

**Statement of Findings
Amida Care, Inc.
Mental Health Parity and Addiction Equity Act Testing of Phase III Workbooks
March 11, 2020 - November 30, 2020
Survey ID #: 1629380334**

Parity Compliance

10.2 Compliance with State Medicaid Plan, Applicable Laws and Regulations

h.) Mental Health and Substance Use Disorder Benefits Parity Requirements

ii.) The Contractor shall comply with mental health and substance use disorder benefits parity requirements for financial requirements and treatment limitations specified in 42 CFR 438.910.

18.5 Reporting Requirements

a) The Contractor shall submit the following reports to SDOH (unless otherwise specified). The Contractor will certify the data submitted pursuant to this section as required by SDOH. The certification shall be in the manner and format established by SDOH and must attest, based on best knowledge, information, and belief to the accuracy, completeness and truthfulness of the data being submitted.

xxii) Mental Health and Substance Use Disorder Parity Reporting Requirements

Upon request by the SDOH, OMH or OASAS the Contractor shall prepare and submit documentation and reports, in a form and format specified by SDOH, OMH or OASAS, necessary for the SDOH, OMH or OASAS to establish and demonstrate compliance with 42 CFR 438 Subpart K, and applicable State statute, rules and guidance.

35.1 Contractor and SDOH Compliance With Applicable Laws

Notwithstanding any inconsistent provisions in this Agreement, the Contractor and SDOH shall comply with all applicable requirements of the State Public Health Law; the State Social Services Law; the State Finance Law; the State Mental Hygiene Law; the State Insurance Law; Title XIX of the Social Security Act; Title VI of the Civil Rights Act of 1964 and 45 CFR Part 80, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973 and 45 CFR Part 84, as amended; the Age Discrimination Act of 1975 and 45 CFR Part 91, as amended; the ADA; Title XIII of the Federal Public Health Services Act, 42 U.S.C § 300e et seq., regulations promulgated thereunder; the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and related regulations; the Federal False Claims Act, 31 U.S.C. § 3729 et seq.; Mental Health Parity and Addiction Equity Act of 2008, (P.L. 110-345); for Contractors operating in New York City, the New York City Health Code; and all other applicable legal and regulatory requirements in effect at the time that this Agreement is signed and as adopted or amended during the term of this Agreement. The parties agree that this Agreement shall be interpreted according to the laws of the State of New York.

Finding:

Based on the review of Amida Care, Inc.'s Phase III nonquantitative treatment limitation (NQL) workbook submissions, the Managed Care Organization (MCO) failed to follow parity reporting requirements and demonstrate compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), P.L. 110-343, for 5 of 10 NQLs examined, including retrospective review, outlier review, experimental/investigational determinations, fail first, and provider credentialing.

- Specifically, Amida Care, Inc. failed to provide all required information and substantive comparative analyses in Steps 1 through 5 for outlier review in the inpatient, outpatient, and prescription drug benefit classifications and retrospective review and fail first in the prescription drug benefit classification. The MCO also failed to provide all required information and substantive comparative analyses in Step 4, as written comparability and equivalent stringency, and Step 5, in-operation comparability and equivalent stringency, for retrospective review in the inpatient and outpatient benefit classifications.

The MCO failed to provide all required information and substantive comparative analyses in 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 experimental/investigational determinations in the inpatient, outpatient, and prescription drug benefit classifications. The MCO also failed to provide a substantive comparative analysis in Step 5, in-operation comparability and equivalent stringency, for provider credentialing in the inpatient and outpatient benefit classifications. Due to these findings, the State is not able to assess whether the MCO complies with MHPAEA for the above-referenced NQLs.

Additionally, based on the review of Amida Care, Inc.'s Phase III NQL workbook submission (submitted August 14, 2020) for retrospective review, the MCO is not in compliance with MHPAEA. The MCO's submission for retrospective review in the inpatient and outpatient benefit classifications demonstrated in Steps 1 through 3 that the processes, strategies, evidentiary standards, and other factors used to implement retrospective review for mental health and substance use disorder (MH/SUD) benefits are not comparable to those utilized for medical and surgical (M/S) benefits. To wit, the MCO indicated that it considers factors such as high cost for M/S benefits and other, non-comparable factors related to clinical care for MH/SUD benefits.

Amida Care reviewed our prior Phase III workbook responses and OMH's feedback for outlier review (inpatient and outpatient); prescription drug benefit classifications and retrospective review; fail first in the prescription drug benefit classification; experimental/investigational determinations (inpatient and outpatient); and provider credentialing in the inpatient and outpatient benefit classifications. Meetings were held with functional leads as well as the Chief Medical Officer and Chief Business Operations and Strategy Officer to address the root causes of areas of non-compliance. A meeting was also scheduled with Beacon to discuss and better understand the parity components. Below outlines some of the topics that resulted from these meetings:

- *Regarding prescription drug benefit classification, Amida Care has a Pharmacy and Therapeutic Committee that reviews any new drugs regardless of therapeutic class which includes BH*

medications that come into the market. The same policies and practices apply to all prescription drug benefit classifications. This committee is chaired by a Senior Clinical Pharmacist, Chris Milan and members include the Chief Medical Officer, Jerry Ernst, MD, and pharmacists from in-network outpatient sites and providers from in-network sites. The committee meets on a quarterly basis.

