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:
New York Quality HealthCare Corporation	Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE 95-25 Queens Blvd. 8th Floor Rego Park, NY 11374	**SURVEY DATES:** 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 Fidelis Care'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 7 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits, out of network coverage standards, and reimbursement. • Specifically, in Phase I, Fidelis Care failed to provide all information and substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical benefits and (Step 3) evidentiary standards comparability and equivalent stringency for outpatient prior authorization and concurrent review. For prior authorization and concurrent review of prescription drugs, Fidelis Care failed to provide substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical	New York Quality HealthCare Corporation d/b/a Fidelis Care (or "Fidelis") will take all the following actions as part of this Plan of Correction: **Step 1 Parity Compliance Education and Training:** Fidelis provided parity education and training on the compliance program to advance the knowledge and understanding of the purpose and processes in Steps 2-5 of the NQTL Parity Test for all operational staff involved in implementing Phase I and II NQTLs. Fidelis will provide a re-education program for staff when issues are identified. **Timeline:** An initial parity education and training was provided on **2/12/2021**. Additional training was provided on the following dates: 1. Prior authorization and concurrent review NQTL education and training (including training on out-of-network coverage standards) was provided on **2/22/2021**. 2. Medical necessity and clinical coverage guidelines NQTL education and training (including training on out-of-network coverage standards) was provided on **4/5/2021**. 3. Network reimbursement NQTL education and training was provided on **4/6/2021**. 4. Coding edits NQTL education and training was provided on **5/25/2021**. 5. Drug formulary design education and training was provided **2/23/2021.** **Responsible Person:** [redacted], Director of Compliance, will be responsible for ensuring completion of this aspect of the plan of correction.

MCO Representative's Signature	Date
[redacted]	July 30, 2021
Title Vice President, Compliance	

benefits, (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, and (Step 5) in operation comparability and equivalent stringency. Additionally, the MCO failed to provide substantive comparative analyses demonstrating (Step 4) as written and (Step 5) in operation comparability and equivalent stringency for prescription drug medical necessity criteria. Fidelis Care also failed to provide complete responses and substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical benefits, (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, and (Step 5) in operation comparability and equivalent stringency for prescription drug formulary design. • Specifically, in Phase II, Fidelis Care to provide all required information and comparative analyses in a manner that allowed for a comprehensive evaluation of inpatient, outpatient, emergency care and prescription drug coding edits (Steps 1 through 5). The MCO 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 out of network coverage standards. For inpatient, outpatient, and emergency care reimbursement, the MCO failed to provide a substantive comparative analysis for (Step 5) in operation comparability and equivalent stringency.	**Step 2 Plan of Correction:** This Step 2 Plan of Correction is responsive to Bullet Point I regarding Phase I. For Step 2 for the outpatient prior authorization NQTL and outpatient concurrent review (Phase I), Fidelis will update its documentation to describe the reason more fully for applying the NQTL (including a more robust comparability and stringency analysis of the Step 2 factors triggering the NQTL and the Step 3 evidentiary standards). This will include the identification of the specific factors that Fidelis relies upon to determine whether to apply prior authorization and concurrent review to particular outpatient services within the mental health/substance use disorder (MH/SUD) and medical surgical (M/S) classifications. For prior authorization of prescription drugs, Fidelis will update its documentation to provide a more robust comparative analysis for the Step 2 factors triggering the NQTL and the Step 3 evidentiary standards used to determine prior authorization and concurrent review of prescription drugs. This will include the identification of the specific factors that Fidelis relies upon to determine whether to apply prior authorization to particular prescription drugs within the mental health/substance use disorder (MH/SUD) and medical surgical (M/S) classifications. Fidelis will also update and augment its "as written" and "in operation" comparability and stringency analyses in Steps 4 & 5. Fidelis does not conduct any concurrent review for prescription drugs, thus the concurrent review NQTL is not applicable for the prescription drug classification.

