the parity regulations will need time to gather and consolidate input from across their organizations to adequately address the impact of the proposed parity changes. The Tri-Departments themselves have worked on these proposals since the issuance of the underlying statutory changes, enacted in December 2020 through the Consolidated Appropriations Act, 2021 (CAA). An additional 60 days for the development of comments will help to ensure that stakeholders are able to carefully consider the ramifications of the proposals such that the final regulations can best effectuate Congress' goals in putting forth the changes enacted through the CAA without creating unnecessary burdens for providers, plans, and patients and unintentionally impacting access to medical-surgical, mental health, and substance use disorder services.

The due date for comments on the Technical Release is currently set for October 2, 2023. This timing overlaps with the time period provided for commenting on the Proposed Rule, which will place commenters at a disadvantage. To effectively address the range of issues raised in the Technical Release, stakeholders will need to consult with technical experts in addition to soliciting and gathering input from internal staff, many of whom will also be focused on developing comments on the Proposed Rule. Stakeholders should be allowed an additional 90 days to comment on the Technical Release so they are not forced to attend to the Proposed Rule at the detriment of the Technical Release, or vice versa.

We are sincerely concerned that a failure to extend the comment period on either the Proposed Rule or the Technical Release could compromise the quality of the rulemaking in these significant regulatory areas. Sufficient time is needed to review these proposals to help guard against unintended consequences for patients, providers, health plans, and participants.

Thank you for your consideration of this request.

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Sincerely,

Academy of Managed Care Pharmacy
AHIP

Alliance of Community Health Plans

Association for Behavioral Health and Wellness

Blue Cross Blue Shield Association

Business Group on Health

National Coordinating Committee for Multiemployer Plans

The ERISA Industry Committee

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