

California Department of Insurance
Form Filing Instructions for Plan Year 2022 Non-Grandfathered
Individual and Small Group Health Insurance and Exchange Dental Products

Deadlines for 2022 Filings

Filing Requirement	Deadline
Small Group Standard Health Insurance Form Filings (off-Exchange only)	May 7, 2021
Small Group Non-Standard Health Insurance Form Filings (off-Exchange only)	June 4, 2021
Binder: Plans and Benefits Template and Transparency in Coverage Template	June 4, 2021
Exchange Dental Form Filings and Rate and Loss Ratio Information	June 4, 2021
Prescription Drug Formulary Filing and Prescription Drugs Template	July 1, 2021
Small Group Rate Filings	July 19, 2021
Discontinuation Notices	July 30, 2021
Network Filings	June 1, 2021
Provider Directory Policies and Procedures	July 1, 2021

I. Overview and New for 2022

- **Discontinuation Notices:** The deadline for submitting discontinuation notices is July 30, 2021. Consumers renewing on January 1, 2022 must receive discontinuation notices by October 3, 2021. CIC §§ 10273.4(e), 10273.6(e). Submit notices in a separate filing and reference the associated plan year 2021 and 2022 form filings on the General Information tab.
- **Prescription Drug Benefits:**
 - By July 1, submit a prescription drug formulary, either currently in effect or with prospective 2022 benefits, in a separate filing from your forms.
 - No later than October 1, submit a list of all changes to the benefit that will be effective on January 1 relative to the formulary provided in July. This includes changes planned for implementation in January 2022 as well as changes made to the benefit between July 1 and October 1 of this year. All changes to drug coverage, tier placement and utilization management restrictions must be included on the list. If it is not possible to provide the changes that will be implemented in January 2022 by October 1, advise the Department of the reason and the date 2022 benefits will be finalized.
- **Gender Dysphoria Clinical Policy and NQTL Comparative Analyses:** If insurer conducts utilization review on services for gender dysphoria, identify the services subject to utilization review and submit the applicable clinical policy, which must be consistent with the most recent version of the *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* developed by the World Professional Association for Transgender Health (WPATH), in the standard form filing. CIC § 10144.52(b). Insurers that conduct utilization review on services for gender dysphoria in any benefit classification must also submit NQTL

comparative analyses demonstrating compliance with MHPAEA. CIC § 10144.4; 45 CFR § 146.136(c)(4); 42 USC § 300gg-26(a)(8)(A).¹

- **SERFF Binders:** Submit the Plans and Benefits Template, Transparency in Coverage Template, and Prescription Drugs Template by the dates shown above.² Follow CMS's instructions and have a sufficiently knowledgeable person complete the templates to minimize errors.
- **Summaries of Benefits and Coverage (SBCs) web links:** As with prior years, please ensure that before submission all SBCs include direct links to a location where the following information will be posted on approval or is currently posted: associated policy forms, provider directory, drug formulary, and the uniform glossary. 45 CFR § 147.200(a)(2)(i)(J), (K), (L), and (M); for further guidance, see [2017 Letter to Issuers in the Federally-facilitated Marketplaces](#) at page 84.
- **Small Group Deductible Limit:** In 2022, the maximum deductible in platinum, gold, and silver plans, including any separate prescription drug deductible, is \$2,850 for individual (self-only) coverage and \$5,700 for family coverage.³ CIC § 10112.29.
- **Actuarial Value Documentation:** Actuarial value documentation must be submitted for all non-standard plans. A plan that sub-classifies outpatient mental health and substance use disorder benefits into office visits and all other items and services is incompatible with the AV calculator (AVC). Submit an actuarial certification addressing all aspects of plan designs that are incompatible with the AVC. 10 CCR § 2594.6(a), (c); 45 CFR § 156.135(b).
- **Plans and Modifications Workbook:** As with prior years, submit this Excel workbook on the Supporting Documentation tab in each non-standard filing. Include only one product per workbook.
 - A workbook must be submitted in standard filings only if any changes are made to product network type, benefits, limits, or out-of-network cost sharing; or if replacing a standard plan with another standard plan at the same level of coverage (such as a non-HSA compatible plan with an HDHP or vice versa).
 - Please closely follow the instructions for reporting AVs in the List of Plans Worksheet. The AV that must be reported in column D is the AV of the 2021 plan in the 2022 AVC. The result indicates whether modifications to the 2021 plan are necessary to maintain a compliant AV in 2022.
 - For existing 2021 plans, indicate your intentions for each plan in 2022 in the List of Plans Worksheet as follows: (1) continue the plan without modification; (2) modify the plan within the parameters of uniform modification of coverage (UMC) under 45 CFR § 147.106(e); or (3) discontinue the plan. If there are any modifications to an existing plan, including to cost sharing, benefits, limits, or product network type, specifically describe each modification in the Plan Modification Worksheet. Do not submit

¹ For guidance on NQTL comparative analyses, see CMS, [FAQs About Mental Health and Substance Use Disorder Parity Implementation and the Consolidated Appropriations Act, 2021 Part 45](#) (Apr. 2, 2021) and DOL, [2020 MHPAEA Self-Compliance Tool](#), Section F.