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

Deficiency related to Fidelis' Revised POC: After reviewing Fidelis' plan of correction dated March 16, 2021, DOH noted the following deficiencies: • 10 CRR-NY 98.1.16 – The POC is unacceptable. The Medicaid Managed Care Organization (MCO) failed to submit a revision of the original POC, as submitted to the State on December 17, 2020, and failed to provide a detailed POC. Specifically, the MCO failed to provide a plan to address a comparative analysis that examines for and identifies a nonquantitative treatment limitation (NQTL) to not be applied comparably and with equivalent stringency to mental health and substance use disorder (MH/SUD) and medical or surgical (M/S) services. The MCO failed to provide a plan for ongoing monitoring that ensures corrections are adequately executed and maintained. The POC must include a plan to educate/train staff of any necessary changes to address potential noncompliance and an exact date certain (month, day, year) for the implementation of the formal POC. The MCO failed to include written commitment that Phase I and Phase II workbooks will be updated and maintained with the required information and substantive comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-345; MHPAEA).	For the medical necessity criteria NQTL, Fidelis will update its substantive as written comparative analysis in Step 4, and its operations measures and in operation analysis in Step 5 for the prescription drug classification, and all other classifications. For the prescription drug formulary design NQTL, Fidelis will update its Step 2 factors triggering the NTQL related to M/S benefits, Step 3 evidentiary standards, and the Step 4 in writing comparability and stringency analysis as well as the in operation comparability and stringency analysis in Step 5. **Timeline:** Fidelis completed the process of documenting these factors on: - Updates to the outpatient Prior Authorization NQTL (outlined above) were completed on 3/11/21 - Updates to the outpatient Concurrent Review NQTL (outlined above) were completed on 3/11/21 - Updates to the prescription drug Prior Authorization NQTL responses were updated on 6/9/21 - Updates to the Medical Necessity Criteria and Clinical Coverage Guidelines NQTL (outlined above) were completed on 4/23/21 and the prescription drug classification was subsequently updated on 6/9/21 - Updates to the Formulary Designed NQTL (outlined above) were completed on 3/11/21 **Responsible Person:** [redacted] responsible for ensuring completion of the Prior Authorization and Concurrent Review NQTLs [redacted] are responsible for ensuring completion of the Medical Necessity Criteria and Clinical Coverage Guidelines NQTL [redacted] responsible for ensuring completion of the Formulary Design NQTL and the updates to the prescription drug classification of the Prior Authorization NQTL **Step 3 Plan of Correction:** This Step 3 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II. For Step 3 for each of the following NQTLs:prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will identify and define each factor relied upon in the design of the NQTL type and will include the applicable evidentiary standards. Out of network coverage standards as an NQTL is handled within the out of network classifications of Fidelis' prior authorization, concurrent review, and medical necessity criteria and clinical coverage guidelines NQTL. For each factor Fidelis identified in Step 2 for each of the listed NQTLs, Fidelis will update the analysis documents to provide detailed and substantive definitions necessary to perform the comparability and stringency analysis at Step 4.

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

Each definition will include the applicable evidentiary threshold that Fidelis uses to determine whether to invoke the factor in deciding whether to apply the NQTL type to a particular benefit.

Fidelis will also review current data related to each factor to ensure that theevidence supports the ongoing use of the NQTL type on that basis.

Timeline: Fidelis will complete the process of defining each factor with a precise evidentiary standard and reviewing the current data associated with eachby **10/30/2021.**

Responsible Person:
For the prior authorization and concurrent review NQTLs [redacted] be responsible for [redacted] completion of this aspect of the plan of correction.

For the formulary design NQTL, and all other prescription drug classification responses [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For medical necessity criteria and out of network coverage standards NQTLs,(which are encompassed in Fidelis' out of network classifications in the prior authorization, concurrent review and medical necessity criteria NQTLs) [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the coding edits NQTL typ[redacted] be responsible for ensuring the completion of this aspect of the plan of correction.

For the provider reimbursement methodology NQTL type, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

Step 4 Plan of Correction:
This Step 4 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II.

For Step 4 for each of the following NQTLs: prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will update its NQTL documentation to perform a comparability and stringency analysis in writing based on the factors more fully defined in Step 3.

