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

NAME OF MANAGED CARE ORGANIZATION	TYPE OF SURVEY:
Amida Care, Inc.	Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE	**SURVEY DATES:**
14 Penn Plaza, 2nd Floor New York, NY 10122	August 22, 2018 – September 8, 2020

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 CRR-NY 98-1.16 Disclosure and filing. **(h) In the event an MCO does not provide substantially complete reports or other information required under this Subpart by the due date, or provide requested information within 30 days of any written request for a specific analysis or report by the superintendent or commissioner, the superintendent or commissioner is authorized to levy a civil penalty, after notice and hearing, pursuant to section 12 of the Public Health Law or sections 307 and 308 of the Insurance Law.** **Deficiency:** Based on the review of Amida Care, Inc.'s Phase I and Phase II nonquantitative treatment limitation (NQTL) workbook submissions, the MCO failed to provide all required information and comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008, (P.L. 110-345; MHPAEA) for 8 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits, out of network coverage standards, geographic restrictions and reimbursement. • Specifically, in Phase I, Amida Care, Inc. failed to provide substantive comparative analyses for (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient prior authorization, concurrent review, and medical necessity criteria. The MCO also failed to provide all information and substantive comparative analyses for Steps 1 through 5 for prescription drugs formulary design. • Specifically, in Phase II, Amida Care, Inc. failed to provide all information and substantive comparative analyses for Steps 1 through 5 for inpatient and	**PHASE I - NQTL #1 - Prior Authorization;NQTL #2 - Concurrent review;NQTL #3 - Medical Necessity Criteria;** Amida Care carefully reviewed our prior workbook responses and OMH's feedback for Prior Authorizations, Concurrent Review and Medical Necessity Criteria (for Inpatient and Outpatient). We agree that a more formal process is needed to compare the MH/SUD benefit to the Med/Surgical benefit to ensure they are comparable and that the MH/SUD policies are not more stringently applied than those for Med/Surgical. Amida Care's Health Services team will develop a review group to formally compare the Prior Authorizations, Concurrent Review and Medical Necessity Criteria (for Inpatient and Outpatient) and develop a policy that defines the steps involved to create a comparative analysis. Amida Care will ask Beacon to participate in this review by providing expertise on the MH/SUD benefit. - Once this review group completes the policy on the comparative analysis, a meeting will be scheduled with Milliman (with a cc to the OMH Parity Mailbox) and ask them for their input on whether our comparative analysis meets the technical requirements of parity compliance. On an ongoing basis, Parity compliance will be part of the agenda item in our quarterly delegated vendor oversight (DVO) meetings. Amida Care will ensure the review group will complete the comparative analysis policy by 2/28/2021. A meeting will be scheduled with Milliman by 3/31/2021. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task. Amida Care believes our summary was non-compliant due to the lack of comparative analysis in Step 5. In step 5, we described how Amida Care's Health Services team will form a review group to provide a comparative analysis. This review group will add a summary of the comparative analysis to the existing summary and ensure it is compliant with the questions for step 6. The review group will monitor this summary at the conclusion of the development of the comparative analysis policy. Amida Care will determine and verify whether the summary is not compliant by 3/31/2021. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task. **PHASE I - NQTL #1 - Prior Authorization; NQTL #2 - Concurrent review; NQTL #3 - Medical Necessity Criteria 6/29/2021** - Effective Q4 2021, Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will be reviewing and creating a comparative analysis for the current requirements/criteria. The workgroup will be responsible for updating and maintaining the required information and substantive comparative analysis for Phase 1 and Phase 2 workbooks. There will be an ongoing monitoring of the corrections to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be created and finalized that will detail this process. Upon completion of the Phase 1 and Phase 2 workbooks, a meeting will be scheduled with Milliman (with a cc to the OMH Parity Mailbox) requesting their review and feedback on whether our comparative analysis meets the technical requirements of Parity Compliance. Staff training will be scheduled following the finalization of the policy and any necessary changes to address areas of potential non-compliance. In order to ensure that Amida Care will educate/train staff of any necessary changes to address potential non-compliance, specific Mental Health Parity and Addiction Equity Act (MHPAEA) training will be included within the existing Compliance Program Training for all employees which is required annually and for new hires.

