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Submitted electronically via e-ohpsca-mhpaea-disclosure@dol.gov

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20710

Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

Internal Revenue Service
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

Re: FAQs About Affordable Care Act Implementation Part 34 and Mental Health and Substance Use Disorder Parity Implementation; Request for Comment

Dear Sir/Madam:

We thank the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury (collectively, the Departments) for the opportunity to comment on disclosures related to mental health/substance use disorder (MH/SUD) benefits.

Cigna Corporation, together with its subsidiaries (either individually or collectively referred to as Cigna), is a global health services organization dedicated to helping people improve their health, well-being and sense of security by being a major provider of medical, dental, disability, life and accident insurance and related products and services. Worldwide, we offer peace of mind and a sense of security to our customers seeking to protect themselves and their families at critical points in their lives.

Cigna serves over 14 million medical customers and provides nearly 25 million customers with behavioral health benefits. We believe that access to high quality, evidence-based MH/SUD treatment is fundamental to the health and well-being of our customers. With over 40 years of experience delivering behavioral health programs, our customers receive comprehensive and personalized support. We provide an integrated care model with dedicated support for

individuals exiting the hospital or undergoing intensive outpatient treatment. We screen to identify gaps in care where intervention would be most beneficial. For high-risk individuals with complex mental health or substance use conditions, dedicated case managers reach out to support individuals as often as necessary, and act as liaisons to the patient and their family for as long as necessary. Access to high quality, evidence-based MH/SUD benefits is fundamental to ensuring the mental health of our beneficiaries. A disclosure process that allows regulators to ensure plans are taking steps such as these to meet the needs of beneficiaries and that educates beneficiaries about their options is key to improving outcomes.

Cigna has diligently worked to comply with parity requirements under the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). With the 21st Century Cures Act (H.R. 34) recently signed into law, we look forward to additional opportunities to comment on the ways plans can ensure customers have access to meaningful information regarding their MH/SUD benefits and the methods by which plans may continue to comply with disclosure requirements. In the meantime, we welcome the opportunity to respond the questions posed in the Departments' most recent FAQs on the disclosure process for Non-Quantitative Treatment Limits (NQTLs) and the possible use of a model disclosure form. We urge the Departments to develop a single model form and allow for notice and comment. We believe that a properly structured model form could benefit all stakeholders and offer a more transparent, simplified disclosure process.

In the FAQs About Affordable Care Act Implementation Part 34 and Mental Health and Substance Use Disorder Parity Implementation, the Departments request specific comments on several issues, which we provide below:

a) **Whether issuance of model forms that could be used by participants and their representatives to request information with respect to various NQTLs would be helpful and, if so, what content the model forms should include. For example, is there a specific list of documents, relating to specific NQTLs, that a participant or his or her representative should request?**

Cigna believes that a consumer-friendly model form that reflects the current disclosure requirements could be beneficial to consumers, their representatives, and health plans. We support the use of a single model form that encompasses all required disclosures. A single form – compared to individual forms for each NQTL – would be more accessible for consumers and their representatives and would help insurers to simplify their responses to disclosure requests.

We believe the model form could be used as an educational tool to help consumers understand how coverage determinations are made. General information on the processes and tools plans use in the coverage determinations process can be more helpful to consumers than documents relating to specific NQTLs.

Cigna encourages the Departments to consider a "check list" approach, focusing on the underlying processes and tools used in making both medical/surgical and MH/SUD coverage determinations. Elements of the model form could include a description of:

- the medical policy decision-making process, including factors considered by the plan in making medical policy, such as safety concerns, practice variation, and over- and under-utilization, etc.;
- the types of individuals involved in the process, such as practicing clinicians, health plan medical directors, medical experts, etc.;
- how decisions are made, including the resources used by plan, such as scientific evidence published in peer reviewed literature and professional society recommendations when appropriate; and
- definitions of medical management tools, such as prior authorization, concurrent review, etc.

While Cigna supports the development of a model form, we do not believe it should prevent health plans from using other methods that may meet disclosure requirements.

b) Do different types of NQTLs require different model forms? For example, should there be separate model forms for specific information about medical necessity criteria, fail-first policies, formulary design, or the plan's method for determining usual, customary, or reasonable charges? Should there be a separate model form for plan participants and other individuals to request the plan's analysis of its MHPAEA compliance?

We believe that multiple model forms would create unnecessary confusion. If structured appropriately, a single model form would help educate consumers and help plans simplify their processes.

c) Whether issuance of model forms that could be used by States as part of their review would be helpful and, if so, what content should the model form include? For example, what specific content should the form include to assist the States in determining compliance with the NQTL standards? Should the form focus on specific classifications or categories of services? Should the form request information on particular NQTLs?

Cigna appreciates the Departments' consideration of the model form and its potential use to state regulators. Cigna operates across fifty states and encourages the Departments to consider guidance to ensure consistent state review across the various plans in that state. A model form could allow plans to be reviewed in a consistent and fair manner. Furthermore, the form would allow us to respond consistently. To that end, we believe that if structured properly, a model form could provide clarity to the states and assist in their compliance determinations with federal NQTL standards.

Again, we suggest the content of the model form describe in clear layman's language the NQTL decision-making process and tools used by health plans; the types of individuals involved in the NQTL decision making process; and the factors upon which NQTL decisions are based, as well as evidentiary standards *if applicable* to the NQTL at hand (as not all NQTL decisions are based upon evidentiary standards).

d) What other steps can the Departments take to improve the scope and quality of disclosures or simplify or otherwise improve processes for requesting disclosures under existing law in connection with MH/SUD benefits?

We strongly recommend that the content of the form go through the regulatory notice and comment period process to allow for sufficient public input and to ensure that the model form does not create any new disclosure requirements or conflict with or confuse existing disclosure requirements.

e) Are there specific steps that could be taken to improve State market conduct examinations and/or Federal oversight of compliance by plans and issuers?

We recommend that the Departments offer more information and expand awareness of federal jurisdiction and state roles as another way of achieving the goals of consistent interpretation across oversight agencies, more regulatory certainty, less variation in interpretations, and greater consumer understanding of which federal and/or state laws apply to their individual health needs and health care services.

Thank you for your consideration of these comments.

Respectfully,

David Schwartz