NEW YORK STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLAN CONTRACTING AND OVERSIGHT
ARTICLES 44 AND 49 STATEMENT OF DEFICIENCIES

NAME OF MANAGED CARE ORGANIZATION	TYPE OF SURVEY:
Health Insurance Plan of Greater New York (EmblemHealth)	Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey **Survey ID #** 2093040719
STREET ADDRESS, CITY, STATE, ZIP CODE 55 Water Street New York, NY 10041	**TYPE OF SURVEY:** July 24, 2023 – November 14, 2024

NOTE: The following list of deficiencies was identified by Health Department representatives during an Article 44 and/or Article 49 operational or focused survey of your Managed Care Organization (MCO). Correction of these deficiencies is required in order to bring your MCO into compliance with Article 44 and/or 49 of the New York State Public Health Law and the New York State Official Compilation of Codes, Rules, and Regulations (10NYCRR). In the column headed Provider Plan of Correction, describe the Plan of Corrective Action and anticipated date of corrections. The Plan of Correction should be returned within 15 business days.

Deficiencies	Plan of Correction with Timetable
10 NYCRR 98- 4.4 Mental health and substance use disorder parity compliance program (a) Every MCO shall adopt and implement a compliance program that shall include at a minimum: (1) designation of an appropriately experienced individual who shall: (i) be responsible for assessing, monitoring, and managing parity compliance; (ii) report directly to the MCO's chief executive officer or other senior manager; and (iii) report no less than annually to the MCO's board of directors or other governing body, or the appropriate committee thereof, on the activities of the compliance program; 2) written policies and procedures that implement the compliance program, and that describe how the MCO's parity compliance is assessed, monitored, and managed, including: (i) a system for assigning each benefit to the defined benefit classifications as required by MHPAEA; (ii) methodologies for the identification and testing of all financial requirements and quantitative treatment limitations; and (iii) methodologies for the identification and testing, including a comparative analysis, of all non-quantitative treatment limitations that are imposed on mental health or substance use disorder benefits; (3) methodologies for the identification and remediation of improper practices, as described in paragraph (1) of subdivision (b) of this section; (4) a system for the ongoing assessment of parity compliance…	**PLAN OF CORRECTION:** **I. Description of Plan Review** A. Based on the Plan's Review of its completed Phase I, Phase II, and Phase III nonquantitative treatment limitation (NQTL) workbooks, and responses to specific in-operation NQTL requests (Focus Survey Attachment A), and the Mental Health Concurrent Review Information Request (Focus Survey Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Focus Survey, the Plan determined that Step Five of its comparative analysis for the cited benefit classifications related to Prior Authorization, Retrospective Review, Coding Edits, Reimbursement and Concurrent Review require additional detail to demonstrate in-operation compliance with MHPAEA. B. The Plan also reviewed its internal policies, procedures and processes related to the Outlier Management NQTL, as defined by the Phase I, Phase II, and Phase III NQTL workbooks and concluded that the Plan does not conduct outlier reviews on any mental health /substance use disorder claims.

MCO Representatives Signature: [redacted] Date: 1/7/2025

Title SVP & Chief Compliance Officer

NEW YORK STATE DEPARTMENT OF HEALTH
ARTICLES 44 STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION
CONTINUATION SHEET

