



EMPLOYEE BENEFITS

IN FOCUS

FOR CLIENTS & FRIENDS

NOVEMBER 21, 2024 EDITION

NEWEST RULES UNDER MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT FINALIZED

On September 9, 2024, the United States Departments of Health and Human Services, Labor, and the Treasury (collectively “the Departments”) released final rules (“Final Rules”) requiring the implementation of new requirements of the Mental Health Parity and Addiction Equity Act (“MHPAEA” or “Act”) by group health plans, effective November 22, 2024. We previously reported on the proposed rule in our May 2024 edition of the Employee Benefits in Focus, which may be accessed [here](#). The Final Rules, which may be accessed [here](#), amend existing provisions of the Act and include additional requirements in furtherance of MHPAEA’s purpose to ensure parity between mental health and substance use disorder (“MH/SUD”) benefits offered by plans in relation to offered medical/surgical (“M/S”) benefits.

The Final Rules reflect thousands of comments that the Departments received in response to a Notice of Proposed Rulemaking, which was published on July 23, 2023. The Final Rules are intended both to help further MHPAEA’s promise to equalize access to protections and benefits for individuals who have mental health conditions and/or substance use disorders and to offer clear guidance to plans to help facilitate compliance with its mandates.

The Final Rules amend the definitions of certain key terms, such as “medical/surgical benefits,” “mental health benefits,” and “substance use disorder benefits,” in that some references to state guidelines have been removed to reduce inconsistencies among interpretations of those terms. For example, since 2013, MHPAEA has required that a plan’s definition of “medical/surgical benefits” be defined in accordance with federal and state law, and that any condition or procedure defined as medical/surgical, or not medical/surgical, must be consistent with “generally recognized independent standards of current medical practice,” such as the International Classification of Diseases (“ICD”) or state guidelines. Now, a plan must define those conditions and procedures consistent with generally recognized independent standards and may rely on applicable federal or state law *only if* those standards do not address whether a condition or procedure is medical/surgical. These definitions were amended to minimize situations where conflicts between state guidelines and generally recognized independent standards have improperly restricted access to protections under the Act.

Further, the Final Rules place special focus on nonquantitative treatment limitations (“NQTLs”). In general, NQTLs are non-numerical criteria — such as strategies, standards, or processes — that a plan uses to limit certain benefits’ duration or scope. Specifically, the Final Rules reinforce MHPAEA’s prohibition on the use of more restrictive NQTLs for MH/SUD benefits than those used for M/S benefits. The Final Rules also codify MHPAEA’s requirement, as amended by the Consolidated Appropriations Act of 2021, that plans conduct comparative analyses designed to measure the impacts of NQTLs. When designing NQTLs, plans may not use “discriminatory information, evidence, sources, or standards that systematically disfavor or are specifically designed to disfavor access” to MH/SUD benefits. Where collected data suggests that use of NQTLs contributes to unequal access to MH/SUD benefits, plans must take reasonable action to address these differences. The Final Rules also add new definitions as they relate to NQTLs and their analyses, including “evidentiary standards,” “factors,” “processes,” and “strategies.”

The Final Rules affirm the Departments’ position that a plan’s provision of meaningful benefits must be consistent across benefits classifications. Thus, if a plan provides meaningful M/S benefits in certain benefits classifications and provides any MH/SUD benefits in those same classifications, then the plan must also provide meaningful benefits for covered MH/SUD conditions and disorders in those same classifications.

Most provisions of the Final Rules become applicable to plans on the first day of the first plan year beginning on or after January 1, 2025. However, other requirements for plans — such as the meaningful benefits standard, data evaluation requirements, and certain comparative analyses requirements — will not apply until the first day of the plan year beginning on or after January 1, 2026. Because these new changes to MHPAEA are voluminous, plans are encouraged to read the Final Rules and continue to work with their plan professionals on MHPAEA compliance and implementation.