² Templates and instructions are available on CMS's [QHP Certification website](#). SERFF binders are not required for Exchange dental products.

³ The small group deductible limit was calculated using the premium adjustment percentage in the proposed HHS Notice of Benefit and Payment Parameters for 2022 (1.4409174688), which is subject to change until the rule is final.

incomplete information, as review for UMC cannot begin until all proposed modifications are identified.

- **Mental Health Parity Analysis Workbook and Supporting Documentation Template:** The compliance documentation requirements for federal mental health parity are described in Section V below. The Department provides two templates to assist filers with submitting complete documentation demonstrating compliance with mental health parity law, and to minimize common issues and deficiencies identified in insurers' compliance documentation. Fill out the designated workbook and template for each filing according to the instructions and submit them on the Supporting Documentation tab in each form filing. Each workbook should only include analyses for the plans in that filing. The two templates are:
 - Mental Health Parity Analysis Workbook, which consists of Excel templates for the quantitative analysis components outlined in Section V, Part B. *Quantitative Analysis*.
 - Mental Health Parity Supporting Documentation Template, which contains Word tables for all other components outlined in Section V, Part C., *Explanation of Methodology*, and Part F., *Nonquantitative Treatment Limitations*.
- **Network Filings:** Updated instructions for 2021 network adequacy filings will be released separately and posted on SERFF.
- **Provider Directory Policies and Procedures:** Filing instructions for the provider directory policies and procedures that must be submitted pursuant to CIC § 10133.15(m)(1) will be released separately.
- **Resources:** Visit the [HPAB Filing Instructions page](#) to download the latest versions of CDI's form filing workbooks and templates.

II. General Information

- The Department will accept amendments to approved policies and certificates if the amendments are consistent with CIC § 10291.5(b)(1). However, the Department will not accept amendments to schedules of benefits. Please submit new schedules of benefits for all plans.
- Please submit forms, networks, and rates in separate SERFF filings. Please include cross-references to the state or SERFF tracking number of associated form, network, rate, and binder filings on the General Information tab in each filing.
- Each filing should contain a single health insurance product. Please do not submit multiple products (multiple policies/certificates) in the same filing. See generally the definitions of "product" and "plan" at 45 CFR § 144.103.
- Please submit standard plans in a separate filing from non-standard plans/products.
- Please submit all non-standard plans offered under a single product in the same filing. In non-standard filings, please cross-reference the state tracking number of your standard filing.
- Please indicate whether you intend to offer the product on the California Health Benefit Exchange in the "Include Exchange Intentions" field on the General Information tab.

III. Tips for the Review Process

- A form that has been disapproved may not be issued until the Department affirmatively approves (“issue authorize[s]”) the form. CIC § 10291. The prior filing requirement for policy forms was extended from 30 days to 120 days as of January 1, 2016. CIC § 10290.
- With some exceptions,⁴ standard filings are reviewed before non-standard filings. CIC § 10112.3(e). At the end of the standard filing review process, we will instruct you to make conforming changes to your non-standard forms. Please keep a record of all changes made to the standard forms and make all the applicable changes to the non-standard forms. We will begin review of non-standard filings after all conforming changes have been made. You must provide a redline comparison of the standard and non-standard forms for verification. Non-standard filings cannot be approved before standard filings are approved. CIC § 10112.3(e).
- Do not make changes to your forms without requesting and receiving permission from your reviewer. In active filings, we generally prefer that all changes are submitted with a response to a disapproval letter. Your reviewer will authorize exceptions to this policy as appropriate.
- Unsolicited changes are changes that have not been made in response to an objection. In all submissions and resubmissions, you must disclose all unsolicited changes, and the reason for each change, in your response document. Simply redlining the change does not constitute sufficient disclosure.
- Provide substantive responses to objections, and include page numbers where the requested changes appear. If a requested change is not made, you must provide an explanation that includes sufficient legal justification for not making the change.
- A statement of variables (SOV) is required if any forms contain bracketed variable text. The SOV must contain an index to all brackets in the forms and fully explain the purpose for the variable text. It must also disclose the text that will be inserted between the brackets or explain the circumstances under which the bracketed text will either be included or removed in its entirety. 10 CCR §§ 2213, 2594.6(b), 2594.7(b). Essential health benefits and cost sharing values may not be variable. 10 CCR §§ 2594.6(b)(1), 2594.7(b)(1). Please remove all unnecessary or stray brackets from your forms.
- If the Department approved an application (and enrollment form, if applicable) for use in a prior year, and you intend to continue using the approved form without change for the upcoming plan year, include the form number and state tracking number of the filing containing the application on the General Information tab. 10 CCR § 2209. Otherwise, please file an application (and enrollment form, if applicable) on the Form Schedule tab in your standard filing.

