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 Molina Healthcare of New York, Inc.	**TYPE OF SURVEY:** Mental Health Parity and Addiction Equity Act Compliance Virtual Focus Survey **Survey ID #** 1148866785
STREET ADDRESS, CITY, STATE, ZIP CODE 5232 Witz Drive North Syracuse, NY 13212	**SURVEY DATES:** September 14, 2022 – October 26, 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….**	Molina Healthcare of New York, Inc. (MNY) Senior Leadership team and Compliance Committee will take the following steps to revise, educate and monitor for mental health and substance use disorder benefits parity requirements. MNY will ensure an annual review and update of all NQTL workbooks in addition to any adjustments based on regulatory request. **Prior Authorization** Review of Non-Compliance 1. MNY will identify in detail the factors triggering (Step 2) prior authorization review by 4/1/2024. 2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024. 3. MNY will incorporate the Focused Surveys Attachment A details into overall prior authorization NQTL by 4/30/2024. 4. MNY will re-review and update the overall analyses to include the Focused Surveys Attachment B data for the in-network inpatient benefit classification, OON inpatient prior authorization and outpatient prior authorization by 4/30/2024. 5. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024. Revision and Correction 1. MNY will update the NQTL Phase I Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024. 2. Should MNY find any evidence that prior authorization for MH/ SUD services appears to be more stringent than prior authorization for Med/

	Surg services, corrective measures will be implemented by 6/1/2024 to ensure parity between MH/SUD services and Med/Surg services. 3. As applicable, MNY will review and revise Policies & Procedures and Job Aides as necessary to ensure parity with respect to prior authorization between MH/SUD services and Med/Surg services by 6/1/2024. Education and Training 1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete*** 2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024. 3. Should MNY find any evidence that MH/ SUD prior authorization appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024. Monitoring 1. MNYs Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024. 2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024. Responsible Parties ▪ [redacted], Health Care Services Date Certain ▪ 6/1/2024 **Concurrent Review** Review of Non-Compliance 1. MNY will identify in detail the factors triggering (Step 2) concurrent review by 4/1/2024. 2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024. 3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024. Revision and Correction 1. MNY will update the NQTL Phase I Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024. 2. Should MNY find any evidence that concurrent review for MH/ SUD services appears to be more stringent than concurrent review for Med/ Surg services, corrective measures will be implemented by 6/1/2024.

	3. MNY will review and revise Policies & Procedures and Job Aides as applicable by 6/1/2024. Education and Training 1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete*** 2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024. 3. Should MNY find any evidence that MH/ SUD concurrent review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024. Monitoring 1. MNYs Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024. 2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024. Responsible Parties ▪ [redacted] Health Care Services Date Certain ▪ 6/1/2024 **Coding Edits** Review of Non-Compliance 1. MNY will identify in detail the factors triggering (Step 2) coding edits by 4/1/2024. 2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024. 3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024. Revision and Correction 1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024. 2. Should MNY find any evidence that coding edits for MH/ SUD services appear to be more stringent than coding edits for Med/ Surg services, corrective measures will be implemented by 6/1/2024. 3. As applicable, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024. Education and Training 1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***

2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD coding edits appear to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Operations

Date Certain

- 6/1/2024

Out-of-Network (OON) Coverage Standards

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) OON coverage standards by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that OON coverage standards for MH/ SUD services appear to be more stringent than OON coverage standards for Med/ Surg services, corrective measures will be deployed by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD OON coverage standards appear to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

	1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024. 2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024. Responsible Parties ▪ [redacted] Network Management & Operations Date Certain ▪ 6/1/2024 **Reimbursement** Review of Non-Compliance 1. MNY will identify in detail the factors triggering (Step 2) reimbursement by 4/1/2024. 2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024. 3. MNY will incorporate the Focused Surveys Attachment A details into overall reimbursement NQTL by 4/30/2024. 4. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024. Revision and Correction 1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024. 2. Should MNY find any evidence that reimbursement for MH/ SUD services appears to be more stringent than reimbursement for Med/ Surg services, corrective measures will be implemented by 6/1/2024. 3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024. Education and Training 1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete*** 2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024. 3. Should MNY find any evidence that MH/ SUD reimbursement appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024. Monitoring 1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.