Fidelis will review each factor identified in Step 3 that Fidelis relies upon to decide whether or not/how to apply the applicable NQTL type to MH/SUD benefits and will compare that factor and its evidentiary standard against the application to M/S benefits in the same classification.

Fidelis will document this analysis for each factor for each NQTL type in

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

	eachclassification. Fidelis' parity compliance program will also ensure that the operational staffinvolved in implementing each NQTL understands their obligation to update this analysis if the data underpinning each factor change or if they decide to change the factors or evidentiary standards. **Timeline:** This will be implemented by **10/30/2021.** **Responsible Person:** For the prior authorization and concurrent review NQT[redacted] be responsible for ensuring the completion of this aspect of the plan of correction. For the coding edits NQTL type[redacted] beresponsible for ensuring the completion of this aspect of the plan of correction. For the provider reimbursement methodology NQTL type,[redacted] be responsible for ensuring completion of this aspect of the plan of correction. For the formulary design NQTL, and all other prescription drug classification responses, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction. For medical necessity criteria and out of network coverage standards NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction. **Step 5 Plan of Correction:** This Step 5 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II. For Step 5 for each of the following NQTLs: prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will: • Update its documentation to identify specific and applicable operational measures for each NQTL type in each classification (this will include ensuring alignment of operations measures between the MH/SUD and M/S application of the same NQTL type); • Obtain timely data for each operations measure for each NQTL type in each classification; • Perform a comparability and stringency analysis for each NQTL type for each operations measure and document the conclusions of the analysis; and • Based on the analysis, make any adjustments to the factors (Step 2) or definitions/evidentiary standards (Step 3) necessary to address potential parity red flags identified in the Step 5 operation analysis. Operations measures will be based on industry standard technical

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

specifications that Fidelis will document and make available upon request.

For the prior authorization (Phase I) and concurrent review (Phase I) NQTLs, Fidelis will ensure that the operations measure analysis includes a comparison of adverse determination rates and/or the relative percentage of MH/SUD vs. M/S benefits in each classification subject to the NQTL type. For the formulary design NQTL (Phase I) Fidelis will ensure the operations measures include monitoring the percentage of drugs in each tier of the formulary design for MH/SUD and M/S prescription drugs.

For the coding edits NQTL (Phase II), Fidelis will ensure the operations measures analyzed in Step 5 include the number of coding edits applied to MH/SUD and M/S benefits. For the provider reimbursement (Phase II) NQTL type, Fidelis will ensure that the operations measure analysis includes a comparison of paid rates against a benchmark.

Timeline: This will be implemented by **10/30/2021.**

Responsible Person:
For the prior authorization and concurrent review NQTLs [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the coding edits NQTL [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the provider reimbursement methodology NQTL type, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For the formulary design NQTL, and all other prescription drug classification responses, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For medical necessity criteria and out of network coverage standards NQTLs, Dr. [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

Step 6 Plan of Correction
This Step 6 Plan of Correction is responsive to Bullet Point III related to DOH's deficiencies noted in regards to Fidelis' revised plan of correction dated March 16, 2021.

This submission reflects Fidelis' revision of the original POC, as submitted to the State on December 17, 2020. Moreover, Steps 2-3 of this Plan of Correction outline Fidelis' plan to address a comparative analysis that examines for and identifies a non-quantitative treatment limitation (NQTL) to not be applied comparably and with equivalent stringency to mental health and substance use disorder (MH/SUD) and medical or surgical (M/S) services.

Moreover, Step 5 of this Plan of Correction outlines a plan for ongoing monitoring of Fidelis' NQTLs. In addition, Addendum A below outlines

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

	a process and workplan Fidelis has put in place to ensures corrections are adequately executed and maintained. Fidelis has also redrafted its parity compliance program policy, which outlines the governance process for parity responsibility and compliance at Fidelis. In addition, Fidelis has created a policy for updating and monitoring its NQTLs, including the cadence with which the operations measure data in Step 5 of all NQTLs is reviewed and updated. Fidelis will complete drafting of these policies and procedures on **10/30/2021.** Finally, Fidelis in Step 1 of this plan of correction has outlined a plan to "educate/train staff of any necessary changes to address potential noncompliance". In Addendum A below, Fidelis, has provided additional details related to its parity compliance program, including the exact dates for the implementation of the formal POC. The submission of this remediation is Fidelis' assurance to DOH of our commitment that Phase I and Phase II workbooks will be updated and maintained with the required information and substantive comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-345; MHPAEA).

