NEW YORKSTATEDEPARTMENTOF HEALTH
DIVISIONOF HEALTHPLANCONTRACTINGANDOVERSIGHT
ARTICLES 44 AND 49 STATEMENTOF DEFICIENCIES

NAME OF MANAGED CARE ORGANIZATION	TYPE OF SURVEY:
MetroPlus Health Plan Inc.	Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE	**SURVEY DATES:**
160 Water Street New York, NY 10038	August 22, 2018 – September 8, 2020

NOTE: The following list of deficiencieswas identified by Health Departmentrepresentatives duringan Article 44 and/or Article 49 opera t ional or focused survey of your
Managed Care Organization(MCO). Correction of these deficiencies is required inorder tobring your MCOinto compliance with Article 44 and/or 49 of t he New York State Public Health Law andthe New York State Official Compilation of Codes, Rules, and Regulations(10NYCRR). In the columnheaded Provider Plan of Correction, describe the Plan of Corrective Actionand 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.** **<u>Deficiency:</u>** Based on the review of MetroPlus Health Plan Inc.'s (MetroPlus) 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, MetroPlus failed to provide all required information and substantive comparative analyses for Steps 2 through 5 for prescription drug prior authorization, concurrent review and formulary design. Additionally, MetroPlus failed to provide all required information and substantive comparative analyses for Steps 3 through 5 for prescription drug medical necessity criteria.	
MCO Representative's Signature	Date
Title	

• Specifically, in Phase II, MetroPlus failed to provide all information and substantive comparative analyses for Steps 1 through 5 for prescription drug coding edits. For out of network coverage standards, 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, and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient.	OON NQTL MetroPlusHealth has reviewed the findings presented by the State the Mental Health Parity, Phase 1 and 2 workbooks and is l to conducting a comparable analysis that will assess, nd manage parity compliance to ensure that the Plan is c omparable coverage for benefits to treat mental health and ler, as required under both State and Federal law. Health will identify discrepancies in coverage of services for ent of mental health conditions and substance use disorder red to medical-surgical services. MetroPlusHealth will remedy or improper practices. is will be conducted to determine if the BH/SUD OON NQTLs limit arable and applied no more stringently than OON treatment osed on Med/Surg benefits, both as written and in This analysis will include the contractual/regulatory factors the documented additional factors considered when ıg the appropriateness of MH/SUD and Med/Surg OON A review of each factor considered to determine OON will be conducted to determine that, as written in policy and in the factors for MH/SUD as written and practiced, are le and no more restrictive than Med/Surg utilization review MetroPlusHealth, in collaboration with Beacon Health ill begin the analysis during the first quarter of 2021. The ill be completed by the early second quarter of 2021. i. sment of OON parity compliance will include: Define and compare all relevant factors identified in Step 2 of the OON NQTL for Med/Surg and MH/SUD Utilization Review that were not self-evident. a. Provide rationale for comparability for those factors that are different. b. Explain or illustrate why certain factors were deemed similar or no more restrictive for BH/SUD, as compared to the Med/Surg factors. c. Define and review clinical/service needs (e.g., cultural sensitivity (language and gender) that cannot be deemed similar or no more restrictive for BH/SUD, as compared to the Med/Surg factors. ii. iii. Review MH/SUD OON utilization review policies to ensure that they are comparable and not more stringently applied than the policies for Med/Surg OON utilization review. a. This review will determine if contractual/regulatory standards and the internal protocols allowing enrollees to receive care from OON providers are documented, comparable, and no more stringent than Med/Surg policies. b. This review will determine the comparability of staff involved in the authorization or denial of an OON authorization request. c. This review will explain why the reviewers concluded that the policies are deemed comparable or no more stringently applied for MH/SUD. Review of a sample of OON denials for MH/SUD benefits to ensure such determinations were consistent with regulatory, contractual, and internal protocols governing the authorization of OON services. a. A sample of 50 BH/SUD case files will be audited to ensure that the utilization review process is compliant, comparable or no more restrictive than a sample of 50 Med/Surg case files. b. This review will determine if the qualifications of staff involved in OON utilization review determinations are comparable and consistent with policy (CONTINUED).