2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Network Management & Operations

Date Certain

- 6/1/2024

Retrospective Review

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) retrospective review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will incorporate the Focused Surveys Attachment A details into overall retrospective review NQTL by 4/30/2024.
4. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that retrospective review for MH/ SUD services appears to be more stringent than retrospective review for Med/ Surg services, corrective measure will be implemented by 6/1/2024
3. MNY will review and revise Policies & Procedures and Job Aides as applicable by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD retrospective review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Health Care Services

Date Certain

- 6/1/2024

Outlier Review

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) outlier review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that outlier review for MH/ SUD appears to be more stringent than outlier review for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD outlier review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Health Care Services

Date Certain

- 6/1/2024

Experimental/ Investigational Determinations

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) experimental/ investigational determinations by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024
3. MNY will document and demonstrate sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that experimental/investigational determinations for MH/ SUD services appears to be more stringent than experimental/investigational determinations for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD experimental/ investigation appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Health Care Services

Date Certain

- 6/1/2024

Provider Credentialing (Outpatient only)

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) provider credentialing- outpatient only by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.

	3. MNY will document and demonstrate sufficient comparative analyses (Steps 4 and 5) by 5/15/2024. Revision and Correction 1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024. 2. Should MNY find any evidence that provider credentialing for MH/ SUD services appears to be more stringent than provider credentialing for Med/ Surg services, corrective measures will be implemented by 6/1/2024. 3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024. Education and Training 1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete*** 2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024. 3. Should MNY find any evidence that MH/ SUD provider credentialing- outpatient only appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024. Monitoring 1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024. 2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024. Responsible Parties ▪ [redacted] Network Management & Operations Date Certain ▪ 6/1/2024
MCO Representatives Signatur [redacted]	Date: 2/28/2024
Title: Compliance Officer	

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

Name of Managed Care Organization Molina Healthcare of New York, Inc.	**Survey Dates:** September 14, 2022 – October 26, 2023 **Survey ID #** 1148866785
Deficiencies	**Plan of Correction with Timetable**
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 Prior Authorization Information Request (Attachment B) submitted in response to the Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance Virtual Focus Survey, Molina Healthcare of New York, Inc. (Molina) failed to provide sufficient comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs: • prior authorization, • concurrent review, • coding edits, • out-of-network (OON) coverage standards, • reimbursement, • retrospective review, • outlier review, • experimental/investigational determinations, • and provider credentialing (outpatient only). Specifically, during the review of the submitted NQTL workbooks, it was found that Molina submitted insufficient comparative analyses and provided general statements of compliance for prior authorization, concurrent review, coding edits, OON coverage standards, reimbursement, retrospective review, and outlier review failing to demonstrate 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, the processes, strategies, evidentiary standards, or other factors 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 prior authorization, reimbursement, and retrospective review.	

Name of Managed Care Organization Molina Healthcare of New York, Inc.	**Survey Dates:** September 14, 2022 – October 26, 2023 **Survey ID #** 1148866785
Deficiencies	**Plan of Correction with Timetable**
Additionally, for prior authorization, the analysis for in-network inpatient benefits classification did not correlate with the information reported on Attachment B and analyses addressing out-of-network inpatient prior authorization and outpatient prior authorization were insufficient and incomplete. Specifically, for OON coverage standards, outlier review, and experimental/investigational determinations, Molina failed to provide sufficient comparative analyses as written and in operation. For OON coverage standards, the workbook responses also failed to include the criteria that are required to be met for OON coverage, independent of the prior authorization criteria. For outlier review, Molina provided information regarding the retrospective review and prior authorization processes, parity compliance monitoring and statement of workflow process, and claims edits instead of an analysis. Additionally, for experimental/investigational determinations, Molina provided policies as the basis for comparability and sufficient as written comparative analyses, however, the MCO failed to provide an explanation or demonstration of comparable application. This was discussed with Molina during an exit conference call on October 26, 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**	

Name of Managed Care Organization Molina Healthcare of New York, Inc.	**Survey Dates:** September 14, 2022 – October 26, 2023 **Survey ID #** 1148866785
Deficiencies	**Plan of Correction with Timetable**
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 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** **<u>Deficiency:</u>** Based on review of the Phase I, Phase II, and Phase III nonquantitative treatment limitation (NQTL) workbooks, specific in-operation NQTL requests (Focus Survey	

