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DOL Issues Mental Health Parity Enforcement Guidance

By **Kellie Mejdrich**

Law360 (September 8, 2026, 5:59 PM EDT) -- The U.S. Department of Labor's employee benefits arm issued guidance Tuesday on how to comply with federal laws that require employer health plans to produce an analysis of their mental health and substance use disorder coverage, which remains subject to litigation in D.C. federal court.

The DOL's Employee Benefits Security Administration published a **field assistance bulletin** explaining its guiding principles on enforcement of the Mental Health Parity and Addiction Equity Act. EBSA said its guidance was intended to convey a narrower enforcement focus and "provide a streamlined and practical framework for compliance."

EBSA highlighted in its guidance how **litigation challenging changes** to federal mental health parity rules that EBSA **put in place** in 2024 was still ongoing. EBSA also pointed to the agency's **statement of non-enforcement** on those new policies from May 2025.

But EBSA said it planned to still enforce final rules from 2013 requiring analysis of employer health plan treatment limitations subject to federal parity laws. New restrictions on non-quantitative limitations that Congress passed at the end of 2020 in a fiscal year 2021 appropriations bill also remained the law despite non-enforcement of EBSA's rules from 2024, EBSA said.

Still, following significant feedback from those subject to parity regulations, EBSA said it planned to focus on three categories of non-quantitative treatment limitations when conducting enforcement of the law's requirement that plans analyze their restrictions. First, the agency would focus on blanket coverage exclusions that applied only to mental health and substance use disorder benefits. The agency would also focus on medical necessity standards and review processes, with a focus on prior authorization, concurrent review and retrospective review, the guidance said.

EBSA would also focus on network adequacy in enforcing the analysis requirement, the guidance said. EBSA added that the guidance may also be updated periodically.

Attorneys have been **watching for more guidance** from the DOL on parity enforcement since the lawsuit and non-enforcement statement. The 2024 rule had implemented changes from the 2021 appropriations legislation, which placed greater limits in regulation on how employers could restrict coverage for mental health and substance use disorder treatments compared with physical healthcare.

The lawsuit challenging the regulations was filed by the ERISA Industry Committee, or ERIC, which represents large employers administering benefit plans regulated by the Employee Retirement Income Security Act. ERIC alleged in its suit filed in January 2025 that the agencies' final rule was unconstitutional and violated the Administrative Procedure Act. ERIC's suit also alleged that the three agencies' final rule had exceeded their authority under MHPAEA and the Consolidated Appropriations Act of 2021.

The litigation has **remained stayed** since May 2025.

--Editing by Nick Petruncio.