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

Addendum A:
Fidelis Corrective Action Plan (CAP) Monitoring for Department of Health (DOH) Articles 44 and 49 Statement of Deficiencies CAP:

In January 2021, Fidelis' Compliance Department implemented a parity analysis workplan, identified parity analysis leads by department or division and developed a parity organizational chart that includes ongoing weekly workplan monitoring by the Fidelis VP of Compliance, who is designated as Fidelis' Parity Compliance Officer. The DOH CAP has been incorporated into this parity analysis workplan.

The Fidelis VP of Compliance will monitor the DOH Articles 44 and 49 Statement of Deficiencies CAP to ensure that Fidelis is meeting the required timeframes. In addition, the VP of Compliance will ensure updates on the status of the CAP are provided to Fidelis' Corporate Compliance Committee and Compliance Oversight Committee.

The VP of Compliance will be responsible for assessing, monitoring, and managing parity compliance and confirming that standards of review for mental health and substance used disorders benefits are comparable and applied no more stringently than the standards of review for medical or surgical condition benefits in compliance with applicable federal and state laws. The ongoing monitoring of parity compliance will be accomplished by at least a twice a year review of NQTL parity analyses to ensure the CAP is maintained. If issues of parity noncompliance are identified, Fidelis will keep a record of the noncompliance and produce evidence of actions taken to remediate upon the State's request. The Compliance Officer will ensure that corrective actions such as re-education/training of staff, revision to policies and procedures and other process improvements are implemented to correct any parity noncompliance. The VP of Compliance will then re-review the NQTL parity analyses after any corrective action, re-education/training and/or process improvement has been implemented, to ensure that any parity noncompliance has been corrected.

The submission of this remediation is Fidelis' assurance to DOH of our commitment that Phase I and Phase II workbooks will be updated and maintained with the required information and substantive comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-345; MHPAEA).

This plan of correction has begun implementation, and will continued to be implemented between February 12, 2021 and October 30, 2021. The plan of correction will be completed by October 30, 2021.

MCO Representative's Signature [redacted]	Date July 30, 2021
Title Vice President, Compliance	

Statement of Findings
New York Quality HealthCare Corporation
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 Fidelis Care'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 7 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits, out of network coverage standards, and reimbursement.

- Specifically, in Phase I, Fidelis Care failed to provide all information and substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical benefits and (Step 3) evidentiary standards comparability and equivalent stringency for outpatient prior authorization and concurrent review. For prior authorization and concurrent review of prescription drugs, Fidelis Care failed to provide substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical benefits, (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, and (Step 5) in operation comparability and equivalent stringency.

  Additionally, the MCO failed to provide substantive comparative analyses demonstrating (Step 4) as written and (Step 5) in operation comparability and equivalent stringency for prescription drug

medical necessity criteria. Fidelis Care also failed to provide complete responses and substantive comparative analyses for (Step 2) factors triggering the NQTL related to medical or surgical benefits, (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency, and (Step 5) in operation comparability and equivalent stringency for prescription drug formulary design.

- Specifically, in Phase II, Fidelis Care to provide all required information and comparative analyses in a manner that allowed for a comprehensive evaluation of inpatient, outpatient, emergency care and prescription drug coding edits (Steps 1 through 5). The MCO 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 out of network coverage standards. For inpatient, outpatient, and emergency care reimbursement, the MCO failed to provide a substantive comparative analysis for (Step 5) in operation comparability and equivalent stringency.