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

Name of Managed Care Organization Molina Healthcare of New York, Inc.	**Survey Dates:** September 14, 2022 – October 26, 2023 **Survey ID #** 1148866785
Deficiencies	**Plan of Correction with Timetable**
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, Molina Healthcare of New York, Inc. (Molina) failed to provide sufficient comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs: • prior authorization, • concurrent review, • coding edits, • out-of-network (OON) coverage standards, • reimbursement, • retrospective review, • outlier review, • experimental/investigational determinations, • and provider credentialing (outpatient only). Specifically, during the review of the submitted NQTL workbooks, it was found that Molina submitted insufficient comparative analyses and provided general statements of compliance for prior authorization, concurrent review, coding edits, OON coverage standards, reimbursement, retrospective review, and outlier review failing to demonstrate 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, the processes, strategies, evidentiary standards, or other factors 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 prior authorization, reimbursement, and retrospective review. Additionally, for prior authorization, the analysis for in-network inpatient benefits classification did not correlate with the information reported on Attachment B and analyses addressing out-of-network inpatient prior authorization and outpatient prior authorization were insufficient and incomplete.	

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

Name of Managed Care Organization Molina Healthcare of New York, Inc.	**Survey Dates:** September 14, 2022 – October 26, 2023 **Survey ID #** 1148866785
Deficiencies	**Plan of Correction with Timetable**
Specifically, for OON coverage standards, outlier review, and experimental/investigational determinations, Molina failed to provide sufficient comparative analyses as written and in operation. For OON coverage standards, the workbook responses also failed to include the criteria that are required to be met for OON coverage, independent of the prior authorization criteria. For outlier review, Molina provided information regarding the retrospective review and prior authorization processes, parity compliance monitoring and statement of workflow process, and claims edits instead of an analysis. Additionally, for experimental/investigational determinations, Molina provided policies as the basis for comparability and sufficient as written comparative analyses, however, the MCO failed to provide an explanation or demonstration of comparable application. This was discussed with Molina during an exit conference call on October 26, 2023.	

Statement of Findings
Molina Healthcare of New York, Inc.
Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance
Virtual Focus Survey
Survey Dates: September 14, 2022 – October 26, 2023
Survey ID: 1148866785

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 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, Molina Healthcare of New York, Inc. (Molina) failed to provide sufficient, complete comparative analyses demonstrating compliance with MHPAEA, P.L. 110-343, for the following NQTLs:

- prior authorization,

- concurrent review,
- coding edits,
- out-of-network (OON) coverage standards,
- reimbursement,
- retrospective review,
- outlier review,
- experimental/investigational determinations, and
- provider credentialing (outpatient only).

Specifically, during the review of the submitted NQTL workbooks, it was found that Molina submitted insufficient comparative analyses and provided general statements of compliance for prior authorization, concurrent review, coding edits, OON coverage standards, reimbursement, retrospective review, and outlier review failing to demonstrate 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, the processes, strategies, evidentiary standards, or other factors 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 prior authorization, reimbursement, and retrospective review.

Additionally, for prior authorization, the analysis for in-network inpatient benefits classification did not correlate with the information reported on Attachment B and analyses addressing out-of-network inpatient prior authorization and outpatient prior authorization were insufficient and incomplete.

Specifically, for OON coverage standards, outlier review, and experimental/investigational determinations, Molina failed to provide sufficient comparative analyses as written and in operation. For OON coverage standards, the workbook responses also failed to include the criteria that are required to be met for OON coverage, independent of the prior authorization criteria. For outlier review, Molina provided information regarding the retrospective review and prior authorization processes, parity compliance monitoring and statement of workflow process, and claims edits instead of an analysis. Additionally, for experimental/investigational determinations, Molina provided policies as the basis for comparability and sufficient as written comparative analyses, however, the MCO failed to provide an explanation or demonstration of comparable application.

This was discussed with Molina during an exit conference call on October 26, 2023.

Statement of Findings
Molina Healthcare of New York, Inc.
Mental Health Parity and Addiction Equity Act (MHPAEA) Compliance
Virtual Focus Survey
Survey Dates: September 14, 2022 – October 26, 2023
Survey ID: 1148866785

Molina Healthcare of New York, Inc. (MNY) Senior Leadership team and Compliance Committee will take the following steps to revise, educate and monitor for mental health and substance use disorder benefits parity requirements. MNY will ensure an annual review and update of all NQTL workbooks in addition to any adjustments based on regulatory request.