IV. New Legal Requirements

- **Standard and Non-Standard Health Insurance Filings:** Ensure your forms reflect required changes due to recently enacted laws. Some bills may be included below only for informational

⁴ In non-standard filings, cost sharing, uniform modification of coverage, and actuarial value may be reviewed while the review of standard filings is ongoing.

purposes, in which case compliance language is not required to be added to forms. However, any preexisting form language that conflicts with a new law must be revised for consistency.

- CIC § 10112.1 (repealed and added by Stats. 2020, ch. 302 ([S.B. 406](#) §§ 14, 15), effective 9/29/20): Replaced incorporation of 42 USC § 300gg-11 by reference with prohibitions against lifetime and annual limits on the dollar value of: (1) in individual health insurance policies, any covered benefits, whether provided in-network or out-of-network; and (2) in group health insurance policies, any covered benefits that constitute essential health benefits under Section 10112.27, whether provided in-network or out-of-network. Insurers are advised to review grandfathered individual policies for newly prohibited annual limits and large group policies for newly prohibited lifetime and annual limits on essential health benefits as defined by Section 10112.27, including basic health care services such as bariatric surgery.
- CIC § 10112.2 (repealed and added by Stats. 2020, ch. 302 ([S.B. 406](#) §§ 16, 17), effective 9/29/20): Replaced incorporation of 42 USC § 300gg-13 by reference with requirement to cover preventive health services, as specified. Insurers must cover preventive health services, including COVID-19 immunizations, as required by 45 CFR § 147.130. COVID-19 immunizations, including vaccine administration, must be covered in full regardless of whether the provider administering the vaccine is a participating provider.⁵

Update preventive health services benefit descriptions and where applicable, prescription drug formularies, to reflect coverage of new and revised benefits pursuant to new and recently updated [USPSTF A and B Recommendations](#) and [HRSA Women’s Preventive Services Guidelines](#).

- CIC § 10144.5 (repealed and replaced by Stats. 2020, ch. 151 ([S.B. 855](#) §§ 6, 7), effective 1/1/21): Specify that medically necessary treatment of mental health and substance disorders is covered under the same terms and conditions applied to other medical conditions and in accordance with the federal Mental Health Parity and Addiction Equity Act. Include basic health care services, intermediate services, all statutory definitions, and network access standard. Disclose that all medical necessity determinations concerning service intensity, level of care placement, continued stay, and transfer or discharge are made using the most recent versions of treatment criteria developed by the nonprofit professional association for the relevant clinical specialty, including the ASAM Criteria for substance use disorders, and for mental health conditions, LOCUS,

⁵ Preventive health services requirements for COVID-19 immunizations are codified at 45 CFR 147.130(a)(1)(v), (a)(3)(iii), and (b)(3). In the preamble to the [Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency](#) interim final rule with request for comments, CMS clarified that insurers “must cover, without cost sharing, items and services that are integral to the furnishing of the recommended preventive service, regardless of whether the item or service is billed separately.” Consequently, with respect to COVID-19 immunizations, insurers “must cover without cost sharing such an immunization and its administration, regardless of how the administration is billed, and regardless of whether a COVID-19 vaccine or any other immunization requires the administration of multiple doses in order to be considered a complete vaccination.... Further, if a COVID-19 immunization is not billed separately (or is not tracked as individual encounter data separately) from an office visit and the primary purpose of the visit is the delivery of the recommended COVID-19 immunization, then ... [an insurer] may not impose cost-sharing requirements with respect to the office visit.” 85 Fed. Reg. 71,142, 71,174-175 (Nov. 6, 2020).

