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 MetroPlus Health Plan, Inc.	**TYPE OF SURVEY:** Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey **Survey ID #** 1463025760
STREET ADDRESS, CITY, STATE, ZIP CODE 50 Water Street 7th Floor New York, NY 10038	**SURVEY DATES:** September 14, 2022 – October 11, 2023

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….**	MetroPlusHealth Plan has reviewed the State's findings for the Mental Health Parity and Addiction Equity Act Compliance Focus Survey for the period of September 14, 2022 through October 11, 2023. In its findings, the State indicated that MetroPlusHealth Plan's failed to provide a sufficient comparative analysis demonstrating compliance with MHPAEA for eight NQTLs. To ensure ongoing compliance with MHPAEA requirements, MetroPlusHealth Plan formed a parity workgroup in 2021. This workgroup is facilitated by the MetroPlusHealth Compliance Department and meets, at a minimum quarterly, to discuss parity monitoring. After submitting the response for the Focus Survey in 2022, the workgroup shifted its attention to enhancing existing tools and metrics to support the "in operation" analysis component of the NQTL assessment. Part of this included reexamining the categories of services within mental health and substance use disorder that are comparable to medical/surgical benefits. Throughout 2023, this workgroup worked on developing and refining utilization review dashboards for behavioral health and medical/surgical benefits and worked with various other areas to identify reports that can be used for this effort. Previously, these reports were pulled manually and yielded inconsistent results due to the application of various methodologies for extracting data. For UR, MetroPlusHealth was able to successfully develop dashboards capturing data related to prior authorization, concurrent, and retrospective reviews. These dashboards enable the Compliance department to identify discrepancies between authorizations received, approved, or denied by our behavioral health and medical/surgical UR teams for both inpatient and outpatient services. The dashboard for retrospective reviews was launched in December 2023 and is currently undergoing user testing. The parity workgroup will be incorporating the review of the three dashboards into their ongoing meetings starting in March 2024 when the dashboards are expected to be finalized. Similar reporting related to reimbursement and experimental/investigational determinations is currently under discussion with Contracting and UR departments. MetroPlusHealth Plan expects to have these reoccurring reports in place by July 2024. By creating automated reporting for the "in operation" component of this assessment, MetroPlusHealth will be able to systematically compare the impact of implemented processes on behavioral health benefits to medical /surgical benefits. In addition to the reporting identified above, MetroPlusHealth Plan will undertake the following actions to address the noted findings. • Finding 1: Failed to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to and are applied no more stringently than those used in applying the limitation to medical and surgical benefits. o NQTLs Impacted: Reimbursement, retrospective review, experimental/investigational determinations o Responsible Parties: [redacted], Vice President of Provider Contracting and VB Partnerships; [redacted], Vice President of Clinical Services; [redacted], Vice President of Behavioral Health
MCO Representatives Signature: [redacted]	Date: February 7, 2024
Title: Chief Compliance & Regulatory Officer	