MCO Representative's Signature	Date
Title	

iv. Inter-rater reliability audits of MH/SUD and BH/SUD clinical reviewers will be compared to determine the extent to which independent parties, each following the same contractual/regulatory guidelines, using the same tools, or examining the same data, arrive at matching conclusions.
    a. This will include a review of the tools used to conduct MH/SUD and BH/SUD inter-rater reliability audits of OON determinations to ensure that these audits are conducted in a comparable manner.
    b. This review will include ensuring that documented corrective actions are taken when clinical staff do not achieve a passing score.
    c. A review of the percentage of elective services provided by out-of-network providers for mental health and substance use disorder benefits where no innetwork provider was available will be conducted and compared to the percentage of elective services provided by out-of-network providers for medical and surgical benefits where no in-network provider was available, to ensure that the processes and strategies for the recruitment and retention of mental health or substance use disorder providers are effective in reducing disparities in out-of-network use and to ensure there is an adequate network of mental health and substance use disorder providers.

The MetroPlus Business Process Oversight (BPO) Team reports to the MetroPlusHealth Compliance Department. On an annual basis, the BPO Team conducts a comprehensive audit of Beacon Health Options, the utilization review agent performing MH/SUD utilization review on behalf of MetroPlusHealth. A random sample size of 50 records across all lines of business is audited. Policies, procedures, workflows, and files that demonstrate compliance with regulatory requirements are reviewed. Standardized audit tools adapted from the Comprehensive Operational Survey tools (Article 44/49) for the Medicaid and Commercial lines of business are utilized. All records with a score of 90% or greater are considered passing. All records with a score below 90% are recorded in the audit report findings and require a written corrective plan from Beacon.

n accordance with 11 NYCRR PART 230, MetroPlusHealth is developing a MH/SUD Parity Compliance Program. This program will include the designation of an appropriately experienced individual who will be responsible for assessing, monitoring, and managing parity compliance and comply with all other rules defined in the law. Written policy will nclude the methodologies for the identification and testing, including a comparative analysis, of all nonquantitative treatment limitations that are mposed on mental health or substance use disorder benefits, and a system for the ongoing assessment of parity compliance. Improper practices will be remediated. If immediate remediation is not possible, a plan will be developed to remediate any improper practices as soon as practicable, but in no event later than 60 days after discovery.

A comprehensive MH/SUD comparative analysis will be conducted any time there is a contractual or regulatory change, or when the Plan revises t OON protocols for the management of BH/SUD or Med/Surg operations, when that change may lead to a policy or process that is more restrictive for MH/SUD OON utilization review. As part of the remediation, Milliman agreed to review an updated/corrected workbook description so that MetroPlus can ensure clarity around correction of any deficiencies.

n summary, our strategy as described above will define and compare all the relevant OON NQTL factors and demonstrate that BH/SUD factors are comparable or no more stringent than the Med/Surg factors, both as written and in operation. This will be accomplished by conducting a written analysis of the policies and procedures which govern the application of the OON NQTL, and by identifying, defining and analyzing the processes that are used to monitor and evaluate the application of the OON NQTL in operation. Performance metrics will be provided to validate our conclusions as to the equity of application stringency.

MCO Representative's Signature	Date
Title	

Additionally, 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 and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient reimbursement.

SEMENT NQTL

Health will assess, monitor, and manage parity compliance to at the Plan is providing comparable coverage for benefits to treat alth and substance use disorder, as required under both State al law. MetroPlusHealth will identify discrepancies in coverage s for the treatment of mental health conditions and substance ler as compared to medical-surgical services. MetroPlusHealth y disparate or improper practices.

is will be conducted to determine if the MH/SUD Reimbursement e comparable and applied no more stringently than ement imposed on Med/Surg benefits, both as written and in This analysis will include the contractual/regulatory factors and well as the ditional factors considered when determining docu priateness of MH/SUD and Med/Surg reimbursement. A review ctor considered to determine reimbursement will be conducted ne that, as written in policy and in operation, the factors for as written and practiced, are comparable and no more restrictive Surg reimbursement. All analysis will be conducted during 1st Quarter 2021.

sment of reimbursement parity compliance will include:

i. Review MH/SUD reimbursement policies to ensure that they are comparable and not more stringently applied than the policies for Med/Surg reimbursement.
   a. This review will determine if contractual/regulatory standards and the internal protocols used for determining reimbursement are documented and comparable to Med/Surg policies.
   b. This review will determine the comparability of thresholds used to determine allowances for nonstandard levels of reimbursement across MH/SUD and Med/Surg providers.

ii. Review defined thresholds that define leverage in a provider negotiation – this includes, but is not limited to network adequacy, network/member disruption, and provider scarcity. Ensure that the definitions of these criteria match across MH/SUD and Med/Surg provider networks, and identify and address any significant variances in the criteria.