CALOCUS/CASII, and ECSII. Disclose that WPATH's Standards of Care is used to determine the medical necessity of services for gender dysphoria (if applicable).⁶

- COVID-19 Testing: Insurers must cover diagnostic testing for COVID-19 without cost sharing or medical management as required by Section 6001 of the FFCRA, as amended by section 3201 of the CARES Act, and further clarified by CMS in [FAQs About Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation Part 44](#) (Feb. 26, 2021).⁷ In addition to the COVID-19 test itself, insurers must cover without cost sharing items and services furnished to an individual during health care provider office visits (including in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for or administration of a COVID-19 diagnostic test, but only to the extent that the items and services relate to the furnishing or administration of a test or to the evaluation of the individual for purposes of determining the need for a test.
- **Standard Health Insurance Filings:** The 2022 Patient-Centered Benefit Plan Designs (PCBPD) and endnotes approved by the Covered California Board on March 18, 2021 are available at: <https://board.coveredca.com/meetings/2021/march/>. Thoroughly review your schedules of benefits against the [2022 PCBPD 10.0 EHB plans](#), including the endnotes, and make required changes.
 - Note there were no changes to the CCSB-only plans for 2022 except to the dental copay schedule.
- **Exchange Dental Filings**
 - The 2021 Dental Benefit Plan Designs were also approved at the March 18, 2021 Covered California Board meeting and are available at the link above. There are no changes except to the dental copay schedule.

V. Mental Health Parity Compliance Documentation

Cost sharing for mental health and substance use disorder (MH/SUD) benefits must comply with the quantitative parity requirements of the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and its implementing regulations and guidance. CIC §§ 10112.27(a)(2)(D) & 10144.4; 45 CFR § 146.136(c)(2); see 42 USC § 300gg-26; 78 Fed. Reg. 68,240 (Nov. 13, 2013).

Under MHPAEA, any financial requirement or treatment limitation applied to MH/SUD benefits must not be more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/ surgical benefits in the same classification. 45 CFR § 146.136(c)(2)(i). A plan that provides more generous MH/SUD benefits, such as lower cost sharing or less restrictive treatment limitations than medical/surgical benefits, is compliant with MHPAEA.

To demonstrate compliance with federal parity law, all non-grandfathered individual and small group health insurance form filings should include the following:

⁶ See also, Insurance Commissioner Lara, [Notice to Health Insurers Re: Requirements of Senate Bill 855](#) (Dec. 10, 2020).

⁷ Insurers are advised to monitor the status of [Senate Bill 510](#) (Pan 2021) on coverage of COVID-19 testing, which is an urgency bill and will take effect immediately if enacted.

1. A quantitative parity analysis, prepared pursuant to the methodology described in § 146.136(c)(3);
2. An explanation of methodology as described below, demonstrating that the quantitative analysis was prepared in compliance with § 146.136(c)(3) and implementing federal guidance; and
3. A list of all MH/SUD benefits subject to non-quantitative treatment limitations (NQTLs).

This applies to both standard and non-standard filings. CIC §§ 10112.27(a)(2)(D) & 10144.4. Please submit all MHPAEA-related compliance documentation under the Supporting Documentation tab in SERFF.

A. Reminders for Plan Year 2022 Filings

- **Templates:** The mental health parity templates are unchanged from last year. The templates are provided to assist filers with submitting quantitative analyses and other information that sufficiently demonstrate compliance with MHPAEA. The Mental Health Parity Analysis Workbook consists of Excel worksheets for the quantitative analysis components outlined in Part B below. The Mental Health Parity Supporting Documentation Template consists of Word tables for the components outlined in Parts C and F below. Please carefully review the instructions of each template.
- **Data requirements:** As a reminder, please note the data and methodology requirements described in federal guidance. [ACA FAQ 31](#), Q8 (Apr. 20, 2016) and [ACA FAQ 34](#), Q3 (Oct. 27, 2016). If the total payment data used in the analysis is not based on plan-specific projected payments, please submit an actuarial certification pursuant to ACA FAQ 34, Q3. The actuarial certification should address: (1) the sufficiency and credibility of plan-level and product-level data; and (2) why the substitute dataset used for the analyses is reasonable and actuarially appropriate, including a description of any assumptions used in choosing the data and making projections.

B. Quantitative Analysis

Note: This component may be provided using the Excel templates in the Department's Mental Health Parity Analysis Workbook.