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

Name of Managed Care Organization MetroPlus Health Plan, Inc.	**Survey Dates:** September 14, 2022 – October 11, 2023 **Survey ID #** 1463025760
Deficiencies	**Plan of Correction with Timetable**
Deficiency: Based on review of the updated and completed 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 Prior Authorization Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, MetroPlus Health Plan, Inc. (MetroPlus) failed to provide sufficient comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs: • reimbursement, • experimental/investigational determinations, • retrospective review, • prior authorization, • out-of-network (OON) coverage standards, • outlier review, • coding edits, • and concurrent review. Specifically, during the review of the submitted NQTL workbooks, it was found that MetroPlus submitted insufficient comparative analyses and provided general statements of compliance for reimbursement, retrospective review, and experimental/investigational determinations failing to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to, and are applied no more stringently than those used in applying the limitation to medical and surgical benefits. Information submitted in response to the Focus Survey Attachment A requests were also not incorporated into the workbook responses and comparative analyses for reimbursement, retrospective review, prior authorization, and concurrent review. Specifically, for prior authorization, MetroPlus provided descriptions of policies and review processes but failed to provide comparative analyses. For OON coverage standards, MetroPlus provided descriptive information that was not incorporated into the comparative analyses. For	o Resolution: Through the established workgroup, MetroPlusHealth departments responsible for the oversight of the impacted NQTLs (Contracting, Utilization Management, and Behavioral Health Utilization Management), will work to reevaluate and refine the description for the factors and evidentiary standards relied upon to develop or apply the NQTL for both BH and Med/Surg providers and benefits. Once thoroughly reexamined, the workgroup can identify differences and discuss comparability of those varying factors. Part of this analysis will incorporate the basis for considering standards similar or no more restrictive for MH/SUD as compared to Med/Surg. If any factors are deemed non-compliant, the Compliance department will work with the responsible department to remediate. Corrective action plans may be requested depending on the severity and impact of the issue The results of this analysis and ongoing discussions with the parity workgroup will continue to be incorporated into the NQTL workbooks. At a minimum, the workbooks will be reviewed and updated on a quarterly basis. • Finding 2: Information submitted in response to the Focus Survey Attachment A requests were not incorporated into the workbook responses and comparative analyses. o NQTLs Impacted: Reimbursement, retrospective review, prior authorization, concurrent review, coding edits o Responsible Parties: [redacted] Vice President of Provider Contracting and VB Partnerships; [redacted], Vice President of Clinical Services: [redacted], Vice President of Behavioral Health; [redacted] Deputy Executive Director, Core Systems Operations and Provider, [redacted] Vice President of Claims Operations o Resolution: MetroPlusHealth will fully incorporate the data identified in Focus Survey Attachment A into its assessment for the impacted NQTLs. Once the data is summarized, impacted departments will be able to identify any discrepancies. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services or providers. For identified issues, the departments will work with the Compliance department to remediate. • Finding 3: Provided descriptions of policies and review processes but failed to provide comparative analysis. o NQTL Impacted: Prior authorizations o Responsible Party: [redacted] Vice President of Clinical Services; [redacted], Vice President of Behavioral Health o Resolution: MetroPlusHealth will reevaluate the components of this NQTL to enable the responsible departments to identify and describe similarities and differences in more detail. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services. For identified issues, the departments will work with the Compliance department to remediate. • Finding 4: MetroPlus provided descriptive information that was not incorporated into the comparative analysis. o NQTL Impacted: OON coverage standards o Responsible Party: [redacted], Vice President of Clinical Services; [redacted], Vice President of Behavioral Health o Resolution: MetroPlusHealth will incorporate the descriptive information into its existing comparative analysis to ensure the processes and strategies used to operationalize this standard are comparable and no more stringently applied to behavioral health benefits. • Finding 5: Failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotiviti, for triggers of outlier review. o NQTL Impacted: Outlier review o Responsible Party: [redacted], Director of SIU o Resolution: The SIU department will work with Compliance to reevaluate the NQTL assessment for outlier review. Updates will include clearly defining key terms, describing factors relied upon to determine applicability in more detail, and enhancing its comparative analysis. The SIU will also work to further define its monitoring plan over Cotiviti's outlier review within its assessment. This description will include how MetroPlusHealth ensures its vendor's application of the standard is no more stringent on behavioral health providers than medical/surgical providers. By monitoring the ratio of outlier assessments to claims volume for Behavioral Health we will ensure the application is no more stringent than medical services. The description of this monitoring will be expanded and incorporated into the "in operation" step of the assessment.

