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:
Molina Healthcare of New York, Inc.	Submission of completed non-quantitative treatment limitations workbooks to demonstrate compliance with the Mental Health Parity and Addiction Equity Act
STREET ADDRESS, CITY, STATE, ZIP CODE	**SURVEY DATES:**
5232 Witz Drive North Syracuse, NY 13212	October 30, 2019 Survey ID# 187476140

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
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:**	Molina Healthcare of New York, Inc has submitted the corrected Parity Phase I as of 11/27/2019. Molina Healthcare of New York, Inc has submitted the Parity Phase II as of 11/27/2019 Molina Healthcare of New York, Inc. going forward, will submit any requested data elements to their respective requestors in the time indicated by requestor, or if substantiated, request formal extension and adhere strictly to the timeframes agreed upon by all parties. Effective 11/8/2019 Molina Healthcare of New York, Inc. implemented a tracking mechanism that will ensure all internal parties are keenly aware of deadlines and ownership. The tracking process will funnel through the established Government Contracts Department for monitoring and assurance of timely submission to appropriate regulators.
Required updated and completed phase 1 resubmission and phase 2 submission of non-quantitative treatment limitations workbooks to demonstrate compliance with the Mental Health Parity and Addiction Equity Act were not received by the State issued due date of October 30, 2019.	
MCO Representative's Signature Colleen Schmidt, President	Date 11/27/2019
Title [redacted]	

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:
Molina Healthcare of New York Inc.	Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE	**SURVEY DATES:**
5232 Witz Drive North Syracuse, NY 13212	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 Molina Healthcare of New York Inc.'s (Molina) 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, Molina failed to provide all required information and substantive comparative analyses for Steps 1 through 5 for inpatient, outpatient and prescription drug prior authorization and concurrent review. For inpatient, outpatient, and prescription drug	**Phase I and II** - **Review of the Noncompliance** o Molina Health of New York, Inc. (MNY) is committed to maintaining updated Phase I and II workbooks with required information and substantive comparative analyses demonstrating compliance with the MHPAEA. o MNY reviewed the report cards provided on September 8, 2020 in connection with the citation letter issued on November 25, 2020. After further review of our initial submission (December 18, 2020), MNY concluded that the NQTL workbook analysis provided for Phase I and II was completed incorrectly, reflecting that MNY is noncompliant, which may not necessarily be accurate. - **Methods to Revise and Remediate** o Because the Health Plan's parity status was not documented accurately in our initial submission to the Department, MNY is in the final stages of our NQTL analysis, and it is on track to be completed by April 1, 2021. MNY will then be able to gauge and report on whether we have areas of non-compliance or we truly are MH Parity-compliant. ▪ The business owners (outlined below) are responsible for completing their respective workbooks and providing them to Compliance, Government

MCO Representative's Signature	Date 6/17/2021
Jack Stephenson [redacted]	
Title President/ CEO	

medical necessity criteria, the MCO failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency. Additionally, Molina failed to 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 prescription drug formulary design. • Specifically, in Phase II, Molina failed to provide all required information and substantive comparative analyses for Steps 1 through 5 for inpatient, outpatient, and prescription drug coding edits. For inpatient and outpatient out of network coverage standards and geographic restrictions, the MCO failed to provide substantive comparative analyses for (Step 5) in operation comparability and equivalent stringency. Additionally, the MCO failed to provide all required information and substantive comparative analyses for Steps 2 through 5 for inpatient, outpatient, and emergency care reimbursement.	Contracts and Legal by April 1, 2021. ▪ Compliance, Government Contracts and Legal will have an assessment of the workbooks to determine MH Parity compliance by April 15, 2021. ○ Our remediation plan is centered on completing the workbooks in a detailed and accurate fashion. ▪ If MNY determines to be compliant, the Health Plan will prepare for a monitoring state as next steps, rather than corrective action. ▪ If MNY determines to be noncompliant, the Health Plan will shift into a corrective action state: • Remediate any areas of noncompliance by revising or stopping the practice(s) creating disparity. This remediation work will be done consistent with project management discipline, replying upon relevant workbooks to drive and document this work. • Educate department leadership and other relevant personnel regarding why the practice is not compliant, to include communication of what is expected to assure compliance. • Train staff on the respective change- why it's happening and what their role is going forward to maintain compliance. • All education and training will include resources for questions to be answered and concerns to be reported about potential MH Parity noncompliance moving

