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:
Capital District Physician's Health Plan, Inc.	Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE	**SURVEY DATES:**
500 Patroon Creek Blvd. Albany, NY 12206	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 (10 NYCRR). 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.
 	
<u>Deficiency:</u>
 	
Based on the review of Capital District Physician's Health Plan, Inc.'s (CDPHP) 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 6 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits and reimbursement.
 	
• Specifically, in Phase I, CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency for inpatient, outpatient, and prescription drug prior authorization. CDPHP failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency (prescription drugs only) and (Step 5) in operation comparability and equivalent stringency for outpatient and prescription drug prior authorization.
	As a result of the findings outlined in this SOD, CDPHP performed the following:
	• Engaged in a conference call with representatives from the New York State Department of Health, the Office of Mental Health, the Department of Financial Services and the state's consultants (Milliman) to review the compliance report cards; and
	• Reviewed the information provided by CDPHP for the phase I and phase II submissions.
	
	CDPHP has determined the following:
	• The root cause of the identified deficiencies:
	  ○ Incorrect interpretation of the intent/instructions of the tool;
	  ○ Insufficient narrative to describe the policies, procedures and/or operations subject to the survey;
	  ○ Inadequate or missing data to document evidentiary standards or comparability; and
	  ○ Insufficient summary of CDPHP's processes to evaluate and document parity.
	Therefore, CDPHP proposes the following plan of correction:
	• Formalize the ad hoc CDPHP mental health parity compliance team to enhance its responsibilities and oversight;
	• Identify all policies and procedures relevant to state evaluation and substantive comparative analysis to ensure a comprehensive review of comparability and equivalent stringency as written and in operation;

MCO Representative's Signature	Date
Shaila H Nelson	6-22-21
Title: Senior Vice President, State Programs	

CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency for inpatient and outpatient concurrent review and provide substantive comparative analyses for (Step 5) in operation comparability and equivalent stringency for outpatient concurrent review. The MCO failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency (inpatient only) and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient medical necessity criteria. For prescription drug medical necessity criteria, CDPHP failed to provide responses for Steps 3 through 5 that were specific to prescription drugs. Additionally, CDPHP 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, CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency and provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient coding edits. Additionally, CDPHP failed to provide all required information and substantive comparative analyses for Steps 1 through 5 demonstrating comparability and equivalent stringency for inpatient and outpatient reimbursement.	• Prepare six-step analysis (step 1: describe the NQTL,; step 2: factors used to determine imposition of NQTL; step 3: explanation of evidentiary standards and triggers; step 4: comparability of NQTLs as written; step 5: comparability of NQTLs in operation; step 6: summary of compliance rationale) and documentation for all NQTLs evaluated in phase I and phase II, which shall include: ➢ Specific data analytics of NQTLs and CDPHP operations to evaluate comparability and equivalent stringency. • Update six-step analysis and documentation, as needed; and • Establish a frequency for data analysis to monitor plan operations for mental health parity, including but not limited to, NQTLs in the utilization management program. • Establish quarterly meetings at which the compliance team shall review all comparative analyses, review implementation of previously identified changes, and make changes to policies or operations, as needed, to maintain compliance with mental health parity. • Align, wherever possible, all comparative analyses and compliance efforts with those implemented in conformance DFS regulatory requirements. • Provide quarterly educational sessions, as needed, to inform staff of mental health parity requirements and any recent changes to ensure compliance. CDPHP intends to implement the above steps by July 31, 2021 The person responsible for completion or direction of these efforts is: Sheila Nelson Senior Vice President, State Programs

MCO Representative's Signature 	Date 6-22-21
Title Senior Vice President, State Programs	

Statement of Findings
Capital District Physician's Health Plan, 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 Capital District Physician's Health Plan, Inc.'s (CDPHP) 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 6 of 9 NQTLS examined; prior authorization, concurrent review, medical necessity criteria, formulary design, coding edits and reimbursement.

- Specifically, in Phase I, CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency for inpatient, outpatient, and prescription drug prior authorization. CDPHP failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency (prescription drugs only) and (Step 5) in operation comparability and equivalent stringency for outpatient and prescription drug prior authorization.

  CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency for inpatient and outpatient concurrent review and provide substantive comparative analyses for (Step 5) in operation comparability and equivalent stringency for outpatient concurrent review. The MCO failed to provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency (inpatient only) and (Step 5) in operation

comparability and equivalent stringency for inpatient and outpatient medical necessity criteria. For prescription drug medical necessity criteria, CDPHP failed to provide responses for Steps 3 through 5 that were specific to prescription drugs.

Additionally, CDPHP 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, CDPHP failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency and provide substantive comparative analyses for (Step 4) as written comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency for inpatient and outpatient coding edits. Additionally, CDPHP failed to provide all required information and substantive comparative analyses for Steps 1 through 5 demonstrating comparability and equivalent stringency for inpatient and outpatient reimbursement.

CDPHP Corrective Action Plan:

As a result of the findings outlined in this SOD, CDPHP performed the following:

- Engaged in a conference call with representatives from the New York State Department of Health, the Office of Mental Health, the Department of Financial Services and the state's consultants (Milliman) to review the compliance report cards; and
- Reviewed the information provided by CDPHP for the phase I and phase II submissions.

CDPHP has determined the following:

- The root cause of the identified deficiencies:
  - Incorrect interpretation of the intent/instructions of the tool;
  - Insufficient narrative to describe the policies, procedures and/or operations subject to the survey;
  - Inadequate or missing data to document evidentiary standards or comparability; and
  - Insufficient summary of CDPHP's processes to evaluate and document parity.

Therefore, CDPHP proposes the following plan of correction:

- Formalize the ad hoc CDPHP mental health parity compliance team to enhance its responsibilities and oversight;
- Identify all policies and procedures relevant to state evaluation and substantive comparative analysis to ensure a comprehensive review of comparability and equivalent stringency as written and in operation;
- Prepare six-step analysis (step 1: describe the NQTL,; step 2: factors used to determine imposition of NQTL; step 3: explanation of evidentiary standards and triggers; step 4: comparability of NQTLs as written; step 5: comparability of NQTLs in operation; step 6: summary of compliance rationale) and documentation for all NQTLs evaluated in phase I and phase II, which shall include:
  - Specific data analytics of NQTLs and CDPHP operations to evaluate comparability and equivalent stringency.
- Update six-step analysis and documentation, as needed; and
- Establish a frequency for data analysis to monitor plan operations for mental health parity, including but not limited to, NQTLs in the utilization management program.
- Establish quarterly meetings at which the compliance team shall review all comparative analyses, review implementation of previously identified changes, and make changes to policies or operations, as needed, to maintain compliance with mental health parity.
- Align, wherever possible, all comparative analyses and compliance efforts with those implemented in conformance DFS regulatory requirements.
- Provide quarterly educational sessions, as needed, to inform staff of mental health parity requirements and any recent changes to ensure compliance.

CDPHP intends to implement the above steps by July 31, 2021.

The person responsible for completion or direction of these efforts is:
Sheila Nelson
Senior Vice President, State Programs