Name of Managed Care Organization Health Insurance Plan of Greater New York (EmblemHealth)	**Survey Dates:** July 24, 2023 – November 14, 2024 **Survey ID #** 2093040719
Deficiencies	**Plan of Correction with Timetable**
PHL § 4406 Health maintenance organizations; regulation of contracts 1. The contract between a health maintenance organization and an enrollee shall be subject to regulation by the superintendent as if it were a health insurance subscriber contract, and shall include, but not be limited to, all mandated benefits required by article forty-three of the insurance law. Such contract shall fully and clearly state the benefits and limitations therein provided or imposed, so as to facilitate understanding and comparisons, and to exclude provisions which may be misleading or unreasonably confusing. Such contract shall be issued to any individual and dependents of such individual and any group of one hundred or fewer employees or members, exclusive of spouses and dependents, or to any employee or member of the group, including dependents, applying for such contract at any time throughout the year. An individual direct payment contract shall be issued only in accordance with section four thousand three hundred twenty-eight of the insurance law. The superintendent may, after giving consideration to the public interest, exempt a health maintenance organization from the requirements of this section provided that another health insurer or health maintenance organization within the health maintenance organization's same holding company system, as defined in article fifteen of the insurance law, including a health maintenance organization operated as a line of business of a health service corporation licensed under article forty-three of the insurance law, offers coverage that, at a minimum, complies with this section and provides all of the consumer protections required to be provided by a health maintenance organization pursuant to this chapter and regulations, including those consumer protections contained in sections four thousand four hundred three and four thousand four hundred eight-a of this chapter. The requirements shall not apply to a health maintenance organization exclusively serving individuals enrolled pursuant to title eleven of article five of the social services law, 1 title eleven-D of article five of the social services law, 2 title one-A of article twenty-five of this…	**II. Corrective Action and/or Revision Completed** A. For the deficiencies related to Prior Authorization, Concurrent Review, Retrospective Review, Coding Edits and Reimbursement, the Plan will evidence in-operation MHPAEA compliance by adding inpatient, outpatient and emergency services outcomes data and analysis to the comparative analysis for each NQTL. B. For the deficiency related to Outlier Management, the Plan will add documentation to its NQTL comparative analysis that demonstrates that the Plan does not apply Outlier Management treatment limitations to mental health/substance use disorder benefits. **III. Description of Education and Training Activities** A. The Plan will update its annual mandatory Mental Health Parity compliance training to include current policies and procedures related to MHPAEA compliance, including the addition of in-operation NQTL outcomes data analysis protocols and NQTL monitoring and remediation requirements. The updated annual training will ensure that Plan employees can identify when "as written" and "in operation" evidentiary sources align with MHPAEA requirements or requires timely remedial action. B. The Plan will also add content educating Plan employees about NQTLs, generally, and the Plan's policies and procedures governing the necessary documentation that must be compiled to start or terminate application of an NQTL to mental health/substance use disorder benefits.

NEW YORK STATE DEPARTMENT OF HEALTH
ARTICLES 44 STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION
CONTINUATION SHEET

Name of Managed Care Organization Health Insurance Plan of Greater New York (EmblemHealth)	**Survey Dates:** July 24, 2023 – November 14, 2024 **Survey ID #** 2093040719

Deficiencies	Plan of Correction with Timetable
chapter 3 or title eighteen of the federal Social Security Act, 4 and, further provided, that such health maintenance organization shall not discontinue a contract for an individual receiving comprehensive-type coverage in effect prior to January first, two thousand four who is ineligible to purchase policies offered after such date pursuant to this section or section four thousand three hundred twenty-eight of the insurance law due to the provision of 42 U.S.C. 1395ss in effect prior to January first, two thousand four. **4303(g) 4303(k) and 4303(l) State Insurance Law** **Deficiency:** Based on review of the Phase I, Phase II, and Phase III nonquantitative treatment limitation (NQTL) workbooks, specific in-operation NQTL requests (Focus Survey Attachment A), and the Mental Health Concurrent Review Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, Health Insurance Plan of Greater New York (EmblemHealth), failed to provide sufficient, complete comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs: • prior authorization, • retrospective review, • coding edits, • outlier review, • reimbursement, and • concurrent review. Specifically, within the NQTL workbooks EmblemHealth failed to demonstrate in-operation compliance in Step 5 for inpatient and outpatient prior authorization and retrospective review by providing only declarative statements of compliance. Also, for inpatient and outpatient coding edits and outlier review, EmblemHealth failed to demonstrate inoperation compliance in Step 5 by not providing information or analyses regarding the operationalization of the NQTLs.	**IV. Monitoring/Auditing of Corrective Action and/or Revision to Ensure Effective** A. Monitoring of remediation and continued compliance with MHPAEA NQTL comparative analysis requirements for Prior Authorization, Retrospective Review, Concurrent Review, Coding Edits, and Reimbursement will include quarterly review of documentation and outcomes data monitoring documentation and outcomes data necessary to demonstrate compliance with NQTL requirements, especially the sufficiency of the evidence set forth in Step 5 of the comparative analysis, on a quarterly basis. Monitoring results will be presented for review and approval by the Mental Health Parity Compliance Committee. B. Monitoring of Plan decisions that impact application of additional NQTLs to mental health/substance use disorder benefits or represent the termination of an NQTL from mental health/substance use disorder benefits administration through quarterly discussions with those business areas and delegates responsible for the review, update, revision or implementation of new or revised NQTL policies and procedures. **V. Name and Title of Person Responsible for Implementation and Oversight** [redacted], Chief Compliance Officer, EmblemHealth **VI. Date Certain for Implementation** July 1, 2025 **(End of Plan of Correction)**