[redacted]	Date 6/17/2021
Title President/ CEO	

	forward. • Necessary changes will be affirmed by a business owner, sign off on agreed upon changes will be held by Compliance, Government Contracts and Legal. - **Monitoring the Implementation of the POC** ○ MNY Compliance, Government Contracts and Legal are responsible for the oversight of this POC ▪ Compliance/ Government Contracts will establish a quarterly meeting with the identified business owners to determine if the Phase I and II workbooks have had any changes made or have proposed changes that need to be discussed prior to implementation. ○ MNY Health Care Services, Operations, Network and Contracting are responsible for implementing this POC, including completion of the NQTL analysis, determination of compliance (in conjunction with Compliance, Government Contracts and Legal) and then monitoring of any possible changes to the NQTLs as they originally stand. ▪ These departments are responsible for monitoring change(s) to ensure parity and that the NQTL is applied to MH/SUD services comparably and no more stringently than to Med/Surg services. Should need for a change be identified, it is the duty of the responsible parties (outlined below) to notify Compliance, Government Contracts and Legal of the change and begin the process to review implications to the NQTL. • Health Care Services- prior authorization requirements, concurrent review standards and clinical criteria

MCO Representative's Signature [redacted]	Date 6/17/2021
President/ CEO	

	• Operations- code edits/ software • Network- out of network standards, geographic restrictions • Contracting- reimbursement methodologies - **Responsible Parties** ○ Compliance- [redacted] Compliance Officer ○ Legal- [redacted] Assistant General Counsel ○ Government Contracts- [redacted] AVP of Government Contracts ○ Health Care Services- [redacted]- CMO, [redacted]- VP Health Care Services, [redacted] Director of Health Care Services, [redacted] Manager of Health Care Services ○ Operations- [redacted]- AVP of Operations ○ Network- [redacted] AVP of Provider Network Mgmt. and Operations ○ Contracting- [redacted] Director of Contracting - **Date Certain** ○ Complete NQTL analysis for Phase I and II- April 1, 2021 ○ Determine parity compliance and next steps- April 15, 2021 ▪ Additional milestones to be created based on results of compliance assessment. ○ Business owners maintain ongoing responsibility to monitor their respective NQTLs for changes and report such to Compliance, Government Contracts and Legal- April 1, 2021 ○ By May 1, 2021 MNY will have fully implemented the Plan of Correction outlined in this document, this includes maintenance of required information and comparative analyses. ○ Compliance to establish quarterly meetings with business owners to evaluate any impacts to our NQTLs- first meeting no later than June 30, 2021

MCO Representative's Signature [redacted]	Date 6/17/2021
Title President/ CEO	

Statement of Findings
Molina Healthcare of New York 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 Molina Healthcare of New York Inc.'s (Molina) 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, Molina failed to provide all required information and substantive comparative analyses for Steps 1 through 5 for inpatient, outpatient and prescription drug prior authorization and concurrent review. For inpatient, outpatient, and prescription drug medical necessity criteria, the MCO failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency.

  Additionally, Molina failed to 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 prescription drug formulary design.

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

  Additionally, the MCO failed to provide all required information and substantive comparative analyses for Steps 2 through 5 for inpatient, outpatient, and emergency care reimbursement.