Plan of Correction
Mental Health Parity and Addiction Equity Act Testing 2018-2020
Survey ID# 1227381086

New York Quality HealthCare Corporation d/b/a Fidelis Care (or "Fidelis") will take all the following actions as part of this Plan of Correction:

Step 1 Parity Compliance Education and Training:
Fidelis provided parityeducation and training on the compliance program to advance the knowledge and understanding of the purpose and processes in Steps 2-5 of the NQTL Parity Test for all operational staff involved in implementing Phase I and II NQTLs. Fidelis will provide a re-education program for staff when issues are identified.

Timeline: An initial parity education and training was provided on **2/12/2021**. Additional training was provided on the following dates:
1. Prior authorization and concurrent review NQTL education and training (including training on out-of-network coverage standards) was provided on **2/22/2021**.
2. Medical necessity and clinical coverage guidelines NQTL education and training (including training on out-of-network coverage standards) was provided on **4/5/2021**.
3. Network reimbursement NQTL education and training was provided on **4/6/2021**.
4. Coding edits NQTL education and training was provided on **5/25/2021**.
5. Drug formulary design education and training was provided **2/23/2021.**

Responsible Person: [redacted] Director of Compliance, will be responsible for ensuring completion of this aspect of the plan of correction.

Step 2 Plan of Correction:
This Step 2 Plan of Correction is responsive to Bullet Point I regarding Phase I.

For Step 2 for the outpatient prior authorization NQTL and outpatient concurrent review (Phase I), Fidelis will update its documentation to describe the reason more fully for applying the NQTL (including a more robust comparability and stringency analysis of the Step 2 factors triggering the NQTL and the Step 3 evidentiary standards).

This will include the identification of the specific factors that Fidelis relies upon to determine whether to apply prior authorization and concurrent review to particular outpatient services within the mental health/substance use disorder (MH/SUD) and medical surgical (M/S) classifications.

For prior authorization of prescription drugs, Fidelis will update its documentation to provide a more robust comparative analysis for the Step 2 factors triggering the NQTL and the Step 3 evidentiary standards used to determine prior authorization and concurrent review of prescription drugs. This will include the identification of the specific factors that Fidelis relies upon to determine whether to apply prior authorization to particular prescription drugs within the mental health/substance use disorder (MH/SUD) and medical surgical (M/S) classifications. Fidelis will also update and augment its "as written" and "in operation" comparability and stringency analyses in Steps 4 & 5. Fidelis does not conduct any concurrent review for prescription drugs, thus the concurrent review NQTL is not applicable for the prescription drug classification.

For the medical necessity criteria NQTL, Fidelis will update its substantive as written comparative analysis in Step 4, and its operations measures and in operation analysis in Step 5 for the prescription drug classification, and all other classifications.

For the prescription drug formulary design NQTL, Fidelis will update its Step 2 factors triggering the NTQL related to M/S benefits, Step 3 evidentiary standards, and the Step 4 in writing comparability and stringency analysis as well as the in operation comparability and stringency analysis in Step 5.

Timeline: Fidelis completed the process of documenting these factors on:
- Updates to the outpatient Prior Authorization NQTL (outlined above) were completed on 3/11/21
- Updates to the outpatient Concurrent Review NQTL (outlined above) were completed on 3/11/21
- Updates to the prescription drug Prior Authorization NQTL responses were updated on 6/9/21
- Updates to the Medical Necessity Criteria and Clinical Coverage Guidelines NQTL (outlined above) were completed on 4/23/21 and the prescription drug classification was subsequently updated on 6/9/21
- Updates to the Formulary Designed NQTL (outlined above) were completed on 3/11/21

Responsible Person:
[redacted] are responsible for ensuring completion of the Prior Authorization and Concurrent Review NQTLs

[redacted] are responsible for ensuring completion of the Medical Necessity Criteria and Clinical Coverage Guidelines NQTL

[redacted] is responsible for ensuring completion of the Formulary Design NQTL and the updates to the prescription drug classification of the Prior Authorization NQTL

Step 3 Plan of Correction:
This Step 3 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II.

For Step 3 for each of the following NQTLs: prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will identify and define each factor relied upon in the design of the NQTL type and will include the applicable evidentiary standards. Out of network coverage standards as an NQTL is handled within the out of network classifications of Fidelis' prior authorization, concurrent review, and

medical necessity criteria and clinical coverage guidelines NQTL.

