

Updated Issue Brief:
Maryland Issues Final NQTL Data Reporting Forms (Templates)

State Regulators' Use of Required Quantitative Data Templates
to Assess NQTL Parity Compliance

Prepared by MHTARI, a tax-exempt subsidiary of

THE BOWMAN FAMILY FOUNDATION

This Issue Brief may be updated from time to time. For the most recent version, please click [here](#). This particular update adds the Maryland Insurance Administration's issuance (December 22, 2021) of required quantitative data reporting forms to implement its parity reporting statute.

I. Brief Overview of Regulatory Use of Quantitative Data Templates

To further the implementation and enforcement of MHPAEA and state mental health and substance use parity statutes, at least three state regulators require the use of quantitative data templates in determining “non-quantitative treatment limitation” (NQTL) compliance. These states recognize that quantitative data comparisons are essential to fully and accurately measure comparability and stringency for many NQTLs. These states also recognize that providing templates for comparative quantitative analyses that include specific definitions, categories, methodologies and calculations is key to receiving consistent, valid and reliable comparative quantitative data.

While this Issue Brief does not examine all 50 states' use of quantitative templates as part of required NQTL comparative analyses, it is likely that other states are developing similar quantitative templates.

For many years, federal regulatory guidance has required specific comparative analyses for factors, standards and criteria used to design and apply NQTLs. In addition, the DOL/HHS Self- Compliance Tools published in 2018 and 2020 highlight the importance of specific quantitative comparative analyses for certain NQTLs, including denial rates and reimbursement rates. The Self-Compliance Tools state:

“While outcomes are not determinative of compliance, rates of denials may be reviewed as a **warning sign**, or **indicator of a potential operational MHPAEA parity noncompliance.**”

“While results **alone** are not determinative of noncompliance, measuring and evaluating results and **quantitative outcomes** can be helpful **to identify potential areas of noncompliance.**” (Emphasis added).

The federal guidance makes it clear that disparate quantitative outcomes are “red flags”, or “warning signs”, that warrant a further and more detailed examination of the comparative analyses of factors, evidentiary standards, methodologies and processes used by health insurance issuers and employer group plans to design and apply NQTLs.

In light of both federal and state guidance and requirements, some employers that sponsor fully and self-insured group plans, and health insurance issuers, are seeking more specific and consistent guidance on what constitutes sufficient, valid and reliable quantitative NQTL analyses. Absent specific

templates, comparative quantitative data analyses may well be insufficient or inadequate for a determination of NQTL compliance to be made.

II. Detailed Description of Three States' Quantitative Templates

The state insurance departments for Washington, Texas and Maryland require the use of multiple templates that provide detailed definitions, categories, methodologies and calculations for quantitative comparative data analyses of NQTLs. All three states require the use of templates for reimbursement rate disparities and denial rate disparities. In addition, one or more states use templates analyzing: out-of-network use disparities based on claims; behavioral health provider actual network participation rates; comparative analyses for frequency and administrative burden of utilization reviews; out-of-network requests and authorization disparities; pharmacy benefits disparities; imposition of fail-first requirements; and provider contracting timeframes, authorizations and rejections disparities. (See below links).

Some of these quantitative templates are consistent among the three states in terms of definitions, categories, methodologies and calculations. These consistent templates are based on sections from the Model Data Definitions and Methodology form (MDDM). The research, development and validation of evidence for the data templates in the MDDM were funded by [MHTARI](#) (a subsidiary of The Bowman Family Foundation), and undertaken with input from multiple industry experts, including Milliman, Inc., and national behavioral health researchers. The MDDM templates examine four key metrics: out-of-network use based on claims; reimbursement rates for office visits; denial rates based on UR and claims data; and behavioral health network provider actual participation based on claims submission.

The four MDDM data analyses metrics were first used in a regulatory context by Washington state Office of Insurance Commissioner as its key resource for quantitative data requests in its 2020 "Access to Behavioral Health Services Second Market Scan" of NQTL parity compliance. (See further details below). The MDDM does not include quantitative data templates addressing the additional measures analyzed in Texas' and Maryland's templates.

Washington State Office of Insurance Commissioner (WA OIC)'s "Access to Behavioral Health Services Second Market Scan" (issued January 10, 2020) requires four areas of data reporting that are substantially the same as the MDDM (MDDM attached hereto):

- (1) Out-of-Network Use disparities based on claims
- (2) Reimbursement Rate disparities (office visits)
- (3) Denial Rate disparities based on UR and claims data
- (4) Behavioral Health Provider Network (per the Directory) Actual Participation

Texas Department of Insurance (TDI) published final rules under Chapter 21, Trade Practices, Subchapter P. [Mental Health and Substance Use Disorder parity, Division 2. Plan Information and Data Collection, effective September 7, 2021](#). The TDI regulations include data templates consistent with the MDDM metrics, as well as other templates that go beyond the MDDM data reporting. For example:

- (1) Reimbursement rates disparities consistent with the MDDM
- (2) Denial rates disparities consistent with the MDDM

- (3) In operation comparative analyses of frequency and administrative burden of UR reviews (including peer-to-peer reviews)
- (4) Comparative analyses of fail-first requirements
- (5) Comparative analyses of out-of-network gap exceptions for M/S vs. MH/SUD

Maryland Insurance Administration (MIA) has issued multiple data analyses templates as part of its final regulations governing Reports on Mental Health and Substance Use Disorder NQTLs and Data pursuant to §15.144 of the Insurance Article. (issued December 22, 2021)

See <https://insurance.maryland.gov/Consumer/Pages/workgroups.aspx>

(Click on Mental Health Parity Workgroup link)

The MIA regulations include data templates consistent with the MDDM metrics, as well as additional templates that go beyond the MDDM data reporting. The quantitative data templates include:

MHPAEA Data Report Template Form
Data Supplement 1 (Utilization Review)
Data Supplement 2 (Formulary Exceptions)
Data Supplement 3 (Provider Credentialing)
Data Supplement 4 (Reimbursement Rates)

The MHPAEA Data Report Template Form includes denial rates disparities consistent with the MDDM. Data Supplement 4 includes reimbursement rates disparities, likewise consistent with the MDDM.

III. Potential Next Steps

Many health insurance issuers and employers sponsoring fully and self-insured group plans, as well as other stakeholders, continue to seek greater specificity and consistency in guidance from both federal and state parity regulators. MHTARI has allocated resources to develop and validate templates, such as the MDDM, which facilitate quantitative comparison of claims and administrative data. This data can assist in determining when access to behavioral healthcare is inadequate and can inform approaches to improve access to effective care.

A number of employers sponsoring group health plans, insurance issuers and trade associations (e.g. AHIP, BCBSA), have expressed interest in collaborating to develop consistent data templates that could be proposed for use by many regulators. MHTARI is willing to assist stakeholders in so doing. MHTARI has found that the development of data templates requires expertise in state and federal parity laws, as well as a willingness to devote considerable resources for testing and validation.

This Issue Brief is part of a series of educational, informational and best practice materials prepared by MHTARI for use in the examination and analyses of claims data to assist in assessing network adequacy and access to behavioral healthcare services. MHTARI, an independent, tax-exempt subsidiary of The Bowman Family Foundation, supports the development of quantitative data analytics to improve access to and the effectiveness of behavioral health care. MHTARI makes its studies, materials and templates available for public use.