Review of a sample of providers who receive non-standard reimbursement for mental health and substance use disorder benefits to ensure contracting was done in compliance with protocols used for determining level of reimbursement.
   a. A sample of 10 non-standard MH/SUD contracts will be analyzed to ensure that the contracting and negotiation process is compliant with regulatory requirements and comparable with Med/Surg contracting and negotiation process.
   b. This review will determine if the thresholds used to determine need to provide non-standard rates – network adequacy, network and member disruption, provider scarcity – are consistent across MH/SUD and Med/Surg negotiations.
   c. The MetroPlus Analytics team will review a sample of 10 non-standard MH/SUD contracts and 10 nonstandard Med/Surg contracts to review the rate ranges that these contracts offer and to validate that there is a level of consistency between rate variance in MH/SUD and Med/Surg. . (CONTINUED)

	iii.

MCO Representative's Signature	Date
Title	

	iv. Review of the percentage of total contracts that are offered non-standard reimbursement across the MH/SUD network and the Med/Surg network to show that there is a level of consistency across networks. For purpose of this analysis, we will remove contracts that are mandated reimbursement at a set amount by regulatory or legislative authority (allowing to show the nonstandard percentage among contracts that allow for negotiating flexibility). n accordance with 11 NYCRR PART 230, MetroPlusHealth is developing a BH/SUD Parity Compliance Program. This program will include the designation of an appropriately experienced individual who will be responsible for assessing, monitoring, and managing parity compliance and comply with all other rules defined in the law. Written policy will nclude the methodologies for the identification and testing, including a comparative analysis, of all nonquantitative treatment limitations that are mposed on mental health or substance use disorder benefits, and a system for the ongoing assessment of parity compliance. Improper practices will be remediated. If immediate remediation is not possible, a plan will be developed to remediate any improper practices as soon as practicable, but in no event later than 60 days after discovery. This will nclude annual audits of samples of cases to ensure the policies have been applied as written and that they sufficiently address the issue of nonparity A comprehensive MH/SUD comparative analysis will be conducted any time there is a contractual or regulatory change, or when the Plan revises t network reimbursement protocols for the MH/SUD or Med/Surg networks, when that change may lead to a policy or process that is more restrictive for MH/SUD reimbursement. As part of the remediation, Milliman agreed to review an updated/corrected workbook description so that MetroPlus can ensure clarity around correction of any deficiencies.

MCO Representative's Signature	Date
Title	

At least annually, the MetroPlusHealth Learning and Operational Development (L&OD) Department, led by [redacted], Director of L&OD, will conduct training and education for all employees, directors, or other governing body members, agents, and other representatives engaged in functions that are subject to federal or state mental health and substance use disorder parity requirements or involved in analysis as a part of the compliance program. This training is also provided to new employees, directors, or other governing body members, agents, and other representatives during orientation. Each module included in the Annual Compliance Training program and provided during orientation, is reviewed and approved by the departments identified as being the subject matter experts of each area.

The Parity Compliance Training program will cover the following topics:

- New York State Substance Use Law
- New York State Timothy's Law
- Mental Health Parity and Addiction Equality Act
- Mental Health and Substance Use Disorder Parity Compliance Program

n addition, anonymous and confidential methods for reporting parity compliance issues to the Behavioral Health Parity Compliance Manager, who will report to [redacted] the Senior Director of Compliance Operations will be found under the Corporate Compliance Program module of the training material. Beacon Compliance Leadership in New York responsible for overseeing the Beacon parity training program is [redacted], Compliance Manager.

Core Competencies to be gained by staff from the training programs include:

- An understanding of Federal Mental Health Parity, including the history of its implementation, the stakeholders involved, the application to client types and benefits, and the impact on managed care activities
- An understanding of Non-Quantitative Treatment Limitations (NQTLs), a framework for analysis, and how they relate to functional areas
- An understanding of Timothy's law in New York and how it relates to federal programs. Special attention is paid to how the law applies to both adults and children, especially those with Serious Emotional Disturbances (SED).
- An awareness of how Parity is woven into clinical, operational, and network matters at MetroPlusHealth and Beacon. Certain topics include Utilization Review Criteria, appeals processes, and provider network status.
- A recognition of the role staff have in complying with Parity regulations, including the history of modified activity and the acknowledgement of consequences from non-compliance.

