

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

<b>NAME OF MANAGED CARE ORGANIZATION</b> Excellus Health Plan, Inc.	<b>TYPE OF SURVEY:</b> Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
<b>STREET ADDRESS, CITY, STATE, ZIP CODE</b> 165 Court Street Rochester, NY 14647	<b>SURVEY DATES:</b> 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
<p><b>10 CRR-NY 98-1.16 Disclosure and filing.</b> (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><b><u>Deficiency:</u></b></p> <p>Based on the review of Excellus Health Plan, Inc.'s (Excellus) Phase I and Phase II nonquantitative treatment limitation (NQTL) workbook submission 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 2 of 9 NQTLs examined; formulary design and reimbursement.</p> <ul style="list-style-type: none"> <li>• Specifically, in Phase I, Excellus failed to provide a (Step 2) list of factors triggering the NQTL and a substantive comparative analysis for (Step 3) evidentiary standards comparability and equivalent stringency for prescription drugs formulary design.</li> <li>• Specifically, in Phase II, Excellus 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 outpatient reimbursement.</li> </ul>	<p><b>Revised Plan Response (3/19/21)</b></p> <p><b>Phase I – Prescription Drugs Formulary Design – Step 2</b> (List of Factors Triggering the NQTL) and Substantive Comparative Analysis for <b>Step 3</b> (Evidentiary Standards Comparability and Equivalent Stringency)</p> <p>As referenced in the Department of Health's November 25, 2020 correspondence, which accompanied this Statement of Deficiency, at this time due to the planned pharmacy benefit carve out from Medicaid Managed Care, our Plan is not required to address deficiencies related to the prescription drugs classification or the formulary design NQTL in Phase I.</p> <p><b>Phase II – Outpatient Reimbursement – Steps 3, 4, and 5</b></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><b><u>Remediation:</u></b> We have updated our workbooks to provide more detail about how our Plan is operationalizing this NQTL. We have also been in contact with OMH and Milliman to ensure that our updates meet their expectations with respect to accurately reflecting our compliance. In the event OMH recommends changes to the updated workbook, we will immediately implement such changes.</p> <p><b><u>Responsible Party:</u></b> Diane Burden, HCNM Project Manager III</p>

**Completion Date:**

12/17/2020

**Monitoring:**

We will perform ongoing comparative analyses.

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:**

Laura Dibble, Vice President Regulatory Compliance, Medicare and Safety Net Compliance Officer

**Completion Date:**

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

**Education/Training:**

We are implementing robust training on all aspects of MH Parity. We are in the process of developing formal training related to MH and SUD parity requirements to be 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. We plan to conduct an initial training session (Lunch and Learn format) to be completed by 6/30/2021 and then annually thereafter.

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.

We have also provided re-education to staff on the required components of a Plan of Correction.

	<p><b>Responsible Party:</b>          Laura Dibble, Vice President Regulatory Compliance, Medicare and Safety Net Compliance Officer</p> <p><b>Completion Date:</b>          We expect initial training of employees and agents on all aspects of MH parity including training on workbooks to be completed by 6/30/2021 and annually thereafter.</p> <p>The re-education on the required components of a Plan of Correction was completed 3/18/2021.</p>
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MCO Representative's Signature	Date March 19, 2021 
Title Vice President, Regulatory Compliance, Medicare and Safety Net Compliance Officer	