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June 18, 2020

Jolie H. Matthews
Senior Health and Life Policy Counsel
National Association of Insurance Commissioners
444 North Capitol Street, NW
Suite 700
Washington, D.C. 20001-1509

RE: MHPAEA (B) Working Group – QTL Instructions/Template

Dear Ms. Matthews:

Thank you for the opportunity to submit comments on the draft QTL template and instructions on behalf of the Legal Action Center, a law and policy organization that fights discrimination against individuals with histories of substance use disorders, criminal history records and HIV/AIDS. The Center has worked extensively on the implementation and enforcement of the Mental Health Parity and Addiction Equity Act (Parity Act) on both the national and state level. Our work with state insurance departments has demonstrated the need for the development of standardized templates to ensure that carriers conduct comprehensive internal assessments of parity compliance prior to offering plans for sale and to allow insurance regulators to effectively review plans during form review, investigate complaints and conduct market examinations. We commend the NAIC Working Group for developing templates to supplement the market conduct handbook guidance on Parity Act examinations.

We urge the Working Group to retain the existing level of detail provided in both the QTL template and instructions. The comprehensive nature of the instructions and template are essential to ensure submission of data that are required for a compliance review, as demonstrated by the Pennsylvania Department of Insurance. In addition, we offer the following comments to enhance these excellent materials.

A. Instructions

We appreciate the presentation of the QTL analysis as discrete steps and the inclusion of examples to address common questions. We would recommend the following:

- **Step 3 List of Covered Services:** We recommend that the instructions make clear that mental health (MH) and substance use disorder (SUD)

services must be listed separately. While the regulations use the shortcut acronym, MH/SUD, there is no questions that the Parity Act requires a separate analysis for MH services and SUD services. Plans often have different coverage standards for MH services and SUD services, and conveying the distinct nature of these benefits would reinforce the analysis. The template should be adjusted, as needed, to clarify the designation of services as SUD or MH services.

We also recommend that Step 3 provide examples of services that may be included in the plan, particularly for SUD and MH benefits. As the instructions note, the foundational listing of services and classifications will be used for the NQTL analysis as well as the QTL analysis. The failure to provide a sufficient level of detail for SUD and MH services will hamper the NQTL analysis. We recommend that the examples include intermediate level services, such as intensive outpatient, partial hospitalization and residential services, and other services that have been highlighted in the Department of Labor Self-Compliance Tool, such as opioid treatment program services.

- **Step 5 – Expected Claim Dollar Amounts:** A key component of the QTL analysis is the identification of the expected dollar amount to be paid. The selection of the basis of that calculation may affect the analysis, and federal regulators have provided guidance on this issue. We suggest that the plan identify the specific plan or book of business that is being relied upon to calculate the expected dollar amount. This disclosure would be analogous to the Step 7 requirement that the plan identify the plan document and page at which each service is described.
- **Step 8 – List NQTLs for Covered Service:** We agree that the identification of applicable NQTLs for each service is critically important, and prior authorization and step therapy are key NQTLs. Although the QTL template is not designed to evaluate all NQTLs, we are concerned, that the identification of a limited number of utilization management (UM) NQTLs will not provide sufficient guidance for plans or regulators. In the UM context alone, plans also apply concurrent review and retrospective review to limit services. Requirements related to adherence to a treatment plan and demonstration of treatment progress or completion of a treatment regimen are common NQTLs. We recommend that the instructions provide a more detailed list of NQTLs to guide plan disclosures and regulatory review.

B. Template

We fully support the proposed QTL template and offer several recommendations to align the data fields with the federal regulatory requirements.

- **Financial Requirements:** Columns 2, 3, and 4 identify three financial requirements (FR) – copayments, coinsurance and deductibles. The regulatory definition of FR also includes out-of-pocket maximums. We recommend that a data field be added to assess the application of this additional FR.
- **Quantitative Treatment Limitations:** Columns 5 and 6 identify two QTLs – session limits and day limits, while the regulatory definition of QTLs goes beyond these two limitations. We recommend that the template provide a data field for the listing of additional QTLs, such as frequency of treatment, days in a waiting period or other scope and duration

limitations. In addition, the lack of a definition for “session limits” could result in confusion (i.e. the amount of time within a single visit or the number of visits per episode of treatment) without additional explanation.

- **Large Group Plans:** We are aware that, in the context of form review, plans often submit a master document for large group plans that provides a range of cost sharing, as the specific cost-sharing value will vary by employer plan. Neither the instructions nor the template contemplate the submission of a range of values. In anticipation of regulators using the template for purposes of form review, we recommend that the instructions address this common practice so that large group plans understand that they must provide specific cost-sharing or other financial requirement values for purposes of the Parity Act review.

Thank you for preparing these excellent tools and considering our views. Please feel free to contact me at eweber@lac.org if you have additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Ellen M. Weber".

Ellen M. Weber
Vice President for Health Initiatives