MetroPlusHealth and Beacon will begin planning activities related to the training beginning in Q2 2021 with a targeted implementation date of September 30, 2021.

The MetroPlusHealth Parity Compliance Program requires the identification and remediation of improper practices as for all employees and other agents engaged in functions that are subject to state mental health and substance use disorder parity requirements. This includes providing the comparative analyses annually or when operational changes are made, to ensure that that the NQTL is still comparable to and no more stringently applied. In addition, revised processes and strategies used in operationalizing the NQTL are evaluated before implementation to ensure MH/SUD NQTLs are comparable and no more stringently applied than the NQTLs for medical surgical benefits. This review includes but is not limited to:

MCO Representative's Signature	Date
Title	

	• Audits to demonstrate that the frequency of all types of utilization review for medical/surgical vs. MH/SUD, where applicable, are comparable. • Audits to demonstrate physician-to-physician utilization reviews were similar in frequency and content of review for medical/surgical vs.MH/SUD within the same classifications of benefits. • Audit results that demonstrates utilization review staff follow comparable processes for determining which information is reasonably necessary for making medical necessity determinations for both MH/SUD reviews and medical/surgical reviews. • Audit/review of denial and appeal rates (both medical and administrative) by service type or benefit category. • Audit results that indicate that coverage approvals and denials correspond to the plan's criteria and guidelines • A comparison of inter-rater reliability results between MH/SUD reviewers and medical/ surgical reviewers. MetroPlusHealth will establish a Joint MH Parity Workgroup during Q2 2021. This workgroup will eventually be facilitated by the MetroPlus BH Parity Compliance Manager. As MetroPlusHealth will begin recruiting for this role, Pamela Binns, Senior Director of Compliance Operations, will assume these responsibilities in the interim. A primary focus of this workgroup will be the results of the parity evaluation audits. When these audits demonstrate noncompliance or there are changes to policies and procedures, a training plan will be submitted. The Department Heads are responsible for assuring that the training is completed within the operational areas for which they are responsible. This will include reporting the target date for completion of the training and the actual completion date. The MetroPlus BH Parity Compliance Manager will then be responsible for ensuring timely compliance by these areas. MetroPlus will provide education and training to staff regarding the necessary changes addressing potential non-compliance. The Plan of correction will be for the Medicaid, HIV-SNP, HARP and CHP lines of business.

MCO Representative's Signature	Date
Title	

MCO Representative's Signature	[redacted]	Date	8.5.2021

	03.15.2021
Title Chief Medical Officer	

Statement of Findings
MetroPlus Health Plan 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 MetroPlus Health Plan Inc.'s (MetroPlus) 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, MetroPlus failed to provide all required information and substantive comparative analyses for Steps 2 through 5 for prescription drug prior authorization, concurrent review and formulary design.

  Additionally, MetroPlus failed to provide all required information and substantive comparative analyses for Steps 3 through 5 for prescription drug medical necessity criteria.

- Specifically, in Phase II, MetroPlus failed to provide all information and substantive comparative analyses for Steps 1 through 5 for prescription drug coding edits. For out of network coverage standards, 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, and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient.

OON NQTL

MetroPlusHealth has reviewed the findings presented by the State regarding the Mental Health Parity, Phase 1 and 2 workbooks and is committed to conducting a comparable analysis that will assess, monitor, and manage parity compliance to ensure that the Plan is providing comparable coverage for benefits to treat mental health and substance use disorder, as required under both State and Federal law. MetroPlusHealth will identify discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder as compared to medical-surgical services. MetroPlusHealth will remedy disparate or improper practices.

An analysis will be conducted to determine if the BH/SUD OON NQTLs are comparable and applied no more stringently than OON treatment limitations imposed on Med/Surg benefits, both as written and in operation. This analysis will include the contractual/regulatory factors as well as the documented additional factors considered when determining the appropriateness of MH/SUD and Med/Surg OON coverage. A review of each factor considered to determine OON coverage will be conducted to determine that, as written in policy and in operation, the factors for MH/SUD as written and practiced, are comparable and no more restrictive than Med/Surg utilization review protocols. MetroPlusHealth, in collaboration with Beacon Health Options, will begin the analysis during the first quarter of 2021. The analysis will be completed by the early second quarter of 2021.