	Amida Care will include MHPAEA Compliance Issues within the scope of the Compliance Hotline reporting under the Compliance Program. Any such compliance issues shall be investigated appropriately including protection for the reporting individual from any retaliation. If Amida Care identifies any MHPAEA violations, immediate corrective action will be implemented to correct the violation. To ensure ongoing monitoring, Amida Care will designate a management staff responsible for assessing, monitoring, and managing Parity Compliance. Such management staff reports directly to the Chief Medical Officer. Parity reports will be presented no less than annually to the Compliance Committee on the activities of the Mental Health Parity Program. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task.

outpatient coding edits and geographic restrictions. Responses provided for geographic restrictions were based on a misinterpretation of the NQTL.

Additionally, Amida Care, Inc. failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency and provide substantive comparative analyses for (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient reimbursement.

PHASE I NQTL #4 - Formulary Design

Upon further research, it was determined that Amida Care did prepare responses for NQTL 4, but were not submitted to the state. We have those responses for review when needed. According to the SOD/SOF letter from OMH, "At this time, due to the planned pharmacy benefit carve out from Medicaid Managed Care, the MCO is not required to address deficiencies related to the prescription drugs classification or the formulary design NQTL. The NYS OMH and NYS DOH reserve the right to address any pharmacy benefit related deficiencies at a later date. "This is complete. No further action needed.

PHASE II - NQTL #1 - Coding Edits- In our original response, Amida Care and Beacon submitted a reference table on all the codes that are used for processing MH/SUD claims. Upon further review, we did not provide enough of an explanation to demonstrate how we utilize this table for Steps 1-6. Amida Care's Claim team will work with Beacon to further elaborate our responses. We believe the revised response with detailed information will demonstrate parity compliance without implementation a new process. This revised response will be provided by 2/28/2021 for review. [redacted], Amida Care's Director of Operational Initiates, will be responsible for this task.

PHASE II - NQTL #1 - Coding Edits- 6/29/2021 Effective Q4 2021, Amida Care internal staff and Beacon will meet to review claim coding policies and procedures for automatic or systematic coding for mental health/SUD benefits and for medical/surgical benefits. Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will also include the coding edit protocols for both MH/SUD benefits and medical/surgical benefits. The workgroup will also demonstrate that the evidentiary standard(s) used to define factors identified in Step 2 and any other evidence relied upon to establish the coding edit protocols for MH/SUD benefits are comparable to and applied no more stringently than the evidentiary standard(s) used to define factors and any other evidence relied upon to establish the coding edit protocols for medical/surgical benefits. There will be an ongoing monitoring of coding edits to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be created and finalized that will detail this process. [redacted], Amida Care's Director of Operational Initiatives, will be responsible for this task.

PHASE II - NQTL #3 - Geographic Restrictions - Amida Care's original response to Phase II, NQTL #3, Geographic Restrictions had information relating to our Network Adequacy policies. We will develop new responses based on the clarification of the questions. Amida Care's Provider Services team will coordinate with Beacon to develop detailed responses to these questions about geographic restrictions. Once we have a detailed response to these questions, we do not believe any new procedures will need to be implemented. Amida Care and Beacon will complete the revised response for review by 1/31/2021. [redacted] Amida Care's Senior Director of Network Operations, will be responsible for this task.

