

**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 Health Insurance Plan of Greater New York, Inc. (EmblemHealth)	TYPE OF SURVEY: Behavioral Health Network Adequacy Focus Survey
STREET ADDRESS, CITY, STATE, ZIP CODE 55 Water Street, New York, NY 10041	SURVEY DATES: July 2022 – June 2023 SURVEY ID: 1711654670

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
Social Services Law §365 (M)(3)(c)(i) 3. Notwithstanding any inconsistent provision of sections one hundred twelve and one hundred sixty-three of the state finance law, or Economic Development Law § 142 (Procurement opportunities newsletter), or any other law to the contrary, the commissioners of the office of mental health and the office of alcoholism and substance abuse services are authorized to enter into a contract or contracts under subdivisions one and two of this section without a competitive bid or request for proposal process, provided, however, that:...(c) the commissioners of the office of mental health and the office of alcoholism and substance abuse services, in consultation with the commissioner of health and the impacted local governmental units, shall select such contractor or contractors that, in their discretion, have demonstrated the ability to effectively, efficiently, and economically integrate behavioral health and health services; have the requisite expertise and financial resources; have demonstrated that their directors, sponsors, members, managers, partners or operators have the requisite character, competence and standing in the community, and are best suited to serve the purposes of this section. In selecting such contractor or contractors, the commissioners shall:...(i) ensure that any such contractor or contractors have an adequate network of providers to meet the behavioral health and health needs of enrollees, and shall review the adequacy prior to approval of any such contract or contracts, and upon contract renewal or expansion. To the extent that the network has been determined to	<u>PLAN RESPONSE:</u> I. Plan of Correction (POC) for findings related to above citations: 1. Description of Plan Review: A. In January 2024, the Plan advised Carelton that New York Presbyterian Hospital (NYP) was a contracted PH provider. It was determined that Carelton failed to apply service designation code 318 for NYP in its PNDS submissions to the Plan, which would have met PH program requirements for New York County. 2. Corrective Action and/or Revision Completed: A. On February 13, 2024, Carelton submitted its PNDS report including NYP as a PH provider to the Plan. This update will be reflected in the Plan's Q1 2024 PNDS submission to the State. B. On January 24, 2024, Carelton loaded service code 318 for NYP such that Carelton's systems accurately reflects NYP as a participating PH provider for New York County. 3. Description of Education and Training Activities: A. Plan resources accountable for the PNDS process will be retrained to recognize and address PNDS coding and status to ensure accurate review and reporting, including the quarterly validation of Carelton's PNDS submissions. Retraining will occur beginning with the next PNDS Deficiency Report received from the State following the date of this POC. (POC continued on next page)
MCO Representative's Signature 	Date: 5/7/2024

Title: SVP & Chief Compliance Officer

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Deficiencies	Plan of Correction with Timetable
meet standards set forth in subdivision five of Public Health Law § 4403 (Health maintenance organizations), such network shall be deemed adequate. NYS PHL §4403. 5.(a)(iii) 5(a) The commissioner, at the time of initial licensure, at least every three years thereafter, and upon application for expansion of service area, shall ensure that the health maintenance organization maintains a network of health care providers adequate to meet the comprehensive health needs of its enrollees and to provide an appropriate choice of providers sufficient to provide the services covered under its enrollee's contracts by determining that (i) there are a sufficient number of geographically accessible participating providers...(iii) there are sufficient providers in each area of specialty practice to meet the needs of enrollment population;... 10 NYCRR 98-1.16(j) (j) No later than 20 business days after the beginning of each calendar year, every MCO shall submit provider network information in an electronic format and including such information as prescribed by the commissioner. Such information shall reflect all signed and implemented contracts in effect as of the first day of such calendar year for all providers and service centers participating in the MCO's network. In addition, a notarized statement attesting to the accuracy of the electronic provider network information submission shall be required. Any modifications or updates to the provider network information must be communicated to the enrolled population, and upon request to potential enrollees, as	(POC continued) 4. Monitoring/Auditing of Corrective Action and/or Revision to Ensure Effective Oversight: A. On a quarterly basis, Carelon will review the State PNDS deficiency reports and provide a response to the Plan where needed within five (5) business days and or the allotted timeframe designated by the Plan. Carelon is committed to reviewing the services areas in the PNDS noted with a network adequacy gap to ensure all available providers that meet the criteria are being reported. 5. Name and Title of Person Responsible for Implementation and Oversight: A. EmblemHealth Vendor Management: [REDACTED], VP 6. Date Certain for Implementation: A. Corrective Actions: (Section 2): 1/24/2024 (System edits); 2/13/2024 (Carelon PNDS submission to Plan) B. Education and Training: (Section 3): 6/28/2024 C. Monitoring and Auditing (Section 4): 6/28/2024 (End of POC)
MCO Representative's Signature [REDACTED]	Date: 5/7/2024