IRS REMINDS RETIREMENT PLAN SPONSORS OF EXTENDED PLAN AMENDMENT DEADLINES

In the “Employee Plans News” Newsletter (“Newsletter”), published in September 2024, the Internal Revenue Service (“IRS”) provided a courtesy reminder to Plan sponsors of defined benefit, 401(k) and other retirement plans of applicable deadlines by which they must amend their respective plans pursuant to major legislation enacted over the past five (5) years, including SECURE Act of 2019, the CARES Act of 2019, the Taxpayer Certainty and Disaster Tax Relief Act of 2021, and SECURE 2.0 Act of 2022 (collectively hereinafter referred to as the “Acts”) which had previously been published by the IRS in Revenue Procedure 2022-40 issued on December 20, 2023, and Notice 2024-02 issued on November 21, 2022, respectively. A copy of Revenue Procedure 2022-40

can be accessed [here](#) and Notice 2024-02 can be accessed [here](#). The Plan amendment deadlines highlighted by the IRS in its Newsletter include, but are not limited to, the following:

- A qualified Plan that is not a governmental Plan (within the meaning of Internal Revenue Code (“IRC”) Section 414(d)) or an applicable collectively bargained Plan must be amended by December 31, 2026.
- An applicable collectively bargained Plan must be amended by December 31, 2028.
- A governmental Plan (within the meaning of IRC Section 414(d)) must be amended by December 31, 2029.
- A trust governing an IRA that is an individual retirement account or the contract issued by an insurance company with respect to an IRA that is an individual retirement annuity must be amended by December 31, 2026, or such later date the Secretary prescribes in guidance.

Plan amendments implemented by Plan sponsors must be retroactive to the effective date of the Acts to cover affected periods. Further, Plan sponsors must also ensure that their retirement plan is operating in accordance with the plan amendment(s) to be adopted prior to adoption. Plan sponsors of retirement plans implementing these changes should look to ensure that such amendments are compliant with anti-cutback requirements of IRC Section 411(d)(6). Plan sponsors should work with their plan professionals to ensure their retirement plan is compliant with deadline requirements promulgated by the Acts.

IRS ANNOUNCES 2025 ANNUAL COST-OF-LIVING ADJUSTMENTS FOR QUALIFIED RETIREMENT PLANS

On November 1, 2024, the Internal Revenue Service (“IRS”) published guidance in Notice 2024-80 (“Notice”) on annual cost-of-living adjustments that will increase limitations on benefits and contributions for 2025 for qualified retirement plans. A copy of the Notice is provided [here](#). For participants in a 401(k), 403(b), most 457 Plans, and/or the Federal government’s Thrift Savings Plan, cost-of-living adjustments to applicable limits will include, but are not limited to, the following:

- Individual employee contributions to a 401(k), 403(b), most 457 plans and the federal government’s Thrift Savings Plan will increase from \$23,000 to \$23,500. The catch-up contribution limit for individuals aged 50 and over remains set at \$7,500; however, under a change made in SECURE 2.0, a higher catch-up limit of \$11,250 instead of \$7,500 is permitted for individuals aged 60 through 63 who participate in these plans.

- The amount an individual may contribute to a SIMPLE retirement account will increase from \$16,000 to \$16,500. The catch-up contribution limit for individuals aged 50 and over remains set at \$3,500; however, under a change made in SECURE 2.0, a higher catch-up limit of \$5,250 instead of \$3,500 is permitted for individuals aged 60 through 63 who participate in these plans.
- For single taxpayers and heads of household making contributions to a traditional IRA who are also active participants in a qualified Plan, the phase-out range will increase from between \$77,000 and \$87,000 to between \$79,000 and \$89,000. For married couples who file jointly, if the spouse making the IRA contribution is also an active participant in a qualified Plan, then the phase-out range will increase from between \$123,000 and \$143,000 to between \$126,000 and \$146,000.
- For an IRA contributor who is not an active participant in a qualified Plan but is married to someone who does participate, the phase-out range will increase from between \$230,000 and \$240,000 to between \$236,000 and \$246,000. However, if the married individual files a separate return while also being the active participant, the phase-out range is not affected by an annual cost-of-living adjustment and remains between \$0 and \$10,000.
- For singles and heads of household taxpayers who contribute to a Roth-IRA, the income phase-out range will increase from between \$146,000 and \$161,000 to between \$150,000 and \$165,000.
- For taxpayers who are married and file jointly, the adjusted gross income phase-out range for taxpayers making contributions to a Roth IRA will increase from between \$230,000 and \$240,000 to between \$236,000 and \$246,000. However, for a married taxpayer filing a separate return, the phase-out range is not subject to cost-of-living adjustment and remains between \$0 and \$10,000.