PHASE II - NQTL #3 - Geographic Restrictions- 6/29/2021- Currently, Both Amida Care and Beacon follow the NY Medicaid model contract. Notably, Beacon may not discriminate with regard to the participation, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable State law, solely on the basis of that license or certification. As such, the only Provider type exclusion that Beacon would have would be for those that are non-licensed. Amida Care and Beacon will maintain a network that is geographically accessible to the population to be served. Beacon has an approved Policy and Procedure entitled "Out of Network Single Case Agreement Pre Certification Process – NY Prior Auth" which outlines procedures when a gap in service, access issue, and/or Clinical Specialty/Modality has been identified requiring additional certification beyond Licensure that the network cannot support. Effective Q4 2021, there will be an ongoing monitoring on a quarterly basis of any geographic restrictions to ensure they are addressed. This process will be included in the Delegated Vendor Oversight reports. [redacted], Amida Care's Senior Director of Network Operations, will be responsible for this task.

PHASE II - NQTL #4 – Reimbursement - Phase II, NQTL #3, Step was non-compliant for all of Beacon's clients. We are working with Beacon to determine the cause of non-compliance. Amida Care Claims team will coordinate with Beacon to determine how we can add more details to our response so that this response is compliant. Once we have a detailed response to these questions, we do not believe any new procedures will need to be implemented. With Beacon's assistance, a compliant response to this question will be provided by 2/28/2021. [redacted], Amida Care's Director of Operational Initiates, will be responsible for this task.

PHASE II - NQTL #4 – Reimbursement- 6/29/2021 Effective Q4 2021, Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will also include a comparative analysis demonstrating that the processes and strategies used to set reimbursement rates, as written, for MH/SUD benefits are comparable to and no more stringently applied than the processes and strategies used to set reimbursement rates, as written, for medical/surgical benefits. The workgroup will also provide the comparative analysis demonstrating that the processes and strategies used in operationalizing reimbursement rates and adjusting reimbursement rates for MH/SUD benefits are comparable to and no more stringently applied than the processes and strategies used in operationalizing preliminary reimbursement rates and negotiating final reimbursement rates for medical surgical benefits. There will be an ongoing monitoring of the corrections to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be created and finalized that will detail this process. [redacted], Amida Care's Director of Operational Initiatives, will be responsible for this task.

MCO Representative's Signature [redacted]	Date 6/29/2021
Title Executive Vice President	

Statement of Findings Amida Care, Inc. MHPAEA Testing Phase I and Phase II Workbooks August 22, 2018- September 8, 2020

Parity Compliance

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.

(42 CFR 438.910(d) ***Nonquantitative treatment limitations.*****) (42 CFR 438.920(b)** ***State Responsibilities.*****)**

Finding:

Based on the review of Amida Care, Inc.'s Phase I and Phase II nonquantitative treatment limitation (NQTL) workbook submissions, the Managed Care Organization (MCO) failed to provide all required information and comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008, (P.L. 110-345; MHPAEA) for 8 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits, out of network coverage standards, geographic restrictions and reimbursement.

- Specifically, in Phase I, Amida Care, Inc. failed to provide substantive comparative analyses for (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient prior authorization, concurrent review, and medical necessity criteria. The MCO also failed to provide all information and substantive comparative analyses for Steps 1 through 5 for prescription drugs formulary design.