Name of Managed Care Organization MetroPlus Health Plan, Inc.	**Survey Dates:** September 14, 2022 – October 11, 2023 **Survey ID #** 1463025760
Deficiencies	**Plan of Correction with Timetable**
outlier review, the MCO failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, for outlier review, MetroPlus failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotviti, for triggers of outlier review. MetroPlus failed to provide a sufficient comparative analysis for coding edits. The MCO failed to follow the New York State Office of Mental Health September 2019 emailed guidance (*Guidance on questions related to coding edit NQTL)* regarding the scope of the coding edits analysis. Additionally, information submitted in response to Focus Survey Attachment A requests that pertained to coding edits was not included in the comparative analysis. This was discussed with MetroPlus during an exit conference call on October 11, 2023. **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**	• Finding 6: Failed to provide a sufficient comparative analysis and following the New York State Office of Mental Health September 2019 emailed guidance (Guidance on questions related to coding edit NQTL) regarding the scope of the coding edits analysis. o NQTL Impacted: Coding edits o Responsible Party: [redacted], Vice President of Claims Operations, [redacted] Deputy Executive Director, Core Systems Operations and Provider o Resolution: MetroPlusHealth Plan will expand its comparative analysis and incorporate the guidance provided by the New York State Office of Mental Health in 2019, once that document is provided to the Plan. Neither plan staff nor members of the Manatt team could locate the guidance referenced above. Under the MetroPlusHealth Behavioral Health Parity Compliance Program, The Compliance department has developed training for all new and existing employees, directors or other governing body members, agents and other representatives engaged in functions that are subject to federal or state mental health and substance use disorder parity requirements or involved in analysis as a part of the compliance program. Each module included in the training, is reviewed and approved by the Compliance department on an annual basis. To support the changes being implemented as part of this plan of correction, training will be enhanced to ensure all impacted business areas understand their responsibilities in relation to the NQTL assessment. We are committed to conducting ongoing analysis that will assess, monitor, and manage parity compliance to ensure that the Plan is providing comparable coverage for benefits necessary to treat mental health and substance use disorder, as required under both State and Federal law. As such, MetroPlusHealth Plan will be working with external MHPAEA experts to revise its NQTL analysis and incorporate the State's feedback. Through this engagement, MetroPlusHealth expects to have this plan of correction fully implemented by September 30, 2024. We will leverage the MHPAEA experts to ensure the development of comprehensive data reports will facilitate the ongoing analysis needed to identify and address parity issues. If MetroPlusHealth identifies discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder as compared to medical-surgical services, the Plan will remedy disparate or improper practices. This plan of correction will be overseen by Pamela Binns, Vice President of Compliance.

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

Name of Managed Care Organization MetroPlus Health Plan, Inc.	**Survey Dates:** September 14, 2022 – October 11, 2023 **Survey ID #** 1463025760
Deficiencies	**Plan of Correction with Timetable**

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 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 updated and completed 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 Prior Authorization Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, MetroPlus

MetroPlusHealth Plan has reviewed the State's findings for the Mental Health Parity and Addiction Equity Act Compliance Focus Survey for the period of September 14, 2022 through October 11, 2023. In its findings, the State indicated that MetroPlusHealth Plan's failed to provide a sufficient comparative analysis demonstrating compliance with MHPAEA for eight NQTLs.
To ensure ongoing compliance with MHPAEA requirements, MetroPlusHealth Plan formed a parity workgroup in 2021. This workgroup is facilitated by the MetroPlusHealth Compliance Department and meets, at a minimum quarterly, to discuss parity monitoring. After submitting the response for the Focus Survey in 2022, the workgroup shifted its attention to enhancing existing tools and metrics to support the "in operation" analysis component of the NQTL assessment. Part of this included reexamining the categories of services within mental health and substance use disorder that are comparable to medical/surgical benefits. Throughout 2023, this workgroup worked on developing and refining utilization review dashboards for behavioral health and medical/surgical benefits and worked with various other areas to identify reports that can be used for this effort. Previously, these reports were pulled manually and yielded inconsistent results due to the application of various methodologies for extracting data.
For UR, MetroPlusHealth was able to successfully develop dashboards capturing data related to prior authorization, concurrent, and retrospective reviews. These dashboards enable the Compliance department to identify discrepancies between authorizations received, approved, or denied by our behavioral health and medical/surgical UR teams for both inpatient and outpatient services. The dashboard for retrospective reviews was launched in December 2023 and is currently undergoing user testing. The parity workgroup will be incorporating the review of the three dashboards into their ongoing meetings starting in March 2024 when the dashboards are expected to be finalized. Similar reporting related to reimbursement and experimental/investigational determinations is currently under discussion with Contracting and UR departments. MetroPlusHealth Plan expects to have these reoccurring reports in place by July 2024.

By creating automated reporting for the "in operation" component of this assessment, MetroPlusHealth will be able to systematically compare the impact of implemented processes on behavioral health benefits to medical /surgical benefits.