- Quantitative analyses are required for any financial requirements, as defined in § 146.136(a) and (c)(1)(ii), applicable to medical/surgical or MH/SUD benefits in a plan.⁸ Please submit analyses in Excel format (.xlsx or .xls). We recommend using the Department's Mental Health Parity Analysis Workbook to minimize issues during review.
- Please provide a separate analysis for each plan in a filing. The analyses should only pertain to the plans in that filing; the filing should not include analyses for plans from other filings. If using the Mental Health Parity Analysis Workbook, the filing should include a workbook for each plan.
- The analysis should address each type of financial requirement present in the plan for each classification, as described below.
- Analyses should be provided for each classification, as defined in § 146.136(c)(2)(ii)(A), as follows:
 1. *Inpatient (in-network)*

⁸ Quantitative treatment limitations (QTLs) are not applicable in non-grandfathered individual and small group health products because MH/SUD benefits are essential health benefits, and the base benchmark plan does not impose any QTLs on MH/SUD benefits. CIC § 10112.27(b). Further, QTLs are impermissible under SB 855.

2. *Outpatient (in-network)*; for all standard plans,⁹ and for any non-standard plans that sub-classify outpatient MH/SUD benefits, please also provide analyses of the outpatient sub-classifications specified in § 146.136(c)(3)(iii)(C):
 - Outpatient office visits
 - All other outpatient items and services
 3. *Inpatient (out-of-network)*
 4. *Outpatient (out-of-network)*; if the plan sub-classifies out-of-network outpatient MH/SUD benefits, also provide analyses of the outpatient sub-classifications.
 5. If a plan imposes different financial requirements for benefits under the following classifications based on whether they are medical/surgical or MH/SUD in nature, the analysis should also address:
 - Emergency care
 - Prescription drugs (see special rule, § 146.136(c)(3)(iii)(A))
- Separately list each covered medical/surgical benefit in each classification and, if applicable, sub-classification. For each benefit, list the applicable type and level of financial requirement,¹⁰ and the total expected payments¹¹ for the applicable plan year. Express total expected payments in absolute values (total dollar amounts) instead of relative values (such as percentage of total spend).
 - Each plan’s quantitative analysis should show the result of the analysis for each financial requirement within each classification (and sub-classification, if applicable) by clearly indicating the following:
 - The percentage (based on total expected payments) of medical/surgical benefits subject to each type of financial requirement.
 - Which type of financial requirement, if any, meets the “substantially all” test. § 146.136(c)(3)(i)(A).
 - For each type of financial requirement that meets the “substantially all” test, what level meets the “predominance” test, and the percentage of medical/surgical benefits subject to that level (among the medical/surgical benefits subject to that type). § 146.136(c)(3)(i)(B).
 - **Tips for Quantitative Analyses:** Please keep in mind the following guidelines when preparing your quantitative analyses to minimize or avoid objections pertaining to your analyses:
 - Ensure all covered medical/surgical benefits are included in the quantitative analysis, and that benefits are listed separately. The quantitative analysis should not include: (1) any MH/SUD benefits; or (2) any benefits that are not covered by the plan.
 - Assign benefits to the correct classification or sub-classification. Avoid overlapping classifications (listing the same or similar benefits in two different categories). All

⁹ Because the PCBPDP sub-classifies outpatient MH/SUD benefits, all standard plans must include analyses at the outpatient sub-classification level. CIC § 10112.3(e); 45 CFR § 143.136(c)(2)-(3).

¹⁰ Different “types” of financial requirements include deductibles, copayments, and coinsurance; “level” refers to the magnitude of the type of financial requirement. 45 CFR § 146.136(c)(1)(ii).

¹¹ The analysis must be “based on the dollar amount of all plan payments for medical/surgical benefits in the classification [and sub-classification, if applicable] expected to be paid under the plan for the plan year.” 45 CFR § 146.136(c)(3)(i)(C). “Plan payments” means the allowed amount under the plan (before enrollee cost sharing); it is not limited to the portion of benefits paid by the plan. 78 Fed. Reg. at 68,243.

classifications and sub-classifications should reasonably fit within the meanings and intent of the federal rule. § 146.136(c)(2)(ii)(A), (c)(3)(iii)(C). For example, outpatient prescription drug benefits should be classified under the Prescription Drugs classification, not in the Outpatient classification or one of its sub-classifications. Similarly, all benefits relating to emergency services, such as emergency room and emergency ambulance benefits, should be classified in the Emergency Care classification rather than in the Outpatient classification or sub-classifications.

- Use correct cost sharing in your analytical model. The cost sharing type and level (amount) reflected for each medical/surgical benefit in your quantitative analysis must match the cost sharing in the policy forms (and PCBPD in standard plans). Because the cost sharing type and level for each benefit affects the outcome of the analysis in each classification, they must be correct in the quantitative analysis.

C. Explanation of Methodology

Note: This component may be provided using Part II (Explanation of Methodology) and Part III (Classification of Benefits) of the Department's Mental Health Parity Supporting Documentation Template.