For each factor Fidelis identified in Step 2 for each of the listed NQTLs, Fidelis will update the analysis documents to provide detailed and substantive definitions necessary to perform the comparability and stringency analysis at Step 4.

Each definition will include the applicable evidentiary threshold that Fidelis uses to determine whether to invoke the factor in deciding whether to apply the NQTL type to a particular benefit.

Fidelis will also review current data related to each factor to ensure that the evidence supports the ongoing use of the NQTL type on that basis.

Timeline: Fidelis will complete the process of defining each factor with a precise evidentiary standard and reviewing the current data associated with each by **10/30/2021.**

Responsible Person:
For the prior authorization and concurrent review NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the formulary design NQTL, and all other prescription drug classification responses, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For medical necessity criteria and out of network coverage standards NQTLs, (which are encompassed in Fidelis' out of network classifications in the prior authorization, concurrent review and medical necessity criteria NQTLs) [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the coding edits NQTL type [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the provider reimbursement methodology NQTL type, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

Step 4 Plan of Correction:
This Step 4 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II.

For Step 4 for each of the following NQTLs: prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will update its NQTL documentation to perform a comparability and stringency analysis in writing based on the factors more fully defined in Step 3.

Fidelis will review each factor identified in Step 3 that Fidelis relies upon to decide whether or not/how to apply the applicable NQTL type to MH/SUD benefits and will compare that factor and its evidentiary standard against the application to M/S benefits in the same classification.

Fidelis will document this analysis for each factor for each NQTL type in each classification.

Fidelis' parity compliance program will also ensure
that the operational staff involved in implementing each NQTL understands their obligation to update this analysis if the data underpinning each factor change or if they decide to change the factors or evidentiary standards.

Timeline: This will be implemented by **10/30/2021.**

Responsible Person:

For the prior authorization and concurrent review NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the coding edits NQTL type [redacted] will beresponsible for ensuring the completion of this aspect of the plan of correction.

For the provider reimbursement methodology NQTL type, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For the formulary design NQTL, and all other prescription drug classification responses, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For medical necessity criteria and out of network coverage standards NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

Step 5 Plan of Correction:
This Step 5 Plan of Correction is responsive to Bullet Point I and II regarding Phase I and Phase II.

For Step 5 for each of the following NQTLs: prior authorization (Phase I), concurrent review (Phase I), medical necessity (Phase I), formulary design (Phase I), coding edits (Phase II), out of network coverage standards (Phase II), and provider reimbursement (Phase II), Fidelis will:

- Update its documentation to identify specific and applicable operational measures for each NQTL type in each classification (this will include ensuring alignment of operations measures between the MH/SUD and M/S application of the same NQTL type);
- Obtain timely data for each operations measure for each NQTL type in each classification;
- Perform a comparability and stringency analysis for each NQTL type for each operations measure and document the conclusions of the analysis; and
- Based on the analysis, make any adjustments to the factors (Step 2) or definitions/evidentiary standards (Step 3) necessary to address potential parity red flags identified in the Step 5 operation analysis.

Operations measures will be based on industry standard technical specifications that Fidelis will document and make available upon request.

For the prior authorization (Phase I) and concurrent review (Phase I) NQTLs, Fidelis will ensure that the operations measure analysis includes a comparison of adverse determination rates and/or the relative percentage of MH/SUD vs. M/S benefits in each classification subject to the NQTL type. For the formulary design NQTL (Phase I) Fidelis will ensure the operations measures include monitoring the percentage of drugs in each tier of the formulary design for MH/SUD and M/S prescription drugs.

For the coding edits NQTL (Phase II), Fidelis will ensure the operations measures analyzed in Step 5 include the number of coding edits applied to MH/SUD and M/S benefits. For the provider reimbursement (Phase II) NQTL type, Fidelis will ensure that the operations measure analysis includes a comparison of paid rates against a benchmark.

Timeline: This will be implemented by **10/30/2021.**

Responsible Person:
For the prior authorization and concurrent review NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

For the coding edits NQTL [redacted] will beresponsible for ensuring the completion of this aspect of the plan of correction.