The assessment of OON parity compliance will include:

i. Define and compare all relevant factors identified in Step 2 of the OON NQTL for Med/Surg and MH/SUD Utilization Review that were not self-evident.
    a. Provide rationale for comparability for those factors that are different.
    b. Explain or illustrate why certain factors were deemed similar or no more restrictive for BH/SUD, as compared to the Med/Surg factors.
    c. Define and review clinical/service needs (e.g., cultural sensitivity (language and gender) that cannot be deemed similar or no more restrictive for BH/SUD, as compared to the Med/Surg factors.

ii. Review MH/SUD OON utilization review policies to ensure that they are comparable and not more stringently applied than the policies for Med/Surg OON utilization review.
    a. This review will determine if contractual/regulatory standards and the internal protocols allowing enrollees to receive care from OON providers are documented, comparable, and no more stringent than Med/Surg policies.
    b. This review will determine the comparability of staff involved in the authorization or denial of an OON authorization request.
    c. This review will explain why the reviewers concluded that the policies are deemed comparable or no more stringently applied for MH/SUD.

iii. Review of a sample of OON denials for MH/SUD benefits to ensure such determinations were consistent with regulatory, contractual, and internal protocols governing the authorization of OON services.
    a. A sample of 50 BH/SUD case files will be audited to ensure that the utilization review process is compliant, comparable or no more restrictive than a sample of 50 Med/Surg case files.
    b. This review will determine if the qualifications of staff involved in OON utilization review determinations are comparable and consistent with policy.

iv. Inter-rater reliability audits of MH/SUD and BH/SUD clinical reviewers will be compared to determine the extent to which independent parties, each following the same contractual/regulatory guidelines, using the same tools, or examining the same data, arrive at

matching conclusions.

a. This will include a review of the tools used to conduct MH/SUD and BH/SUD inter-rater reliability audits of OON determinations to ensure that these audits are conducted in a comparable manner.
b. This review will include ensuring that documented corrective actions are taken when clinical staff do not achieve a passing score.
c. A review of the percentage of elective services provided by out-of-network providers for mental health and substance use disorder benefits where no in-network provider was available will be conducted and compared to the percentage of elective services provided by out-of-network providers for medical and surgical benefits where no in-network provider was available, to ensure that the processes and strategies for the recruitment and retention of mental health or substance use disorder providers are effective in reducing disparities in out-of-network use and to ensure there is an adequate network of mental health and substance use disorder providers.

The MetroPlus Business Process Oversight (BPO) Team reports to the MetroPlusHealth Compliance Department. On an annual basis, the BPO Team conducts a comprehensive audit of Beacon Health Options, the utilization review agent performing MH/SUD utilization review on behalf of MetroPlusHealth. A random sample size of 50 records across all lines of business is audited. Policies, procedures, workflows, and files that demonstrate compliance with regulatory requirements are reviewed. Standardized audit tools adapted from the Comprehensive Operational Survey tools (Article 44/49) for the Medicaid and Commercial lines of business are utilized. All records with a score of 90% or greater are considered passing. All records with a score below 90% are recorded in the audit report findings and require a written corrective plan from Beacon.

In accordance with 11 NYCRR PART 230, MetroPlusHealth is developing a MH/SUD Parity Compliance Program. This program will include the designation of an appropriately experienced individual who will be responsible for assessing, monitoring, and managing parity compliance and comply with all other rules defined in the law. Written policy will include the methodologies for the identification and testing, including a comparative analysis, of all nonquantitative treatment limitations that are imposed on mental health or substance use disorder benefits, and a system for the ongoing assessment of parity compliance. Improper practices will be remediated. If immediate remediation is not possible, a plan will be developed to remediate any improper practices as soon as practicable, but in no event later than 60 days after discovery.
A comprehensive MH/SUD comparative analysis will be conducted any time there is a contractual or regulatory change, or when the Plan revises it OON protocols for the management of BH/SUD or Med/Surg operations, when that change may lead to a policy or process that is more restrictive for MH/SUD OON utilization review. As part of the remediation, Milliman agreed to review an updated/corrected workbook description so that MetroPlus can ensure clarity around correction of any deficiencies.