Plan of Correction with Timetable

Phase I and II

- **Review of the Noncompliance**
  - Molina Health of New York, Inc. (MNY) is committed to maintaining updated Phase I and II workbooks with required information and substantive comparative analyses demonstrating compliance with the MHPAEA.
  - MNY reviewed the report cards provided on September 8, 2020 in connection with the citation letter issued on November 25, 2020. After further review of our initial submission (December 18, 2020), MNY concluded that the NQTL workbook analysis provided for Phase I and II was completed incorrectly, reflecting that MNY is noncompliant, which may not necessarily be accurate.
- **Methods to Revise and Remediate**
  - Because the Health Plan's parity status was not documented accurately in our initial submission to the Department, MNY is in the final stages of our NQTL analysis, and it is on track to be completed by April 1, 2021. MNY will then be able to gauge and report on whether we have areas of non-compliance or we truly are MH Parity- compliant.
    - The business owners (outlined below) are responsible for completing their respective workbooks and providing them to Compliance, Government Contracts and Legal by April 1, 2021.
    - Compliance, Government Contracts and Legal will have an assessment of the workbooks to determine MH Parity compliance by April 15, 2021.
  - Our remediation plan is centered on completing the workbooks in a detailed and accurate fashion.
    - If MNY determines to be compliant, the Health Plan will prepare for a monitoring state as next steps, rather than corrective action.
    - If MNY determines to be noncompliant, the Health Plan will shift into a corrective action state:
      - Remediate any areas of noncompliance by revising or stopping the practice(s) creating disparity. This remediation work will be done consistent with project management discipline, replying upon relevant workbooks to drive and document this work.
      - Educate department leadership and other relevant personnel regarding why the practice is not compliant, to include communication of what is expected to assure compliance.
      - Train staff on the respective change- why it's happening and what their role is going forward to maintain compliance.
      - All education and training will include resources for questions to be answered and concerns to be reported about potential MH Parity noncompliance moving forward.
      - Necessary changes will be affirmed by a business owner, sign off on agreed upon changes will be held by Compliance, Government Contracts and Legal.

- **Monitoring the Implementation of the POC**
  - MNY Compliance, Government Contracts and Legal are responsible for the oversight of this POC
    - Compliance/ Government Contracts will establish a quarterly meeting with the identified business owners to determine if the Phase I and II workbooks have had any changes made or have proposed changes that need to be discussed prior to implementation.
  - MNY Health Care Services, Operations, Network and Contracting are responsible for implementing this POC, including completion of the NQTL analysis, determination of compliance (in conjunction with Compliance, Government Contracts and Legal) and then monitoring of any possible changes to the NQTLs as they originally stand.
    - These departments are responsible for monitoring change(s) to ensure parity and that the NQTL is applied to MH/SUD services comparably and no more stringently than to Med/Surg services. Should need for a change be identified, it is the duty of the responsible parties (outlined below) to notify Compliance, Government Contracts and Legal of the change and begin the process to review implications to the NQTL.
      - Health Care Services- prior authorization requirements, concurrent review standards and clinical criteria
      - Operations- code edits/ software
      - Network- out of network standards, geographic restrictions
      - Contracting- reimbursement methodologies
- **Responsible Parties**
  - Compliance- [redacted]- Compliance Officer
  - Legal- [redacted]- Assistant General Counsel
  - Government Contracts- [redacted]- AVP of Government Contracts
  - Health Care Services- [redacted]- CMO, [redacted]- VP Health Care Services, [redacted]- Director of Health Care Services, [redacted]- Manager of Health Care Services
  - Operations- [redacted]- AVP of Operations
  - Network- [redacted]- AVP of Provider Network Mgmt. and Operations
  - Contracting- [redacted]- Director of Contracting
- **Date Certain**
  - Complete NQTL analysis for Phase I and II- April 1, 2021
  - Determine parity compliance and next steps- April 15, 2021
    - Additional milestones to be created based on results of compliance assessment.
  - Business owners maintain ongoing responsibility to monitor their respective NQTLs for changes and report such to Compliance, Government Contracts and Legal- April 1, 2021
  - By May 1, 2021 MNY will have fully implemented the Plan of Correction outlined in this document, this includes maintenance of required information and comparative analyses.
  - Compliance to establish quarterly meetings with business owners to evaluate any impacts to our NQTLs- first meeting no later than June 30, 2021