

STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER

OF

MARY T. BASSETT, M.D., M.P.H., as Commissioner of Health of the State of New York, to determine the action to be taken with respect to:

STIPULATION

AND

METROPLUS HEALTH PLAN, INC.

ORDER

MC-22-002

160 Water Street – 3rd Floor
New York, New York 10038

Respondent,

arising out of alleged violations of Article 44 of the Public Health Law of the State of New York, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, and Chapter 57 of the Laws of 2017, Part P, 48-a

WHEREAS, the New York State Department of Health (the "Department") has conducted surveys of MetroPlus Health Plan, Inc. (the "Respondent") and has found alleged violations of Article 44 of the Public Health Law, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR), and Chapter 57 of the Laws of 2017, Part P, 48-a; and

WHEREAS, Statements of Deficiencies and Statements of Findings based on surveys of the operations of the Respondent have been issued to the Respondent as follows: on May 23, 2019, for the survey conducted December 1, 2017, through May 31, 2018; and on August 30, 2021, for the survey conducted August 28, 2020, through March 10, 2021; and

WHEREAS, each of the aforesaid Statements of Deficiencies and Statements of

Findings sets forth alleged violations by the Respondent of Article 44 of the Public Health Law, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR), and Chapter 57 of the Laws of 2017, Part P, 48-a; and

WHEREAS, prior to commencement of administrative enforcement action based upon the alleged violations by service of a Notice of Hearing and Statement of Charges, the Department and the Respondent engaged in settlement discussions; and

WHEREAS, the parties wish to resolve this matter by means of a settlement instead of an adversarial administrative hearing.

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The violations of Article 44 of the Public Health Law, 10 NYCRR Part 98-1.11, and Chapter 57 of the Laws of 2017, Part P, 48-a.1 alleged in the Statements of Deficiencies and Statements of Findings issued on May 23, 2019, and August 30, 2021, are settled and discontinued with prejudice upon the terms and conditions set forth in this Stipulation and Order.

2. The Respondent, for the purpose of resolving this administrative matter only, admits to its delegated vendor having its claims payment system configured to use provider contracted rates as opposed to rates established by the government that required retrospective updates in violation of 10 NYCRR Part 98-1.11, Public Health Law Article 44, and Chapter 57 of the Laws of 2017, Part P, 48-a.1 in connection with the Statements of Deficiencies and Statements of Findings specified in paragraph 1 herein, attached hereto and made a part hereof as attachments "A" and "B", respectively.

3. Pursuant to Public Health Law §§ 12(1)(a) and 206, the Respondent is assessed a civil penalty of \$584,000.00 Dollars and shall pay the entire amount of that sum within thirty (30) days of the effective date of this Stipulation and Order.

4. Payment shall be sent by certified mail and shall be made payable to the New York State Department of Health, Bureau of Accounts Management, Corning Tower, Room 2748, Empire State Plaza, Albany, New York 12237-0016.

5. Any civil penalty not paid in accordance with this Stipulation and Order shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection and non-renewal of permits or licenses [Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32].

6. It is further stipulated and agreed by the Respondent and the Department that there exist valid and sufficient grounds as a matter of fact and law for the issuance of this Stipulation and Order under the Public Health Law and the Respondent consents to its issuance, accepts its terms and conditions and waives any right to challenge or review this Stipulation and Order through administrative or judicial proceedings, including a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.

7. The foregoing admissions made by the Respondent in this Stipulation and Order are solely for the purpose of resolving the instant administrative matter and are not intended for use in any other forum, tribunal or court outside the Department, including any civil or criminal proceedings in which the issues or the burden of proof

may differ. In addition, any such admissions are without prejudice to the Respondent's rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department.

8. This Stipulation and Order shall be effective upon service on Respondent or Respondent's attorney or representative of a copy by personal service or by certified or registered mail.

DATED: New York, New York
10/28/2022, 2022

MetroPlus Health Plan, Inc.

BY:

DocuSigned by:
Talya Schwartz
C389FBDGEA0B453...

Print Name:

Talya Schwartz President and CEO

AGREED AND SO ORDERED:

DATED: Albany, New York
November 9, 2022

New York State Department of Health

Mary T. Bassett

BY:

MARY T. BASSETT, M.D., M.P.H.
Commissioner of Health

Mail Stipulation and Order To:

Eric J. Mantey, Senior Attorney
Bureau of Administrative Hearings
Corning Tower, Room 2412
Empire State Plaza
Albany, New York, 12237-0016

Mail Payment To:

New York State Department of Health
Bureau of Accounts Management
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237-0016