In addition to the reporting identified above, MetroPlusHealth Plan will undertake the following actions to address the noted findings.

• Finding 1: Failed to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to and are applied no more stringently than those used in applying the limitation to medical and surgical benefits.
o NQTLs Impacted: Reimbursement, retrospective review, experimental/investigational determinations
o Responsible Parties: [redacted], Vice President of Provider Contracting and VB Partnerships; [redacted]
o Resolution: Through the established workgroup, MetroPlusHealth departments responsible for the oversight of the impacted NQTLs (Contracting, Utilization Management, and Behavioral Health Utilization Management), will work to reevaluate and refine the description for the factors and evidentiary standards relied upon to develop or apply the NQTL for both BH and Med/Surg providers and benefits. Once thoroughly reexamined, the workgroup can identify differences and discuss comparability of those varying factors. Part of this analysis will incorporate the basis for considering standards similar or no more restrictive for MH/SUD as compared to Med/Surg. If any factors are deemed non-compliant, the Compliance department will work with the responsible department to remediate. Corrective action plans may be requested depending on the severity and impact of the issue
The results of this analysis and ongoing discussions with the parity workgroup will continue to be incorporated into the NQTL workbooks. At a minimum, the workbooks will be reviewed and updated on a quarterly basis.

• Finding 2: Information submitted in response to the Focus Survey Attachment A requests were not incorporated into the workbook responses and comparative analyses.
o NQTLs Impacted: Reimbursement, retrospective review, prior authorization, concurrent review, coding edits
o Responsible Parties: [redacted]

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

Name of Managed Care Organization MetroPlus Health Plan, Inc.	**Survey Dates:** September 14, 2022 – October 11, 2023 **Survey ID #** 1463025760
Deficiencies	**Plan of Correction with Timetable**
Survey, MetroPlus failed to provide sufficient comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs: • reimbursement, • experimental/investigational determinations, • retrospective review, • prior authorization, • out-of-network (OON) coverage standards, • outlier review, • coding edits, • and concurrent review. Specifically, during the review of the submitted NQTL workbooks, it was found that MetroPlus submitted insufficient comparative analyses and provided general statements of compliance for reimbursement, retrospective review, and experimental/investigational determinations failing to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to, and are applied no more stringently than those used in applying the limitation to medical and surgical benefits. Information submitted in response to the Focus Survey Attachment A requests were also not incorporated into the workbook responses and comparative analyses for reimbursement, retrospective review, prior authorization, and concurrent review. Specifically, for prior authorization, MetroPlus provided descriptions of policies and review processes but failed to provide comparative analyses. For OON coverage standards, MetroPlus provided descriptive information that was not incorporated into the comparative analyses. For outlier review, the MCO failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, for outlier review, MetroPlus failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotviti, for triggers of outlier review. MetroPlus failed to provide a sufficient comparative analysis	o Resolution: MetroPlusHealth will fully incorporate the data identified in Focus Survey Attachment A into its assessment for the impacted NQTLs. Once the data is summarized, impacted departments will be able to identify any discrepancies. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services or providers. For identified issues, the departments will work with the Compliance department to remediate. • Finding 3: Provided descriptions of policies and review processes but failed to provide comparative analysis. o NQTL Impacted: Prior authorizations o Responsible Party: [redacted] o Resolution: MetroPlusHealth will reevaluate the components of this NQTL to enable the responsible departments to identify and describe similarities and differences in more detail. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services. For identified issues, the departments will work with the Compliance department to remediate. • Finding 4: MetroPlus provided descriptive information that was not incorporated into the comparative analysis. o NQTL Impacted: OON coverage standards o Responsible Party: [redacted], Vice President of Clinical Services; Karen Lenard, Vice President of Behavioral Health o Resolution: MetroPlusHealth will incorporate the descriptive information into its existing comparative analysis to ensure the processes and strategies used to operationalize this standard are comparable and no more stringently applied to behavioral health benefits. • Finding 5: Failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotiviti, for triggers of outlier review. o NQTL Impacted: Outlier review o Responsible Party: [redacted] o Resolution: The SIU department will work with Compliance to reevaluate the NQTL assessment for outlier review. Updates will include clearly defining key terms, describing factors relied upon to determine applicability in more detail, and enhancing its comparative analysis. The SIU will also work to further define its monitoring plan over Cotiviti's outlier review within its assessment. This description will include how MetroPlusHealth ensures its vendor's application of the standard is no more stringent on behavioral health providers than medical/surgical providers. By monitoring the ratio of outlier assessments to claims volume for Behavioral Health we will ensure the application is no more stringent than medical services. The description of this monitoring will be expanded and incorporated into the "in operation" step of the assessment. • Finding 6: Failed to provide a sufficient comparative analysis and following the New York State Office of Mental Health September 2019 emailed guidance (Guidance on questions related to coding edit NQTL) regarding the scope of the coding edits analysis. o NQTL Impacted: Coding edits o Responsible Party: [redacted] o Resolution: MetroPlusHealth Plan will expand its comparative analysis and incorporate the guidance provided by the New York State Office of Mental Health in 2019, once that document is provided to the Plan. Neither plan staff nor members of the Manatt team could locate the guidance referenced above. Under the MetroPlusHealth Behavioral Health Parity Compliance Program, The Compliance department has developed training for all new and existing employees, directors or other governing body members, agents and other representatives engaged in functions that are subject to federal or state mental health and substance use disorder parity requirements or involved in analysis as a part of the compliance program. Each module included in the training, is reviewed and approved by the Compliance department on an annual basis. To support the changes being implemented as part of this plan of correction, training will be enhanced to ensure all impacted business areas understand their responsibilities in relation to the NQTL assessment.