- *Amida Care carefully reviewed our prior workbook responses and OMH's feedback for Prior Authorizations, Concurrent Review and Medical Necessity Criteria (for Inpatient and Outpatient). We agree that a more formal process is needed to compare the MH/SUD benefit to the Med/Surgical benefit to ensure they are comparable and that the MH/SUD policies are not more stringently applied than those for Med/Surgical. Amida Care's Health Services team will develop a review group to formally compare the Prior Authorizations, Concurrent Review and Medical Necessity Criteria (for Inpatient and Outpatient) and develop a policy that defines the steps involved to create a comparative analysis. Amida Care will ask Beacon to participate in this review by providing expertise on the MH/SUD benefit. - Once this review group completes the policy on the comparative analysis, a meeting will be scheduled with Milliman (with a cc to the OMH Parity Mailbox) and ask them for their input on whether our comparative analysis meets the technical requirements of parity compliance. On an ongoing basis, Parity compliance will be part of the agenda item in our quarterly delegated vendor oversight (DVO) meetings. Amida Care will ensure the review group will complete the comparative analysis policy by 2/28/2021. A meeting will be scheduled with Milliman by 3/31/2021. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task.*
- *Amida Care believes our summary was non-compliant due to the lack of comparative analysis in Step 5. In step 5, we described how Amida Care's Health Services team will form a review group to provide a comparative analysis. This review group will add a summary of the comparative analysis to the existing summary and ensure it is compliant with the questions for step 6. The review group will monitor this summary at the conclusion of the development of the comparative analysis policy. Amida Care will determine and verify whether the summary is not compliant by 3/31/2021. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task.*
- **PHASE I - NQTL #1 - Prior Authorization; NQTL #2 - Concurrent review; NQTL #3 - Medical Necessity Criteria 6/29/2021 Response -** Effective Q4 2021, Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will be reviewing and creating a comparative analysis for the current requirements/criteria. The workgroup will be responsible for updating and maintaining the required information and substantive comparative analysis for Phase 1 and Phase 2 workbooks. There will be an ongoing monitoring of the corrections to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be created and finalized that will detail this process. Upon completion of the Phase 1 and Phase 2 workbooks, a meeting will be scheduled with Milliman (with a cc to the OMH Parity Mailbox) requesting their review and feedback on whether our comparative analysis meets the technical requirements of Parity Compliance. Staff training will be scheduled following the finalization of the policy and any necessary changes to address areas of potential non-compliance. In order to ensure that Amida Care will educate/train staff of any necessary changes to address potential non-compliance, specific Mental Health Parity and Addiction Equity Act (MHPAEA) training will be included within the existing Compliance Program Training for all employees which is required annually and for new hires. Amida Care will include

MHPAEA Compliance Issues within the scope of the Compliance Hotline reporting under the Compliance Program. Any such compliance issues shall be investigated appropriately including protection for the reporting individual from any retaliation. If Amida Care identifies any MHPAEA violations, immediate corrective action will be implemented to correct the violation. To ensure ongoing monitoring, Amida Care will designate a management staff responsible for assessing, monitoring, and managing Parity Compliance. Such management staff reports directly to the Chief Medical Officer. Parity reports will be presented no less than annually to the Compliance Committee on the activities of the Mental Health Parity Program. [redacted], Amida Care's Vice President of Integrated Care and Behavioral Health, will be responsible for this task.

- *Upon further research, it was determined that Amida Care did prepare responses for NQTL 4, but were not submitted to the state. We have those responses for review when needed. According to the SOD/SOF letter from OMH, "At this time, due to the planned pharmacy benefit carve out from Medicaid Managed Care, the MCO is not required to address deficiencies related to the prescription drugs classification or the formulary design NQTL. The NYS OMH and NYS DOH reserve the right to address any pharmacy benefit related deficiencies at a later date. <u>This is complete. No further action needed.</u>*

- Specifically, in Phase II, Amida Care, Inc. failed to provide all information and substantive comparative analyses for Steps 1 through 5 for inpatient and outpatient coding edits and geographic restrictions. Responses provided for geographic restrictions were based on a misinterpretation of the NQTL.
  - ***PHASE II - NQTL #1 - Coding Edits-*** *In our original response, Amida Care and Beacon submitted a reference table on all the codes that are used for processing MH/SUD claims. Upon further review, we did not provide enough of an explanation to demonstrate how we utilize this table for Steps 1-6. Amida Care's Claim team will work with Beacon to further elaborate our responses. We believe the revised response with detailed information will demonstrate parity compliance without implementation a new process. This revised response will be provided by 2/28/2021 for review.* [redacted], *Amida Care's Director of Operational Initiates, will be responsible for this task.*
  - **PHASE II - NQTL #1 - Coding Edits- 6/29/2021 Response -** Effective Q4 2021, Amida Care internal staff and Beacon will meet to review claim coding policies and procedures for automatic or systematic coding for mental health/SUD benefits and for medical/surgical benefits. Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will also include the coding edit protocols for both MH/SUD benefits and medical/surgical benefits. The workgroup will also demonstrate that the evidentiary standard(s) used to define factors identified in Step 2 and any other evidence relied upon to establish the coding edit protocols for MH/SUD benefits are comparable to and applied no more stringently than the evidentiary standard(s) used to define factors and any other evidence relied upon to establish the coding edit protocols for medical/surgical benefits. There will be an ongoing monitoring of the corrections to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be