In summary, our strategy as described above will define and compare all the relevant OON NQTL factors and demonstrate that BH/SUD factors are comparable or no more stringent than the Med/Surg factors, both as written and in operation. This will be accomplished by conducting a written analysis of the policies and procedures which govern the application of the OON NQTL, and by identifying, defining and analyzing the processes that are used to monitor and evaluate the application of the OON NQTL in operation. Performance metrics will be provided to validate our conclusions as to the equity of application stringency.

Additionally, 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 and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient reimbursement.

REIMBURSEMENT NQTL

MetroPlusHealth will assess, monitor, and manage parity compliance to ensure that the Plan is providing comparable coverage for benefits to treat mental health and substance use disorder, as required under both State and Federal law. MetroPlusHealth will identify discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder as compared to medical-surgical services. MetroPlusHealth will remedy disparate or improper practices.

An analysis will be conducted to determine if the MH/SUD Reimbursement NQTLs are comparable and applied no more stringently than Reimbursement imposed on Med/Surg benefits, both as written and in operation. This analysis will include the contractual/regulatory factors and well as the documented additional factors considered when determining the appropriateness of MH/SUD and Med/Surg reimbursement. A review of each factor considered to determine reimbursement will be conducted to determine that, as written in policy and in operation, the factors for MH/SUD as written and practiced, are comparable and no more restrictive than Med/Surg reimbursement. All analysis will be conducted during 1st Quarter 2021.

The assessment of reimbursement parity compliance will include:

i. Review MH/SUD reimbursement policies to ensure that they are comparable and not more stringently applied than the policies for Med/Surg reimbursement.
    a. This review will determine if contractual/regulatory standards and the internal protocols used for determining reimbursement are documented and comparable to Med/Surg policies.
    b. This review will determine the comparability of thresholds used to determine allowances for non-standard levels of reimbursement across MH/SUD and Med/Surg providers.

ii. Review defined thresholds that define leverage in a provider negotiation – this includes, but is not limited to network adequacy, network/member disruption, and provider scarcity. Ensure that the definitions of these criteria match across MH/SUD and Med/Surg provider networks, and identify and address any significant variances in the criteria.

iii. Review of a sample of providers who receive non-standard reimbursement for mental health and substance use disorder benefits to ensure contracting was done in compliance with protocols used for determining level of reimbursement.
    a. A sample of 10 non-standard MH/SUD contracts will be analyzed to ensure that the contracting and negotiation process is compliant with regulatory requirements and comparable with Med/Surg contracting and negotiation process.
    b. This review will determine if the thresholds used to determine need to provide non-standard rates – network adequacy, network and member disruption, provider scarcity – are consistent across MH/SUD and Med/Surg negotiations.
    c. The MetroPlus Analytics team will review a sample of 10 non-standard MH/SUD contracts and 10 non-standard Med/Surg contracts to review the rate ranges that these contracts offer and to validate that there is a level of consistency between rate variance in MH/SUD and Med/Surg.

iv. Review of the percentage of total contracts that are offered non-standard reimbursement across the MH/SUD network and the Med/Surg network to show that there is a level of

consistency across networks. For purpose of this analysis, we will remove contracts that are mandated reimbursement at a set amount by regulatory or legislative authority (allowing to show the non-standard percentage among contracts that allow for negotiating flexibility).

In accordance with 11 NYCRR PART 230, MetroPlusHealth is developing a BH/SUD Parity Compliance Program. This program will include the designation of an appropriately experienced individual who will be responsible for assessing, monitoring, and managing parity compliance and comply with all other rules defined in the law. Written policy will include the methodologies for the identification and testing, including a comparative analysis, of all nonquantitative treatment limitations that are imposed on mental health or substance use disorder benefits, and a system for the ongoing assessment of parity compliance. Improper practices will be remediated. If immediate remediation is not possible, a plan will be developed to remediate any improper practices as soon as practicable, but in no event later than 60 days after discovery. This will include annual audits of samples of cases to ensure the policies have been applied as written and that they sufficiently address the issue of non-parity

A comprehensive MH/SUD comparative analysis will be conducted any time there is a contractual or regulatory change, or when the Plan revises it network reimbursement protocols for the MH/SUD or Med/Surg networks, when that change may lead to a policy or process that is more restrictive for MH/SUD reimbursement. As part of the remediation, Milliman agreed to review an updated/corrected workbook description so that MetroPlus can ensure clarity around correction of any deficiencies.