Prior Authorization

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) prior authorization review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will incorporate the Focused Surveys Attachment A details into overall prior authorization NQTL by 4/30/2024.
4. MNY will re-review and update the overall analyses to include the Focused Surveys Attachment B data for the in-network inpatient benefit classification, OON inpatient prior authorization and outpatient prior authorization by 4/30/2024.
5. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase I Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that prior authorization for MH/ SUD services appears to be more stringent than prior authorization for Med/ Surg services, corrective measures will be implemented by 6/1/2024 to ensure parity between MH/SUD services and Med/Surg services.
3. As applicable, MNY will review and revise Policies & Procedures and Job Aides as necessary to ensure parity with respect to prior authorization between MH/SUD services and Med/Surg services by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD prior authorization appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNYs Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Health Care Services

Date Certain

- 6/1/2024

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Concurrent Review

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) concurrent review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase I Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that concurrent review for MH/ SUD services appears to be more stringent than concurrent review for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. MNY will review and revise Policies & Procedures and Job Aides as applicable by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD concurrent review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNYs Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Health Care Services

Date Certain

- 6/1/2024

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Coding Edits

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) coding edits by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that coding edits for MH/ SUD services appear to be more stringent than coding edits for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As applicable, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD coding edits appear to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] - VP, Operations

Date Certain

- 6/1/2024

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Out-of-Network (OON) Coverage Standards

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) OON coverage standards by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that OON coverage standards for MH/ SUD services appear to be more stringent than OON coverage standards for Med/ Surg services, corrective measures will be deployed by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD OON coverage standards appear to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Network Management & Operations

Date Certain

- 6/1/2024

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Reimbursement

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) reimbursement by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will incorporate the Focused Surveys Attachment A details into overall reimbursement NQTL by 4/30/2024.
4. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase II Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that reimbursement for MH/ SUD services appears to be more stringent than reimbursement for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD reimbursement appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Network Management & Operations

Date Certain

- 6/1/2024

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Retrospective Review

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) retrospective review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will incorporate the Focused Surveys Attachment A details into overall retrospective review NQTL by 4/30/2024.
4. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that retrospective review for MH/ SUD services appears to be more stringent than retrospective review for Med/ Surg services, corrective measure will be implemented by 6/1/2024
3. MNY will review and revise Policies & Procedures and Job Aides as applicable by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD retrospective review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Health Care Services

Date Certain

- 6/1/2024

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Outlier Review

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) outlier review by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that outlier review for MH/ SUD appears to be more stringent than outlier review for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD outlier review appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted], Health Care Services

Date Certain

- 6/1/2024

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Experimental/ Investigational Determinations

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) experimental/ investigational determinations by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024
3. MNY will document and demonstrate sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that experimental/investigational determinations for MH/ SUD services appears to be more stringent than experimental/investigational determinations for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD experimental/ investigation appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Health Care Services

Date Certain

- 6/1/2024

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Provider Credentialing (Outpatient only)

Review of Non-Compliance

1. MNY will identify in detail the factors triggering (Step 2) provider credentialing- outpatient only by 4/1/2024.
2. MNY will identify evidentiary standards for each of the identified factors (Step 3) by 4/15/2024.
3. MNY will document and demonstrate sufficient comparative analyses (Steps 4 and 5) by 5/15/2024.

Revision and Correction

1. MNY will update the NQTL Phase III Workbook responses to include detailed responses for Steps 2, 3, 4 and 5 by 5/15/2024.
2. Should MNY find any evidence that provider credentialing for MH/ SUD services appears to be more stringent than provider credentialing for Med/ Surg services, corrective measures will be implemented by 6/1/2024.
3. As necessary, MNY will review and revise Policies & Procedures and Job Aides by 6/1/2024.

Education and Training

1. MNY will deploy Learning Lab BH420: Mental Health Parity and Equity Act Overview by 12/22/2023- ***complete***
2. MNY will identify and enroll key stakeholders for NQTL training by 3/15/2024.
3. Should MNY find any evidence that MH/ SUD provider credentialing- outpatient only appears to be more stringent than Med/ Surg, specific education to remediate will be deployed by 6/1/2024.

Monitoring

1. MNY's Compliance Department will hold monthly status calls with key stakeholders to review corrective action progress beginning 3/22/2024.
2. Plan of Correction updates will be presented to MNY's Compliance Committee each quarter beginning 3/11/2024.

Responsible Parties

- [redacted] Network Management & Operations

Date Certain

- 6/1/2024