Please provide an explanation of methodology to demonstrate that the quantitative mental health parity analysis was prepared in compliance with the federal rule's methodological requirements as described in 45 CFR § 146.136(c)(2)-(3). The explanation should address each of the following, in addition to any other relevant factors:

- A description of the underlying data used to determine the total payments for each benefit in the quantitative analyses, such as the steps, data, and assumptions used to project expected payments. The description should clearly demonstrate compliance with each of the following:
 1. The quantitative analysis is based on the total allowed amounts (not limited to the portion paid by the insurer), projected for the applicable plan year. § 146.136(c)(3)(i)(C); 78 Fed. Reg. at 68,243.
 2. The quantitative analysis for each classification and sub-classification accounts for all expected payments (total allowed amounts) for all covered medical/surgical benefits under the plan. § 146.136(c)(3)(i)(C).
 3. A "reasonable method" was used to determine the expected payment amounts. § 146.136(c)(3)(i)(E).
 4. The data and methodology used in the analyses comply with the requirements described in federal guidance. [ACA FAQ 31](#), Q8 (Apr. 20, 2016) and [ACA FAQ 34](#), Q3 (Oct. 27, 2106). **NOTE:** If the total payment data used in the analysis is not based on plan-specific projected payments, please submit an actuarial certification pursuant to ACA FAQ 34, Q3.
- A description of the methodology used to perform the quantitative mental health parity analysis for each type of financial requirement.
- Classification/sub-classification of benefits:
 - Please describe the standards that were applied in assigning medical/surgical and MH/SUD benefits to each classification and, if applicable, each outpatient sub-classification. § 146.136(c)(2)(ii)(A).

- Provide a table showing the classification (and sub-classification, if applicable) to which each covered benefit is assigned. This should be done for all covered medical/surgical and MH/SUD benefits in all classifications, even those which may not raise a parity issue, to demonstrate that the quantitative analyses account for all covered medical/surgical benefits, and benefits have been classified in a consistent manner. § 146.136(c)(2)(ii)(A); 78 Fed. Reg. at 68,246-68,247.
- In standard plans, please ensure the sub-classification standards and table are consistent with Endnote 15 of the 2021 PCBPD, as discussed below.

D. MHPAEA Cost Sharing Compliance in Standard Plans

- If an insurer's quantitative analysis for a standard plan indicates that the PCBPD's cost sharing for any MH/SUD classification or sub-classification would not be permissible under MHPAEA, the insurer must revise the MH/SUD cost sharing to the extent necessary to achieve compliance with MHPAEA.
 - MH/SUD cost sharing in standard plans "may be different but not more than" that specified in the PCBPD. 2021 PCBPD, Endnote 21. Therefore, achieving MHPAEA compliance in a standard plan should not result in higher cost sharing than that specified in the PCBPD. CIC § 10112.3. The PCBPD provides the upper limit for MH/SUD cost sharing in standard plans.
 - *Example.* The PCBPD for the Individual Silver plan provides a \$40 copay for "all other outpatient items and services" MH/SUD benefits. An insurer's analysis indicates that in this plan, 20% coinsurance meets the substantially all and predominance tests in the "all other outpatient items and services" sub-classification. The insurer must revise the cost sharing in the Individual Silver Plan for "all other outpatient items and services" MH/SUD benefits as follows:
 - If insurer can implement a capped coinsurance: 20% coinsurance not to exceed \$40
 - If insurer cannot implement a capped coinsurance: No charge
- **Sub-classification of outpatient benefits:** Endnote 15 of the 2021 PCBPD specifies the MH/SUD benefits that must be included in the "all other outpatient items and services" sub-classification. Endnote 15 provides:

Mental Health/Substance Use Disorder Other Outpatient Items and Services include, but are not limited to, partial hospitalization, multidisciplinary intensive outpatient psychiatric treatment, day treatment programs, intensive outpatient programs, behavioral health treatment for PDD/autism delivered at home, and other outpatient intermediate services that fall between inpatient care and regular outpatient office visits.

Endnote 15 has the following implications for quantitative analyses and policy forms:

- In standard plans, the assignment of benefits to the outpatient MH/SUD sub-classifications must conform to Endnote 15. CIC § 10112.3(e).
- Insurers must also revise their sub-classification standards for medical/surgical benefits accordingly so that outpatient medical/surgical benefits similar to those in Endnote 15

are also assigned to the “all other outpatient items and services” sub-classification. This ensures that medical/surgical and MH/SUD benefits are sub-classified using the same standards. § 146.136(c)(2)(ii)(A).