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

Name of Managed Care Organization MetroPlus Health Plan, Inc.	**Survey Dates:** September 14, 2022 – October 11, 2023 **Survey ID #** 1463025760
Deficiencies	**Plan of Correction with Timetable**
for coding edits. The MCO failed to follow the New York State Office of Mental Health September 2019 emailed guidance (*Guidance on questions related to coding edit NQTL)* regarding the scope of the coding edits analysis. Additionally, information submitted in response to Focus Survey Attachment A requests that pertained to coding edits was not included in the comparative analysis. This was discussed with MetroPlus during an exit conference call on October 11, 2023.	We are committed to conducting ongoing analysis that will assess, monitor, and manage parity compliance to ensure that the Plan is providing comparable coverage for benefits necessary to treat mental health and substance use disorder, as required under both State and Federal law. As such, MetroPlusHealth Plan will be working with external MHPAEA experts to revise its NQTL analysis and incorporate the State's feedback. Through this engagement, MetroPlusHealth expects to have this plan of correction fully implemented by September 30, 2024. We will leverage the MHPAEA experts to ensure the development of comprehensive data reports will facilitate the ongoing analysis needed to identify and address parity issues. If MetroPlusHealth identifies discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder as compared to medical-surgical services, the Plan will remedy disparate or improper practices. This plan of correction will be overseen by [redacted] Vice President of Compliance.

Statement of Findings
MetroPlus Health Plan, Inc.
Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance
Virtual Focus Survey
Survey Dates: September 14, 2022 – October 11, 2023
Survey ID: 1463025760

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 review of the updated and completed 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 Prior Authorization Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, MetroPlus failed to provide sufficient comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs:

- reimbursement,

- experimental/investigational determinations,
- retrospective review,
- prior authorization,
- out-of-network (OON) coverage standards,
- outlier review,
- coding edits, and
- concurrent review.

Specifically, during the review of the submitted NQTL workbooks, it was found that MetroPlus submitted insufficient comparative analyses and provided general statements of compliance for reimbursement, retrospective review, and experimental/investigational determinations failing to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to, and are applied no more stringently than those used in applying the limitation to medical and surgical benefits. Information submitted in response to the Focus Survey Attachment A requests were also not incorporated into the workbook responses and comparative analyses for reimbursement, retrospective review, prior authorization, and concurrent review.

Specifically, for prior authorization, MetroPlus provided descriptions of policies and review processes but failed to provide comparative analyses. For OON coverage standards, MetroPlus provided descriptive information that was not incorporated into the comparative analyses. For outlier review, the MCO failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, for outlier review, MetroPlus failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotviti, for triggers of outlier review.