- *Prescription drug utilization review for all drug classes are reviewed simultaneously. Criteria is established for all drugs that require utilization management and if a member meets the criteria, the review will be approved. Part of the criteria can be for member to try a covered alternative and/or if the member is unable to take covered alternative then medical necessity rationale is required from the prescriber.*
- *Retrospective review for prescription drugs is handled in the same manner as prospective reviews.*

We have determined that a more formal and comprehensive process is needed to compare the MH/SUD benefit to the Med/Surgical benefit to ensure they are comparable and that the MH/SUD policies are not more stringently applied than those for Med/Surgical.

Effective 12/15/2021, Amida Care will develop a formal MHPAEA program led by Amida Care leadership which will include internal staff and representatives from Beacon. A standing committee called Benefit Design Strategy and Implementation Committee will be developed chaired by Jerry Ernst, Chief Medical Director. Membership will include: Associate Medical Director; Vice President of Operations; Michele Pedretti-Moussally, Vice President of Integrated Care and Behavioral Health; Annmarie Murphy Director of Operational Initiative; Esperanza Gabriel, Senior Director of Compliance/Compliance Officer; Nicolette Piscatelli, Senior Director Network Operations; Kevin Steffens, Vice President of Health Services; Nabil Umer, Director of Pharmacy and Javita Moreira, Director of Vendor Performance. This committee will meet monthly for 6 months to monitor completion of the comparative analyses and plan of correction. After 6 months, the committee will meet quarterly. The principal charge of the committee is to ensure compliance with MHPAEA. This committee will provide oversight and ensure that the following items are addressed and resolved:

- *Ensure and demonstrate that processes, strategies, evidentiary standards and other factors will be used to design and operationalize inpatient and outpatient retrospective review and prescription drug retrospective review for MH/SUD benefits that are comparable to those utilized for Med/Surg benefits*
- *Ensure workbook reporting prompts are followed for prescription drug retrospective review, outlier review, and experimental/investigational determinations, fail first and for each service classification.*
- *Ensure outlier review has substantive comparative analyses demonstrate that process, evidentiary standards and other factors will be used to design and operationalize the NQTL for MH/SUD inpatient and outpatient.*
- *Ensure that prescription drug outlier is comparable to and no more stringently applied to those utilized for Med/Surg benefits*
- *Ensure that experimental/investigational determinations provide substantive comparable analysis including evidentiary standards comparability, equivalent stringency, written comparability and in-operation comparability.*
- *Ensure and demonstrate that fail first processes, strategies, evidentiary standards and other factors will be used to design and operationalize the NQTL for MH/SUD prescription drugs and*

- are comparable to and no more stringently*
- *Ensure that provider credentialing provide a substantive comparative analysis which includes in-operation comparability and equivalent stringency.*

As part of the process, a workgroup chaired by Johann Kirsch, Manager of Health Plan Operations, will provide oversight for the initial comparative analyses and completion of the plan of correction. Monthly updates will be reported to the Benefit Design Strategy and Implementation Committee.

Additionally, a policy will be created and finalized that will detail this process. Once the Phase III workbooks have been updated, a meeting will be scheduled with Milliman requesting their review and feedback on whether our substantive comparative analyses, equivalent stringency, evidentiary standards comparability, in-operation comparability along with the required information meets the requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA).

Staff training will be scheduled for relevant staff once the policy has been finalized and approved. When necessary, follow-up training will also be conducted to address additional changes for areas of potential non-compliance.

Amida Care will include MHPAEA Compliance Issues within the scope of the Compliance Hotline reporting under the Compliance Program. Any such compliance issues shall be investigated appropriately including protection for the reporting individual from any retaliation. If Amida Care identifies any MHPAEA violations, immediate corrective action will be implemented to correct the violation.

To ensure ongoing monitoring, Amida Care will designate a management staff responsible for assessing, monitoring, and managing Parity Compliance. Such management staff reports directly to Patrick McGovern, Chief Business Operations and Strategy Officer. Parity reports will be presented no less than annually to the Compliance Committee on the activities of the Mental Health Parity Program. The plan of correction will be implemented by March 30, 2022. Patrick McGovern, Chief Business Operations and Strategy Officer will be responsible for the implementation of the plan of correction.

Additionally, based on the review of Amida Care, Inc.'s Phase III NQTL workbook submission (submitted August 14, 2020) for retrospective review, the MCO is not in compliance with MHPAEA. The MCO's submission for retrospective review in the inpatient and outpatient benefit classifications demonstrated in Steps 1 through 3 that the processes, strategies, evidentiary standards, and other factors used to implement retrospective review for mental health and substance use disorder (MH/SUD) benefits are not comparable to those utilized for medical and surgical (M/S) benefits. To wit, the MCO indicated that it considers factors such as high cost for M/S benefits and other, non-comparable factors related to clinical care for MH/SUD benefits.

Amida Care reviewed our prior Phase III workbook responses and OMH's feedback for retrospective review in the inpatient and outpatient benefit classifications demonstrated in Step 1 through 3.

Meetings were held with involvement from functional leads as well as the Chief Medical Officer and Chief Business Operations and Strategy Officer to address the root causes of areas of non-compliance. A meeting was also scheduled with Beacon to discuss and better understand the parity components.

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