NEW YORK STATE DEPARTMENT OF HEALTH
ARTICLES 44 STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION
CONTINUATION SHEET

Name of Managed Care Organization Health Insurance Plan of Greater New York (EmblemHealth)	**Survey Dates:** July 24, 2023 – November 14, 2024 **Survey ID #** 2093040719
Deficiencies	**Plan of Correction with Timetable**
Specifically for inpatient, outpatient, and emergency reimbursement, EmblemHealth failed to demonstrate inoperation compliance in Step 5. EmblemHealth failed to demonstrate that the many listed factors that are operationalized factors were applied no more stringently to mental health and substance use disorder benefits. Furthermore, there was no analysis of in-operation processes. Specifically for inpatient and outpatient concurrent review, EmblemHealth failed to demonstrate in-operation compliance in Step 5. For Step 5 inpatient concurrent review, EmblemHealth provided only a declarative statement of compliance. Additionally, for outpatient concurrent review, EmblemHealth provided the same response as Step 4, for Step 5, with no information on inoperation comparability or stringency. These issues were discussed with EmblemHealth during an exit conference call on November 14, 2024.	**(See pages 1 to 3 for Plan of Correction)**

Statement of Findings
Health Insurance Plan of Greater New York (EmblemHealth)
Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance
Virtual Focus Survey
Survey Dates: July 24, 2023 – November 14, 2024
Survey ID: 2093040719

10.2 Compliance with State Medicaid Plan, Applicable Laws and Regulations
h.) Mental Health and Substance Use Disorder Benefits Parity Requirements
ii.) The Contractor shall comply with mental health and substance use disorder benefits parity requirements for financial requirements and treatment limitations specified in 42 CFR 438.910.

18.5 Reporting Requirements
a) The Contractor shall submit the following reports to SDOH (unless otherwise specified). The Contractor will certify the data submitted pursuant to this section as required by SDOH. The certification shall be in the manner and format established by SDOH and must attest, based on best knowledge, information, and belief to the accuracy, completeness and truthfulness of the data being submitted.
xxii) Mental Health and Substance Use Disorder Parity Reporting Requirements
Upon request by the SDOH, OMH or OASAS the Contractor shall prepare and submit documentation and reports, in a form and format specified by SDOH, OMH or OASAS, necessary for the SDOH, OMH or OASAS to establish and demonstrate compliance with 42 CFR 438 Subpart K, and applicable State statute, rules and guidance.

35.1 Contractor and SDOH Compliance With Applicable Laws
Notwithstanding any inconsistent provisions in this Agreement, the Contractor and SDOH shall comply with all applicable requirements of the State Public Health Law; the State Social Services Law; the State Finance Law; the State Mental Hygiene Law; the State Insurance Law; Title XIX of the Social Security Act; Title VI of the Civil Rights Act of 1964 and 45 CFR Part 80, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973 and 45 CFR Part 84, as amended; the Age Discrimination Act of 1975 and 45 CFR Part 91, as amended; the ADA; Title XIII of the Federal Public Health Services Act, 42 U.S.C § 300e et seq., regulations promulgated thereunder; the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and related regulations; the Federal False Claims Act, 31 U.S.C. § 3729 et seq.; Mental Health Parity and Addiction Equity Act of 2008, (P.L. 110-345); for Contractors operating in New York City, the New York City Health Code; and all other applicable legal and regulatory requirements in effect at the time that this Agreement is signed and as adopted or amended during the term of this Agreement. The parties agree that this Agreement shall be interpreted according to the laws of the State of New York.

Findings:
Based on the review of the Phase I, Phase II, and Phase III nonquantitative treatment limitation (NQTL) workbooks, specific in-operation NQTL requests (Focus Survey Attachment A), and the Mental Health Concurrent Review Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, Health Insurance Plan of Greater New York (EmblemHealth), failed to provide sufficient, complete comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs:

- prior authorization,
- retrospective review,
- coding edits,
- outlier review,
- reimbursement, and

- concurrent review.