created and finalized that will detail this process. Annmarie Murphy, Amida Care's Director of Operational Initiatives, will be responsible for this task.

- ***PHASE II - NQTL #3 - Geographic Restrictions*** *- Amida Care's original response to Phase II, NQTL #3, Geographic Restrictions had information relating to our Network Adequacy policies. We will develop new responses based on the clarification of the questions. Amida Care's Provider Services team will coordinate with Beacon to develop detailed responses to these questions about geographic restrictions. Once we have a detailed response to these questions, we do not believe any new procedures will need to be implemented. Amida Care and Beacon will complete the revised response for review by 1/31/2021.* [redacted]*, Amida Care's Senior Director of Network Operations, will be responsible for this task.*
- **PHASE II - PHASE II - NQTL #3 - Geographic Restrictions- 6/29/2021 Response-** Currently, Both Amida Care and Beacon follow the NY Medicaid model contract. Notably, Beacon may not discriminate with regard to the participation, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable State law, solely on the basis of that license or certification. As such, the only Provider type exclusion that Beacon would have would be for those that are non-licensed. Amida Care and Beacon will maintain a network that is geographically accessible to the population to be served. Beacon has an approved Policy and Procedure entitled "Out of Network Single Case Agreement Pre Certification Process – NY Prior Auth" which outlines procedures when a gap in service, access issue, and/or Clinical Specialty/Modality has been identified requiring additional certification beyond Licensure that the network cannot support. There will be an ongoing monitoring on a quarterly basis of any geographic restrictions to ensure that they are addressed. This process will be included in the Delegated Vendor Oversight reports. [redacted], Amida Care's Senior Director of Network Operations, will be responsible for this task.

- Additionally, Amida Care, Inc. failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency and provide substantive comparative analyses for (Step3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient reimbursement.

  - ***PHASE II - NQTL #4 – Reimbursement*** *- Phase II, NQTL #3, Step was non-compliant for all of Beacon's clients. We are working with Beacon to determine the cause of non-compliance. Amida Care Claims team will coordinate with Beacon to determine how we can add more details to our response so that this response is compliant. Once we have a detailed response to these questions, we do not believe any new procedures will need to be implemented. With Beacon's assistance, a compliant response to this question will be provided by 2/28/2021.* [redacted]*, Amida Care's Director of Operational Initiates, will be responsible for this task.*
  - **PHASE II - NQTL #4 – Reimbursement- 6/29/2021 Response -** Effective Q4 2021, Amida Care will develop a workgroup with the necessary participants which includes Amida Care internal staff and Beacon staff. The focus of the workgroup will also include a comparative analysis demonstrating that the processes and strategies used to set reimbursement rates,

as written, for MH/SUD benefits are comparable to and no more stringently applied than the processes and strategies used to set reimbursement rates, as written, for medical/surgical benefits. The workgroup will also provide the comparative analysis demonstrating that the processes and strategies used in operationalizing reimbursement rates and adjusting reimbursement rates for MH/SUD benefits are comparable to and no more stringently applied than the processes and strategies used in operationalizing preliminary reimbursement rates and negotiating final reimbursement rates for medical surgical benefits. There will be an ongoing monitoring to ensure they are adequately executed and maintained on a quarterly basis. This process will be included in the Delegated Vendor Oversight reports. Additionally, a policy will be created and finalized that will detail this process. [redacted], Amida Care's Director of Operational Initiatives, will be responsible for this task.