MetroPlus failed to provide a sufficient comparative analysis for coding edits. The MCO failed to follow the New York State Office of Mental Health September 2019 emailed guidance (Guidance on questions related to coding edit NQTL) regarding the scope of the coding edits analysis. Additionally, information submitted in response to Focus Survey Attachment A requests that pertained to coding edits was not included in the comparative analysis.

This was discussed with MetroPlus during an exit conference call on October 11, 2023.

✓MetroPlusHealth

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MetroPlusHealth Plan Response

MetroPlusHealth Plan has reviewed the State's findings for the Mental Health Parity and Addiction Equity Act Compliance Focus Survey for the period of September 14, 2022 through October 11, 2023. In its findings, the State indicated that MetroPlusHealth Plan's failed to provide a sufficient comparative analysis demonstrating compliance with MHPAEA for eight NQTLs.

To ensure ongoing compliance with MHPAEA requirements, MetroPlusHealth Plan formed a parity workgroup in 2021. This workgroup is facilitated by the MetroPlusHealth Compliance Department and meets, at a minimum quarterly, to discuss parity monitoring. After submitting the response for the Focus Survey in 2022, the workgroup shifted its attention to enhancing existing tools and metrics to support the "in operation" analysis component of the NQTL assessment. Part of this included reexamining the categories of services within mental health and substance use disorder that are comparable to medical/surgical benefits. Throughout 2023, this workgroup worked on developing and refining utilization review dashboards for behavioral health and medical/surgical benefits and worked with various other areas to identify reports that can be used for this effort. Previously, these reports were pulled manually and yielded inconsistent results due to the application of various methodologies for extracting data.

For UR, MetroPlusHealth was able to successfully develop dashboards capturing data related to prior authorization, concurrent, and retrospective reviews. These dashboards enable the Compliance department to identify discrepancies between authorizations received, approved, or denied by our behavioral health and medical/surgical UR teams for both inpatient and outpatient services. The dashboard for retrospective reviews was launched in December 2023 and is currently undergoing user testing. The parity workgroup will be incorporating the review of the three dashboards into their ongoing meetings starting in March 2024 when the dashboards are expected to be finalized.

Similar reporting related to reimbursement and experimental/investigational determinations is currently under discussion with Contracting and UR departments. MetroPlusHealth Plan expects to have these reoccurring reports in place by July 2024.

By creating automated reporting for the "in operation" component of this assessment, MetroPlusHealth will be able to systematically compare the impact of implemented processes on behavioral health benefits to medical /surgical benefits.

In addition to the reporting identified above, MetroPlusHealth Plan will undertake the following actions to address the noted findings.

- **Finding 1:** Failed to demonstrate that the processes, strategies, evidentiary standards, or other factors used in applying each NQTL to mental health and substance use disorder benefits are comparable to and are applied no more stringently than those used in applying the limitation to medical and surgical benefits.
    - **NQTLs Impacted**: Reimbursement, retrospective review, experimental/investigational determinations
    - **Responsible Parties**: [redacted]
    - **Resolution**: Through the established workgroup, MetroPlusHealth departments responsible for the oversight of the impacted NQTLs (Contracting, Utilization Management, and Behavioral Health Utilization Management), will work to reevaluate and refine the description for the factors and evidentiary standards relied upon to develop or apply the NQTL for both BH and Med/Surg providers and benefits. Once thoroughly reexamined, the workgroup can identify differences and discuss comparability of those varying factors. Part of this analysis will incorporate the basis for considering standards similar or no more restrictive for MH/SUD as compared to Med/Surg. If any factors are deemed non-compliant, the Compliance department will work with the responsible department to remediate. Corrective action plans may be requested depending on the severity and impact of the issue.

      The results of this analysis and ongoing discussions with the parity workgroup will continue to be incorporated into the NQTL workbooks. At a minimum, the workbooks will be reviewed and updated on a quarterly basis.

