



Week in Regulation

Mental Health Parity Rule Highlights Steady Week

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Like the [week prior](#), this past week saw a decent amount of regulatory activity in the pages of the Federal Register. There were 17 rulemakings that contained a quantified estimate of economic effects. In contrast to the preceding week, however, this one left more of a mark. A single rule – a joint measure from the Departments of Health and Human Services and Labor and the Internal Revenue Service (the Agencies) regarding parity for mental health coverage – was responsible for most of the week’s regulatory impacts. Across all rulemakings, agencies published \$1.7 billion in total costs and added 3.1 million annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 38
- Final Rules: 68
- 2024 Total Pages: 79,271
- 2024 Final Rule Costs: \$1.24 trillion
- 2024 Proposed Rule Costs: \$120.5 billion

NOTABLE REGULATORY ACTIONS

The most consequential rulemaking of the week was the [rule](#) from the Agencies regarding “Requirements Related to the Mental Health Parity and Addiction Equity Act.” The rule represents the latest episode in the ongoing attempts to implement the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). This rulemaking’s specific changes come via provisions included in the Consolidated Appropriations Act of 2021. The American Action Forum (AAF) has had some [recent discussion](#) of the now decades-long debate on the matter.

One of the main sticking points for achieving parity in health coverage has been the difficulty in measuring and ascertaining compliance. Per the Agencies:

It is unclear what percentage of plans and issuers impose greater burdens on mental health and substance use disorder benefits than on medical/surgical benefits. This frequency may differ among small and large plans and issuers. The Departments’ experience in enforcing MHPAEA shows that plans and issuers are not in full compliance with MHPAEA, although the extent across all plans and issuers is not known.

Such uncertainty means that the Agencies require extensive compliance regimes. According to the rule’s analysis, these new requirements will involve nearly 2.8 million hours of paperwork and \$217 million in costs

each year (or \$1.5 billion over a 10-year horizon).

TRACKING THE ADMINISTRATIONS

As we have already seen from [executive orders and memos](#), the Biden Administration has provided plenty of contrasts with the Trump Administration on the regulatory front. And while there have been areas where the current administration has sought to broadly restore Obama-esque regulatory actions, there are also areas where it has charted its own course. Since the AAF RegRodeo data extend back to 2005, it is possible to provide weekly updates on how the top-level trends of President Biden's regulatory record track with those of his two most recent predecessors. The following table provides the cumulative totals of final rules containing some quantified economic impact from each administration through this point in their respective terms.

TRACKING THE ADMINISTRATIONS

REGULATORY ACTIVITY FROM INAUGURATION DAY TO SEPTEMBER 27TH (Year 4)

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	1035	\$1.69T	328.8M
TRUMP 2017	1138	-\$96.5B	292.4M
OBAMA 2009	1407	\$330.8B	263.4M

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The mental health parity rule discussed above provided the vast majority of \$1.7 billion and 2.9-million-hour increases in final rule costs and paperwork, respectively. The other main action across the covered administrations came from the Obama-era cost total, which jumped by roughly \$3.5 billion. A 2012 Environmental Protection Agency [rule](#) establishing standards for bio-mass diesel was the main reason for that shift. Meanwhile, the Trump Administration's totals remained remarkably stable.

TOTAL BURDENS

Since January 1, the federal government has published \$1.36 trillion in total net costs (with \$1.24 trillion in new costs from finalized rules) and 117.5 million hours of net annual paperwork. burden increases (with 51.6 million hours coming from final rules).