- The sub-classification of medical/surgical benefits used in the quantitative analysis must conform to points above. § 146.136(c)(2)(ii)(A).
- The definition of the “all other outpatient items and services” sub-classification in the policy form (including any summary descriptions in the schedules) for MH/SUD benefits must be revised to conform to Endnote 15. The permissible cost sharing for MH/SUD benefits is determined by the results of the insurer’s quantitative analysis in each classification and sub-classification. § 146.136(c)(2)(i), (c)(3). Therefore, policy forms must sub-classify MH/SUD benefits in accordance with the standards used in the quantitative analysis.

E. Other MHPAEA Implications for Health Policy Forms

If a plan sub-classifies outpatient MH/SUD benefits for purposes of its mental health parity analysis pursuant to 45 CFR § 146.136(c)(3)(iii)(C), please ensure your form filing addresses the issues identified below. As the 2021 PCBPD sub-classifies outpatient MH/SUD benefits, this also applies to all standard filings.

- The policy/certificate and the schedule(s) of benefits should state which MH/SUD benefits fall under each outpatient sub-classification to clarify the applicable cost sharing and any other coverage requirements for each covered MH/SUD benefit.
- The SBCs should be revised to reflect cost sharing and other coverage differences for each outpatient MH/SUD sub-classification. This primarily affects the MH/SUD section of the Common Medical Event chart.

F. Non-quantitative Treatment Limitations

Federal law prohibits a plan from imposing non-quantitative treatment limitations (NQTLs) with respect to MH/SUD benefits in any classification unless, under the terms of the plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to MH/SUD benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the NQTL with respect to medical/surgical benefits in the classification. § 146.136(c)(4)(i).

The Department reviews NQTLs on MH/SUD benefits for compliance with parity requirements under § 146.136(c)(4). CIC §§ 10112.27(a)(2)(D) & 10144.4. NQTLs are defined as non-numerical limitations on the scope or duration of benefits covered by a plan, such as medical management standards, preauthorization requirements, formulary design, or step therapy protocols. 45 CFR § 146.136(a); see § 146.136(c)(4)(ii) for an illustrative list.

- Please provide the following information concerning NQTLs.
Note: This component may be provided using Part I (Nonquantitative Treatment Limitations) in the Mental Health Parity Supporting Documentation Template.
 - Provide a list of all MH/SUD benefits subject to NQTLs, as defined in § 146.136(c)(4). Please group the listed benefits by classification.

- List all NQTLs applicable to each listed MH/SUD benefit.
- Note the page numbers in the policy/cert where the NQTLs are described, including the list of benefits subject to utilization review procedures and the description of those procedures, as applicable.

Upon review of the information submitted in each filing, the Department may request further information regarding NQTLs, including but not limited to the insurer's processes, strategies, evidentiary standards, or other factors used in applying any NQTLs to medical/surgical and MH/SUD benefits. § 146.136(c)(4)(i); see also [ACA FAQ 31](#), Q9 (Apr. 20, 2016) and [2020 MHPAEA Self-Compliance Tool](#), Section F on Nonquantitative Treatment Limitations. Any additional information requests will be communicated to filers during the review process.

VI. Submission Requirements for Standard Health Insurance Filings

Each of the following documents must be submitted:¹²

- A policy/certificate or an amendment to an approved policy/certificate.
 - If you submit an amendment, please submit the approved policy/certificate to be amended and any prior amendments on the Supporting Documentation tab.
 - If you do not submit an amendment, please submit a redline comparison of the 2022 policy/certificate against your approved 2021 standard policy/certificate on the Supporting Documentation tab.
- A schedule of benefits for each plan specifying cost sharing prescribed by the Patient-Centered Benefit Plan Designs (PCBPD) for all benefits. 10CCR §§ 2594.6(a)(1).
- Redlines of the schedules of benefits compared with your approved 2021 standard schedules of benefits.
- A list of all changes, including changes to the forms due to new legal requirements listed in Section IV above, as well as any other changes, with page numbers and explanations of the changes. Cost sharing changes that must be made pursuant to the 2022 PCBPD may be omitted from the list.
- Mental health parity compliance documentation as described in Section V above. CIC §§ 10112.27(a)(2)(D) & 10144.4.
- An SOV containing an index to, and fully explaining, all variable text in the forms, as described in Section III above. 10 CCR §§ 2213, 2594.6(b).
- An SBC for each plan. CIC § 10603(a)(2).
- An attestation of compliance with 28 CCR § 1300.67.24. 10 CCR § 2594.4(b)(4).
- A list of plans currently in force identified by form number and state tracking number. CIC §§ 10753.17(a), 10753.05(a).

