



## Our ERISA MHPAEA Group

Our ERISA MHPAEA attorneys have assembled decades of experience from U.S. and foreign law firms, federal regulators, and international consulting firms. We have worked closely with health care regulators including the Employee Benefits Security Administration. Our work in this area also includes the following:

- ERISA Health Plan Fiduciary Training
- Health Plan Internal Benefit Appeal Protocols
- Health Plan Arbitration Provisions
- Cybersecurity Contractual Review
- IRS/DOL Audit Protection
- Health Plan ERISA Governance Analysis
- Voluntary Employees' Beneficiary Associations (VEBAs)
- ERISA D&O Coverage Review
- HSAs, HRAs, FSAs, AHPs
- Reporting & Disclosure
- Plan Documentation & Employee Communications
- Digital Innovation Compliance & Policy Statements
- Wrap Plans
- Alternative Benefits Structure

# ERISA Mental Health Parity Compliance

## ERISA Fiduciary Exposure - MHPAEA

### The Issue

- With increasing frequency, courts, and regulators are shifting their focus to the strict fiduciary standards of ERISA for insured and self-funded health and welfare plans.
- That sharpened focus means that employers, insurers and other service providers must ensure that their plan documents, administrative actions, governance and fee structures comply with the strict requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA), ERISA, and related laws.

### The Risks

- In addition to the risks and costs (litigation, plan qualification issues, regulatory investigations, fines, and penalties) those found to have breached their fiduciary duties under ERISA are personally liable for such breach – which may include breaches of co-fiduciaries.
- ERISA fiduciaries include members of the employer's Board of Directors, C-Suite, and other employees. ERISA prohibits indemnification from health plans and D&O insurance often does not cover ERISA or coverage limits are too low or restrictive.

### How We Can Help

- Plan sponsors, insurers, and service providers will need to sharpen their focus on MHPAEA governance and compliance in order to protect their Board of Directors, C-Suite, and others from personal liability for ERISA fiduciary breaches.
- Our ERISA health care attorneys have developed MHPAEA compliance and fiduciary protection programs that identify and remedy risks before they lead to expensive and time-consuming investigations and litigation.

## Contacts



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## About Us

Crowell & Moring is an international law firm with approximately 550 lawyers representing clients in transactional, regulatory, litigation, and arbitration matters. The firm is internationally recognized for providing innovative approaches to legal and business challenges, as well as creative alternative fee arrangements that demonstrate its personal investment in its clients' success. The firm has also been recognized for its ongoing commitment to *pro bono* service and diversity. Crowell & Moring has offices in Washington, D.C., New York, Los Angeles, San Francisco, Orange County, London, and Brussels.