Title: SVP & Chief Compliance Officer

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Deficiencies	Plan of Correction with Timetable
prescribed in subdivision (i) of this section. Those MCOs that serve enrollees eligible for benefits under title XIX shall submit provider network information in an electronic format and including such information as prescribed by the commissioner no later than 15 business days after the end of each quarter. <u>Deficiency:</u> Based on Medicaid Managed Care Plan (MMCP) data reported to the Provider Network Data System (PNDS) collected by the New York State (NYS) Department of Health (DOH), Health Insurance Plan of Greater New York, Inc. (EmblemHealth) failed to meet the minimum behavioral health (BH) network standards required for the following services: • Partial Hospitalization (PH) Specifically, EmblemHealth consistently reported contracting with only one PH program in New York County for four consecutive quarters, from July 2022 (Q3) and June 2023 (Q2). EmblemHealth failed to meet the required network standards of two PH programs contracted per urban county as outlined in the Medicaid Model Contract. EmblemHealth confirmed they contract with an additional provider in an email on January 9, 2024, and submitted the provider contract to DOH in an email on January 29, 2024. Following DOH review, the additional contractor was confirmed for PH services in New York County. Based on the contract review, EmblemHealth meets the BH network standards but failed to accurately report providers in the PNDS.	(See pages 1 and 2 for POC)
MCO Representative's Signature 	Date: 5/7/2024

Title: SVP & Chief Compliance Officer

Statement of Findings
Health Insurance Plan of Greater New York, Inc. (EmblemHealth)
Behavioral Health Network Adequacy Focus Survey
Survey ID: 1711654670
July 2022 – June 2023

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.

21.19(a)(ii)(b)(i)(D)(I) Behavioral Health Service Providers a) The Contractor will include a full array of mental health and Substance Use Disorder Service providers in its networks, in sufficient numbers to assure accessibility to Benefit Package services for both children and adults, using either individual, appropriately licensed practitioners or New York State Office of Mental Health (OMH) and Office of Alcoholism and Substance Abuse Services (OASAS) licensed programs and clinics, or both...ii) In addition to the requirements set forth in 21.19(b), upon the date of the Behavioral Health Benefit Inclusion in a geographic service area, the Contractor must establish contracts with any providers operated, licensed or certified by OMH or OASAS with five or more active Plan members in treatment, as determined by OMH and OASAS. The Contractor is not required to contract with such providers if they are unwilling to accept the Medicaid fee-for-service rate. Nothing in this subsection is intended to limit the Contractor's obligation to maintain an adequate network of Participating Providers...b) Except as provided in Subsection (e) of this section, an adequate network shall contain, at a minimum, the following number of providers or, where unavailable, all of the providers in a county: i) **Mental Health Service Provider Network...** D) **Partial Hospitalization (PH) programs** operated under 14 NYCRR Part 587: I) For urban counties, the network must include two providers per county;

Findings:

Based on Medicaid Managed Care Plan (MMCP) data reported to the Provider Network Data System (PNDS) collected by the New York State (NYS) Department of Health (DOH), Health Insurance Plan of Greater New York, Inc. (EmblemHealth) failed to meet the minimum behavioral health (BH) network standards required for the following services:

- Partial Hospitalization (PH)

Statement of Findings
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Specifically, EmblemHealth consistently reported contracting with only one PH program in New York County for four consecutive quarters, from July 2022 (Q3) and June 2023 (Q2). EmblemHealth failed to meet the required network standards of two PH programs contracted per urban county as outlined in the Medicaid Model Contract.

EmblemHealth confirmed they contract with an additional provider in an email on January 9, 2024, and submitted the provider contract to DOH in an email on January 29, 2024. Following DOH review, the additional contractor was confirmed for PH services in New York County. Based on the contract review, EmblemHealth meets the BH network standards but failed to accurately report providers in the PNDS.

PLAN RESPONSE:

I. Plan of Correction (POC) for findings related to above citations:

1. Description of Plan Review:

- A. In January 2024, the Plan advised Caredon that New York Presbyterian Hospital (NYP) was a contracted PH provider. It was determined that Caredon failed to apply service designation code 318 for NYP in its PNDS submissions to the Plan, which would have met PH program requirements for New York County.

2. Corrective Action and/or Revision Completed:

- A. On February 13, 2024, Caredon submitted its PNDS report including NYP as a PH provider to the Plan. This update will be reflected in the Plan's Q1 2024 PNDS submission to the State.
- B. On January 24, 2024, Caredon loaded service code 318 for NYP such that Caredon's systems accurately reflects NYP as a participating PH provider for New York County.

3. Description of Education and Training Activities:

- A. Plan resources accountable for the PNDS process will be retrained to recognize and address PNDS coding and status to ensure accurate review and reporting, including the quarterly validation of Caredon's PNDS submissions. Retraining will occur beginning with the next PNDS Deficiency Report received from the State following the date of this POC.

4. Monitoring/Auditing of Corrective Action and/or Revision to Ensure Effective Oversight:

- A. On a quarterly basis, Caredon will review the State PNDS deficiency reports and provide a response to the Plan where needed within five (5) business days and or the allotted timeframe designated by the Plan. Caredon is committed to reviewing the services areas in the PNDS noted with a network adequacy gap to ensure all available providers that meet the criteria are being reported.

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July 2022 – June 2023

5. Name and Title of Person Responsible for Implementation and Oversight:

A. EmblemHealth Vendor Management: [REDACTED]

6. Date Certain for Implementation:

A. Corrective Actions: (Section 2): 1/24/2024 (System edits); 2/13/2024 (Carelton PNDS submission to Plan)

B. Education and Training: (Section 3): 6/28/2024

C. Monitoring and Auditing (Section 4): 6/28/2024

MCO's Representative Signature	[REDACTED]	Date: 5/7/2024
Title: SVP & Chief Compliance	[REDACTED]	