¹² The following forms must be submitted on the Form Schedule tab (unless otherwise instructed in this document): certificate, policy, summary of benefits and coverage (SBC), schedule of benefits, statement of variables, application, and enrollment form. Other requested documents, including redline comparisons, should be submitted on the Supporting Documentation tab.

- A Plans and Modifications Workbook only if there are changes to product network type, benefits, limits, or out-of-network cost sharing; or if replacing a standard plan with another standard plan at the same level of coverage (such as a non-HSA compatible plan with an HDHP or vice versa).
- For new products/forms only, the 2022 Individual and Small Group Health Policy Component Location List.

VII. Submission Requirements for Non-Standard Health Insurance Filings

Each of the following documents must be submitted:

- If you use the same policy/certificate for the standard filing and the non-standard filing:
 - After the standard filing is approved, submit the approved standard policy, certificate and, if applicable, any amendments on the Supporting Documentation tab in the non-standard filing. The form numbers may remain the same.
- If you do not use the same policy/certificate for the standard filing and the non-standard filing, please make all applicable conforming changes to your non-standard forms after the standard filing is approved.
 - If you submit an amendment to an approved non-standard policy/certificate, please submit the approved policy/certificate to be amended and any prior amendments, as well as a redline comparison of the amendment with the amendment approved in your 2021 standard filing, on the Supporting Documentation tab.
 - If you do not submit an amendment, please submit a redline comparison of the policy/certificate against your approved 2021 standard policy/certificate on the Supporting Documentation tab.
- A schedule of benefits for each plan specifying cost sharing for all benefits. 10 CCR § 2594.6(a)(1).
- Redlines of the schedules of benefits compared with your approved 2021 non-standard schedules of benefits.
- A completed Plans and Modifications Workbook.
- A list of all changes, including changes to the forms due to new legal requirements listed in Section IV above, as well as any other changes, with page numbers and explanations of the changes. You may refer to the Plans and Modifications Workbook for any changes specifically described therein.
- Mental health parity compliance documentation as described in Section V above. CIC §§ 10112.27(a)(2)(D) & 10144.4.
- Verification of actuarial value: Depending on compatibility with the AV calculator, submit either legible screenshots of 2022 AV calculator worksheet outputs for each plan or, where any aspect of a plan's design is incompatible with the AV calculator, an actuarial certification and any accompanying AV calculator worksheet outputs. An actuarial certification is required for all plans that subclassify outpatient benefits and assign different cost sharing to outpatient mental health and substance use disorder office visits and all other outpatient items and services. 10 CCR § 2594.6(a)(2), (c).

- An SOV containing an index to, and fully explaining, all variable text in the forms, as described in Section III above. 10 CCR §§ 2213, 2594.6(b).
- An SBC for each plan. CIC § 10603(a)(2).
- For new products/forms only, the 2022 Individual and Small Group Health Policy Component Location List.

VIII. Submission Requirements for Exchange Dental Filings

Each of the following documents must be submitted:

- If it is unnecessary to make changes to forms for 2022, submit the last approved forms on the Supporting Documentation tab.
- Only if changes are necessary for 2022: A policy/certificate or an amendment to an approved policy/certificate.
 - If you submit an amendment, please submit the approved policy/certificate to be amended and any prior amendments on the Supporting Documentation tab.
 - If you do not submit an amendment, please submit a redline comparison of the 2022 policy/certificate against the policy/certificate that was last approved on the Supporting Documentation tab.
- Only if changes are necessary for 2022: A schedule of benefits for each plan specifying cost sharing prescribed by the Dental Benefit Plan Designs for all benefits. 10 CCR §§ 2594.7(a)(1).
- Only if changes are necessary for 2022: Redlines of the schedules of benefits compared with your last approved schedules of benefits.
- Only if changes are necessary for 2022: A list of all changes, including changes to the forms due to new legal requirements listed in Section IV above, as well as any other changes, with page numbers and explanations of the changes.
- Only if changes are necessary for 2022: An SOV containing an index to, and fully explaining, all variable text in the forms, as described in Section III above. 10 CCR §§ 2213, 2594.7(b).
- Rate tables or factors pursuant to CIC § 10290. An actuarial memorandum is not required.
- A cross-reference to the most recently filed Medical Loss Ratio Annual Report. CIC § 10112.26.
- In individual market filings only, an actuarial attestation that the rates satisfy the lifetime anticipated loss ratio required under 10 CCR § 2222.12(c).