At least annually, the MetroPlusHealth Learning and Operational Development (L&OD) Department, led by [redacted], Director of L&OD, will conduct training and education for all employees, directors, or other governing body members, agents, and other representatives engaged in functions that are subject to federal or state mental health and substance use disorder parity requirements or involved in analysis as a part of the compliance program. This training is also provided to new employees, directors, or other governing body members, agents, and other representatives during orientation. Each module included in the Annual Compliance Training program and provided during orientation, is reviewed and approved by the departments identified as being the subject matter experts of each area.

The Parity Compliance Training program will cover the following topics:

- New York State Substance Use Law
- New York State Timothy's Law
- Mental Health Parity and Addiction Equality Act
- Mental Health and Substance Use Disorder Parity Compliance Program

In addition, anonymous and confidential methods for reporting parity compliance issues to the Behavioral Health Parity Compliance Manager, who will report to [redacted], the Senior Director of Compliance Operations will be found under the Corporate Compliance Program module of the training material. Beacon Compliance Leadership in New York responsible for overseeing the Beacon parity training program is [redacted], Compliance Manager.

Core Competencies to be gained by staff from the training programs include:

- An understanding of Federal Mental Health Parity, including the history of its implementation, the stakeholders involved, the application to client types and benefits, and the impact on managed care activities

- An understanding of Non-Quantitative Treatment Limitations (NQTLs), a framework for analysis, and how they relate to functional areas
- An understanding of Timothy's law in New York and how it relates to federal programs. Special attention is paid to how the law applies to both adults and children, especially those with Serious Emotional Disturbances (SED).
- An awareness of how Parity is woven into clinical, operational, and network matters at MetroPlusHealth and Beacon. Certain topics include Utilization Review Criteria, appeals processes, and provider network status.
- A recognition of the role staff have in complying with Parity regulations, including the history of modified activity and the acknowledgement of consequences from non-compliance.

MetroPlusHealth and Beacon will begin planning activities related to the training beginning in Q2 2021 with a targeted implementation date of September 30, 2021.

The MetroPlusHealth Parity Compliance Program requires the identification and remediation of improper practices as for all employees and other agents engaged in functions that are subject to state mental health and substance use disorder parity requirements. This includes providing the comparative analyses annually or when operational changes are made, to ensure that that the NQTL is still comparable to and no more stringently applied. In addition, revised processes and strategies used in operationalizing the NQTL are evaluated before implementation to ensure MH/SUD NQTLs are comparable and no more stringently applied than the NQTLs for medical surgical benefits. This review includes but is not limited to:

- Audits to demonstrate that the frequency of all types of utilization review for medical/surgical vs. MH/SUD, where applicable, are comparable.
- Audits to demonstrate physician-to-physician utilization reviews were similar in frequency and content of review for medical/surgical vs.MH/SUD within the same classifications of benefits.
- Audit results that demonstrates utilization review staff follow comparable processes for determining which information is reasonably necessary for making medical necessity determinations for both MH/SUD reviews and medical/surgical reviews.
- Audit/review of denial and appeal rates (both medical and administrative) by service type or benefit category.
- Audit results that indicate that coverage approvals and denials correspond to the plan's criteria and guidelines
- A comparison of inter-rater reliability results between MH/SUD reviewers and medical/ surgical reviewers.

MetroPlusHealth will establish a Joint MH Parity Workgroup during Q2 2021. This workgroup will eventually be facilitated by the MetroPlus BH Parity Compliance Manager. As MetroPlusHealth will begin recruiting for this role, [redacted], Senior Director of Compliance Operations, will assume these responsibilities in the interim.

A primary focus of this workgroup will be the results of the parity evaluation audits. When these audits demonstrate noncompliance or there are changes to policies and procedures, a training plan will be submitted. The Department Heads are responsible for assuring that the training is completed within the operational areas for which they are responsible. This will include reporting the target date for completion of the training and the actual completion date. The MetroPlus BH Parity Compliance Manager will then be responsible for ensuring timely compliance by these areas.

MetroPlus will provide education and training to staff regarding the necessary changes addressing potential non -compliance. The Plan of correction will be for the Medicaid, HIV-SNP, HARP and CHP lines of business.