For the provider reimbursement methodology NQTL type, [redacted] will be responsible for ensuring

completion of this aspect of the plan of correction.

For the formulary design NQTL, and all other prescription drug classification responses, [redacted] will be responsible for ensuring completion of this aspect of the plan of correction.

For medical necessity criteria and out of network coverage standards NQTLs, [redacted] will be responsible for ensuring the completion of this aspect of the plan of correction.

Step 6 Plan of Correction

This Step 6 Plan of Correction is responsive to Bullet Point III related to DOH's deficiencies noted in regards to Fidelis' revised plan of correction dated March 16, 2021.

This submission reflects Fidelis' revision of the original POC, as submitted to the State on December 17, 2020. Moreover, Steps 2-3 of this Plan of Correction outline Fidelis' plan to address a comparative analysis that examines for and identifies a non-quantitative treatment limitation (NQTL) to not be applied comparably and with equivalent stringency to mental health and substance use disorder (MH/SUD) and medical or surgical (M/S) services.

Moreover, Step 5 of this Plan of Correction outlines a plan for ongoing monitoring of Fidelis' NQTLs. In addition, Addendum A below outlines a process and workplan Fidelis has put in place to ensures corrections are adequately executed and maintained. Fidelis has also redrafted its parity compliance program policy, which outlines the governance process for parity responsibility and compliance at Fidelis. In addition, Fidelis has created a policy for updating and monitoring its NQTLs, including the cadence with which the operations measure data in Step 5 of all NQTLs is reviewed and updated. Fidelis will complete drafting of these policies and procedures on **10/30/2021.**

Finally, Fidelis in Step 1 of this plan of correction has outlined a plan to "educate/train staff of any necessary changes to address potential noncompliance". In Addendum A below, Fidelis, has provided additional details related to its parity compliance program, including the exact dates for the implementation of the formal POC. The submission of this remediation is Fidelis' assurance to DOH of our commitment that Phase I and Phase II workbooks will be updated and maintained with the required information and substantive comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-345; MHPAEA).

Addendum A:
Fidelis Corrective Action Plan (CAP) Monitoring for Department of Health (DOH) Statement of Findings CAP:

In January 2021, Fidelis' Compliance Department implemented a parity analysis workplan, identified parity analysis leads by department or division and developed a parity organizational chart that includes ongoing weekly workplan monitoring by the Fidelis VP of Compliance, who is designated as Fidelis' Parity Compliance Officer. The DOH CAP has been incorporated into this parity analysis workplan.

The Fidelis VP of Compliance will monitor the DOH CAP to ensure that Fidelis is meeting the required timeframes. In addition, the VP of Compliance will ensure updates on the status of the CAP are provided to Fidelis' Corporate Compliance Committee and Compliance Oversight Committee.

The VP of Compliance will be responsible for assessing, monitoring, and managing parity compliance and confirming that standards of review for mental health and substance used disorders benefits are comparable and applied no more stringently than the standards of review for medical or surgical condition benefits in compliance with applicable federal and state laws. The ongoing monitoring of parity compliance will be accomplished by at least a twice a year review of NQTL parity analyses to ensure the CAP is maintained. If issues of parity

noncompliance are identified, Fidelis will keep a record of the noncompliance and produce evidence of actions taken to remediate upon the State's request. The Compliance Officer will ensure that corrective actions such as re-education/training of staff, revision to policies and procedures and other process improvements are implemented to correct any parity noncompliance. The VP of Compliance will then re-review the NQTL parity analyses after any corrective action, re-education/training and/or process improvement has been implemented, to ensure that any parity noncompliance has been corrected.

The submission of this remediation is Fidelis' assurance to DOH of our commitment that Phase I and Phase II workbooks will be updated and maintained with the required information and substantive comparative analyses demonstrating compliance with the Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-345; MHPAEA).

This plan of correction has begun implementation, and will continued to be implemented between February 12, 2021 and October 30, 2021. The plan of correction will be completed by October 30, 2021.