

Appendix I: Comment & Response Summary
Medical Necessity and Claims Denial Disclosures under MHPAEA
(CMS-10307/OMB Control No. 0938-1080)

On June 16, 2017, the Departments issued FAQs About Mental Health And Substance Use Disorder Parity Implementation And The 21st Century Cures Act Part 38, which, among other things, solicited comments on a draft model form that participants, enrollees, or their authorized representatives could -- but would not be required to -- use to request information from their health plan or issuer regarding NQTLs that may affect their MH/SUD benefits, or to obtain documentation after an adverse benefit determination involving MH/SUD benefits to support an appeal. The Departments received 19 comments¹ which are summarized below.

1. Some commenters emphasized that the model form should be optional, not duplicative, not part of the appeals process, simplified and consumer friendly.

Commenters were generally unified on having the model be optional, but also voiced concern that the Department should ensure the model was not duplicative of other forms that already existed. Commenters also raised the concern that plan participants using the form could confuse the submission of the request for documents as the request for an appeal.

The Departments specifically asked if there should be one general form or different forms for specific NQTLs. While there were comments supporting both positions, more commenters urged a single form in order to provide simplicity and avoid consumer confusion. Some commenters also thought the model was too extensive, while others supported the inclusion of additional information.

Commenters also emphasized that the model needed to be simple for plan participants to understand. Some commenters urged the use of plain English, adding additional examples of NQTLs, simplifying the form, and adding definitions. One commenter expressed the view that a model disclosure could make the disclosure process more understandable for the average consumer.

Response: The Departments are reviewing the comments and will make appropriate revisions to the model form.

2. Some commenters also suggested specific edits to the model form.

Response: The Departments are reviewing the comments and will make appropriate revisions to the model form.

¹ Comments can be viewed at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/faq-38>

3. Some commenters suggested that if the form is submitted by an authorized representative, there should be documentation supporting the authorization.

Response: The Departments are reviewing the comments and will make appropriate revisions to the model form.

4. Some commenters had suggestions regarding State regulators' examinations of plan documents and State compliance review.

Response: The Departments will take these suggestions into consideration.

5. Some commenters suggested additional forms and guidance on MHPAEA implementation, compliance and education.

Response: The Departments will take these suggestions into consideration.