- **Finding 2:** Information submitted in response to the Focus Survey Attachment A requests were not incorporated into the workbook responses and comparative analyses.
    - **NQTLs Impacted:** Reimbursement, retrospective review, prior authorization, concurrent review, coding edits
    - **Responsible Parties:** [redacted]

- **Resolution**: MetroPlusHealth will fully incorporate the data identified in Focus Survey Attachment A into its assessment for the impacted NQTLs. Once the data is summarized, impacted departments will be able to identify any discrepancies. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services or providers. For identified issues, the departments will work with the Compliance department to remediate.

- **Finding 3:** Provided descriptions of policies and review processes but failed to provide comparative analysis.
  - **NQTL Impacted**: Prior authorizations
  - **Responsible Party:** [redacted]
  - **Resolution**: MetroPlusHealth will reevaluate the components of this NQTL to enable the responsible departments to identify and describe similarities and differences in more detail. If deviations exist, the responsible department will evaluate whether the standard is more stringently applied to behavioral health services. For identified issues, the departments will work with the Compliance department to remediate.

- **Finding 4**: MetroPlus provided descriptive information that was not incorporated into the comparative analysis.
  - **NQTL Impacted:** OON coverage standards
  - **Responsible Party:** [redacted]
  - **Resolution**: MetroPlusHealth will incorporate the descriptive information into its existing comparative analysis to ensure the processes and strategies used to operationalize this standard are comparable and no more stringently applied to behavioral health benefits.

- **Finding 5:** Failed to define key terms, or parameters, and the basis to conclude comparability was not specific. Additionally, failed to indicate how the MCO assesses parity compliance requirements of the vendor, Cotiviti, for triggers of outlier review.
  - **NQTL Impacted:** Outlier review
  - **Responsible Party:** [redacted]
  - **Resolution:** The SIU department will work with Compliance to reevaluate the NQTL assessment for outlier review. Updates will include clearly defining key terms, describing factors relied upon to determine applicability in more detail, and enhancing its comparative analysis.

The SIU will also work to further define its monitoring plan over Cotiviti's outlier review within its assessment. This description will include how MetroPlusHealth ensures its vendor's application of the standard is no more stringent on behavioral health providers than medical/surgical providers. By monitoring the ratio of outlier assessments to claims volume for Behavioral Health we will ensure the application is no more stringent than medical services. The description of this monitoring will be expanded and incorporated into the "in operation" step of the assessment.

- **Finding 6:** Failed to provide a sufficient comparative analysis and following the New York State Office of Mental Health September 2019 emailed guidance (Guidance on questions related to coding edit NQTL) regarding the scope of the coding edits analysis.
    - **NQTL Impacted:** Coding edits
    - **Responsible Party:** [redacted]
    - **Resolution:** MetroPlusHealth Plan will expand its comparative analysis and incorporate the guidance provided by the New York State Office of Mental Health in 2019, once that document is provided to the Plan. Neither plan staff nor members of the Manatt team could locate the guidance referenced above.

Under the MetroPlusHealth Behavioral Health Parity Compliance Program, The Compliance department has developed training for all new and existing employees, directors or other governing body members, agents and other representatives engaged in functions that are subject to federal or state mental health and substance use disorder parity requirements or involved in analysis as a part of the compliance program. Each module included in the training, is reviewed and approved by the Compliance department on an annual basis. To support the changes being implemented as part of this plan of correction, training will be enhanced to ensure all impacted business areas understand their responsibilities in relation to the NQTL assessment.

We are committed to conducting ongoing analysis that will assess, monitor, and manage parity compliance to ensure that the Plan is providing comparable coverage for benefits necessary to treat mental health and substance use disorder, as required under both State and Federal law. As such, MetroPlusHealth Plan will be working with external MHPAEA experts to revise its NQTL analysis and incorporate the State's feedback.

Through this engagement, MetroPlusHealth expects to have this plan of correction fully implemented by September 30, 2024. We will leverage the MHPAEA experts to ensure the development of comprehensive data reports will facilitate the ongoing analysis needed to identify and address parity issues. If MetroPlusHealth identifies discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder as compared to medical-surgical services, the Plan will remedy disparate or improper practices. This plan of correction will be overseen by [redacted].