These cost-of-living adjustments go into effect January 1, 2025.

A FEW REMINDERS

(Based on calendar-year plans)

These reminders are for informational purposes only and are not intended to replace your regular compliance calendar as they do not include all deadlines that may be applicable to your plan.

NOVEMBER

DEFINED BENEFIT PLANS

- **PBGC Form 10**
 - November 14, 2024 is the deadline by which to file the Form 10 if the defined benefit plan: 1) has more than 100 participants; 2) missed its October 15th required contribution and the contribution remains unpaid as of November 14th; 3) could not have satisfied the contribution by a prefunding or carryover balance election; and 4) had not filed a PBGC Form 200 for the same incident.

DEFINED CONTRIBUTION PLANS

- **Periodic Pension Benefit Statement**
 - November 14, 2024 is the deadline by which a participant-directed plan must furnish the third calendar quarter's benefit/disclosure statement and statement of plan fees and expenses actually charged.

DECEMBER

HEALTH AND WELFARE PLANS

- **Summary Annual Report ("SAR")**
 - December 15, 2024 is the deadline by which health and welfare plans must distribute the SAR to all plan participants if the Form 5500 deadline was extended by Form 5558 or because of a corporate tax filing extension.
- **Gag Clause Prohibition Compliance Attestation**
 - December 31, 2024 is the deadline by which health and welfare plans must file the annual Gag Clause Prohibition Compliance Attestation with the Centers for Medicare and Medicaid Services.

DEFINED BENEFIT PLANS

- **SAR**
 - December 15, 2024 is the deadline by which defined benefit plans must distribute the SAR to all plan participants if the Form 5500 deadline was extended by Form 5558 or because of a corporate tax filing extension.
- **Actuary's Certification of 2024 Adjusted Funding Target Attainment Percentage ("AFTAP")**
 - December 31, 2024 is the deadline by which the actuary must certify the 2024 AFTAP to avoid a presumed AFTAP of less than 60%.

DEFINED CONTRIBUTION PLANS

- **401(k) Plan Annual Safe Harbor Notice for 2025 Plan Year**

- December 2, 2024 is the deadline by which the 401(k) Plan Annual Safe Harbor Notice for the 2025 Plan Year is due.
- **Annual Auto-Enrollment Notice(s) for 2025 Plan Year**
 - December 2, 2024 is the deadline by which the annual auto-enrollment notice(s) for the 2025 Plan Year are due.
- **Annual Qualified Default Investment Alternative (“QDIA”) Notice for 2025 Plan Year**
 - December 2, 2024 is the deadline by which the annual QDIA Notice for the 2025 Plan Year must be furnished.
- **SAR**
 - December 15, 2024 is the deadline by which the SAR must be distributed to all plan participants if Form 5500 deadline was extended by Form 5558 or because of a corporate tax filing extension.
- **Ongoing Required Minimum Distributions**
 - December 31, 2024 is the deadline by which eligible participants must receive their ongoing required minimum distributions for 2024.

THANKSGIVING MESSAGE

As the Thanksgiving Holiday begins, Pitta LLP would like to extend our sincere thanks and gratitude to all of our clients and friends for their confidence and friendship throughout this year and always. May you all celebrate a healthy, peaceful, and happy Thanksgiving and may you enjoy this Thanksgiving and the coming year with all good things in abundance.

WE WISH YOU AND YOUR FAMILIES A HAPPY AND HEALTHY THANKSGIVING!

Legal Advice Disclaimer: The materials in this **In Focus** report are provided for informational purposes only and are not intended to be a comprehensive review of legal developments, to create a client–attorney relationship, to provide legal advice, or to render a legal opinion. Readers are cautioned not to attempt to solve specific legal problems on the basis of information contained in this **In Focus**. If legal advice is required, please consult an attorney. The information contained herein, does not necessarily reflect the opinions of Pitta LLP, or any of its attorneys or clients. Neither Pitta LLP, nor its employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta LLP is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or any other labor or employment related issues in general, please contact the Pitta LLP attorney with whom you usually work.

To Our Clients and Friends: To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Aseneth Wheeler-Russell at arusell@pittalaw.com or (212) 652-3797.