

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

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| NAME OF MANAGED CARE ORGANIZATION Excellus Health Plan, Inc. | TYPE OF SURVEY: Focus Survey: Mental Health Parity and Addiction Equity Act Testing of Phase III Workbooks |
| STREET ADDRESS, CITY, STATE, ZIP CODE 165 Court Street Rochester, NY 14647 | SURVEY DATES: March 11, 2020 - November 30, 2020 Survey ID#: -1735509361 |

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 |
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| <p>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.</p> <p><u>Deficiency:</u></p> <p>Based on the review of Excellus Health Plan, Inc.'s (Excellus) Phase III nonquantitative treatment limitation (NQTL) workbook submission, the MCO failed to provide all required information and comparative analyses demonstrating compliance with 42 CFR 438 Subpart K, and applicable State statute, rules and guidance; including the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), P.L. 110-343, for 5 of 10 NQTLs examined; retrospective review, outlier review, experimental/investigational determinations, fail first, and provider credentialing.</p> <ul style="list-style-type: none"> Specifically, Excellus failed to define factors in Step 3, evidentiary standards comparability and equivalent stringency, for retrospective review in the prescription drugs benefit classification. | <p>Phase III – Retrospective Review – Prescription Drugs – Steps 3 and 5</p> <p>Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.</p> <p><u>Remediation:</u> We are in the process of updating our workbooks to provide more details on the evidentiary standards applied and about how our Plan is operationalizing this NQTL for Prescription Drugs.</p> <p><u>Responsible Party:</u> Thomas Heaton, Manager, Clinical Operations, Data Reporting</p> <p><u>Completion Date:</u> 12/31/2021</p> <p><u>Monitoring:</u> We will perform ongoing comparative analyses through quarterly updates to the retrospective review workbook.</p> <p>If any parity discrepancies are identified through the comparative</p> |

Excellus failed to provide substantive comparative analyses in Step 5, in operation comparability and equivalent stringency, for retrospective review in the inpatient, outpatient, and prescription drugs benefit classification and for outlier review and provider credentialing in the inpatient, outpatient, and emergency care benefit classifications.

The MCO also failed to provide substantive comparative analyses in Step 3, evidentiary standards comparability and equivalent stringency, (outpatient benefit classification only), Step 4, as written comparability and equivalent stringency, (outpatient benefit classification only), and Step 5, in operation comparability and equivalent stringency, for

experimental/investigational determinations in the outpatient and prescription drugs benefit

- classifications. Additionally, Excellus failed to provide all information and substantive comparative analyses for Steps 2 through 5 for fail first in the prescription drugs benefit classification. Due to these findings, the State is not able to assess whether the MCO complies with MHPAEA for the above-referenced NQTLs.

analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas

Heaton, Manager, Clinical Operations,
Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Retrospective Review – Inpatient and Outpatient – Step 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on the in-operation comparability and equivalent stringency and about how our Plan is operationalizing this NQTL for inpatient and outpatient retrospective reviews.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the retrospective review workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and

retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Outlier Review – Inpatient, Outpatient

and Emergency Care – Step 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on how our plan is operationalizing this NQTL for inpatient, outpatient, and emergency care.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the outlier review workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan’s Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often

as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Provider Credentialing – Inpatient, Outpatient and Emergency Care – Step 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on how our plan is operationalizing this NQTL for inpatient, outpatient, and emergency care.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the provider credentialing workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity

requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Experimental or Investigational – Outpatient – Steps 3, 4 and 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on the evidentiary standards applied, comparative analysis of the written processes and strategies, and how our plan is operationalizing this NQTL for outpatient services.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the experimental/investigational determinations workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and

Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Experimental or Investigational – Prescription Drugs - Step 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on how our Plan is operationalizing this NQTL for prescription drugs.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the experimental/investigational determinations workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual

or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all

aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

Phase III – Fail First – Prescription Drugs – Steps 2, 3, 4 and 5

Excellus Health Plan, Inc. is committed to ensuring ongoing compliance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and related regulations. This commitment includes updating and maintaining current workbooks with the required information and substantive comparative analyses to demonstrate compliance.

Remediation: We are in the process of updating our workbooks to provide more details on identification factors, evidentiary standards applied, comparative analysis of the written processes and strategies, and how our plan is operationalizing this NQTL for prescription drugs.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021

Monitoring: We will perform ongoing comparative analyses through quarterly updates to the fail first workbook.

If any parity discrepancies are identified through the comparative analyses, or other monitoring activities, the workbooks will be updated as appropriate. Additionally, the individual or business area responsible for performing the comparative analyses is required to notify the Plan's Regulatory Compliance Department of these potential or actual violations through our regulatory self-reporting process. Our Plan will document and retain records of these violations, take the appropriate action to remediate the violations as identified, produce the necessary evidence of the remediation activity, and provide this information to the State, upon request.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: 12/31/2021 and annually thereafter, and as often as needed when operational changes are made that impact the workbooks.

Education/Training: Since the submission of these workbooks, we have implemented robust training on all aspects of MH Parity. Formal training related to MH and SUD parity requirements was provided to those employees and agents (i.e. behavioral health vendors and utilization review agents) who are engaged in functions subject to MH and SUD parity requirements or who are involved in conducting analyses to determine compliance with such requirements. This training will be conducted at least annually, and also be made a part of the orientation for new employees involved with MH and SUD benefits or analyses to determine compliance. The initial training session (Lunch and Learn format) was completed on 6/30/2021.

The training also includes training on updating workbooks to reflect any changes or corrections needed to address any areas of noncompliance found through our monitoring activities.

Responsible Party: Thomas Heaton, Manager, Clinical Operations, Data Reporting

Completion Date: Initial training of employees and agents on all aspects of MH parity including training on workbooks was completed on 6/30/2021. This training will continue on an annual basis.

MCO Representative's Signature



Date 11/16/2021

Title Vice President Regulatory Compliance, Medicare and Safety Net Compliance Officer