Specifically, within the NQTL workbooks, Health Insurance Plan of Greater New York (EmblemHealth) failed to demonstrate in-operation compliance in Step 5 for inpatient and outpatient prior authorization and retrospective review by providing only declarative statements of compliance. Also, for inpatient and outpatient coding edits and outlier review, EmblemHealth failed to demonstrate in-operation compliance in Step 5 by not providing information or analyses regarding the operationalization of the NQTLs.

Specifically for inpatient, outpatient, and emergency reimbursement, EmblemHealth failed to demonstrate in-operation compliance in Step 5. EmblemHealth failed to demonstrate that the many listed factors that are operationalized were applied no more stringently to mental health and substance use disorder benefits. Furthermore, there was no analysis of in-operation processes.

Specifically for inpatient and outpatient concurrent review, EmblemHealth failed to demonstrate in-operation compliance in Step 5. For Step 5 inpatient concurrent review, EmblemHealth provided only a declarative statement of compliance. Additionally, for outpatient concurrent review, EmblemHealth provided the same response as Step 4, for Step 5, with no information on in-operation comparability or stringency.

The issues were discussed with Emblem during an exit conference call on November 14, 2024.

PLAN OF CORRECTION:

I. Description of Plan Review

A. Based on the Plan's Review of its completed Phase I, Phase II, and Phase III nonquantitative treatment limitation (NQTL) workbooks, and responses to specific in-operation NQTL requests (Focus Survey Attachment A), and the Mental Health Concurrent Review Information Request (Focus Survey Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Focus Survey, the Plan determined that Step Five of its comparative analysis for the cited benefit classifications related to Prior Authorization, Retrospective Review, Coding Edits, Reimbursement and Concurrent Review require additional detail to demonstrate in-operation compliance with MHPAEA.

B. The Plan also reviewed its internal policies, procedures and processes related to the Outlier Management NQTL, as defined by the Phase I, Phase II, and Phase III NQTL workbooks and concluded that the Plan does not conduct outlier reviews on any mental health /substance use disorder claims.

II. Corrective Action and/or Revision Completed

A. For the deficiencies related to Prior Authorization, Concurrent Review, Retrospective Review, Coding Edits and Reimbursement, the Plan will evidence in-operation MHPAEA compliance by adding inpatient, outpatient and emergency services outcomes data and analysis to the comparative analysis for each NQTL.

B. For the deficiency related to Outlier Management, the Plan will add documentation to its NQTL comparative analysis that demonstrates that the Plan does not apply Outlier Management treatment limitations to mental health/substance use disorder benefits.

III. Description of Education and Training Activities

C. The Plan will update its annual mandatory Mental Health Parity compliance training to include current policies and procedures related to MHPAEA compliance, including the addition of in-operation NQTL outcomes data analysis protocols and NQTL monitoring and remediation requirements. The updated annual training will ensure that Plan employees can identify when "as written" and "in operation" evidentiary sources align with MHPAEA requirements or requires timely remedial action.

D. The Plan will also add content educating Plan employees about NQTLs, generally, and the Plan's policies and procedures governing the necessary documentation that must be compiled to start or terminate application of an NQTL to mental health/substance use disorder benefits.

IV. Monitoring/Auditing of Corrective Action and/or Revision to Ensure Effective

A. Monitoring of remediation and continued compliance with MHPAEA NQTL comparative analysis requirements for Prior Authorization, Retrospective Review, Concurrent Review, Coding Edits, and Reimbursement will include quarterly review of documentation and outcomes data monitoring documentation and outcomes data necessary to demonstrate compliance with NQTL requirements, especially the sufficiency of the evidence set forth in Step 5 of the comparative analysis, on a quarterly basis. Monitoring results will be presented for review and approval by the Mental Health Parity Compliance Committee.

B. Monitoring of Plan decisions that impact application of additional NQTLs to mental health/substance use disorder benefits or represent the termination of an NQTL from mental health/substance use disorder benefits administration through quarterly discussions with those business areas and delegates responsible for the review, update, revision or implementation of new or revised NQTL policies and procedures.

V. Name and Title of Person Responsible for Implementation and Oversight

[redacted], Chief Compliance Officer, EmblemHealth

VI. Date Certain for Implementation

July 1, 2025

MCO Representatives Signature: [redacted]	Date: 1/7/2025
Title SVP & Chief Compliance Officer	