Statement of Findings
Healthfirst PHSP, Inc.
Mental Health Parity and Addiction Equity Act Testing of Phase III Workbooks
March 11, 2020 - November 30, 2020
Survey ID #: -1456698915

Parity Compliance

10.2 Compliance with State Medicaid Plan, Applicable Laws and Regulations h.) Mental Health and Substance Use Disorder Benefits Parity Requirements
ii.) The Contractor shall comply with mental health and substance use disorder benefits parity requirements for financial requirements and treatment limitations specified in 42 CFR 438.910.

18.5 Reporting Requirements
a) The Contractor shall submit the following reports to SDOH (unless otherwise specified). The Contractor will certify the data submitted pursuant to this section as required by SDOH. The certification shall be in the manner and format established by SDOH and must attest, based on best knowledge, information, and belief to the accuracy, completeness and truthfulness of the data being submitted.
xxii) Mental Health and Substance Use Disorder Parity Reporting Requirements Upon request by the SDOH, OMH or OASAS the Contractor shall prepare and submit documentation and reports, in a form and format specified by SDOH, OMH or OASAS, necessary for the SDOH, OMH or OASAS to establish and demonstrate compliance with 42 CFR 438 Subpart K, and applicable State statute, rules and guidance.

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.

Finding:

Based on the review of Healthfirst PHSP, Inc. (Healthfirst) Phase III nonquantitative treatment limitation (NQTL) workbook submission, the Managed Care Organization (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.

- Specifically, Healthfirst failed to provide all information and substantive comparative analyses for retrospective review in Steps 1 through 5 in the inpatient, outpatient, and prescription drugs benefit classifications. Healthfirst failed to provide all information and substantive comparative analyses for outlier review in Steps 1 through 5 in the inpatient and outpatient benefit classifications and in Steps 2 through 5 in the prescription drugs benefit classification. For experimental/investigational determinations, the MCO failed to define factors in Step 3, evidentiary standards comparability and equivalent stringency, in the inpatient and outpatient benefit classifications, and failed to provide substantive comparative analyses in Step 4, as written comparability and equivalent stringency, and Step 5, in operation comparability and equivalent stringency, in the inpatient, outpatient, and prescription drugs benefit classifications.

  Additionally, Healthfirst failed to provide all information and substantive comparative analyses in Steps 1 through 5 for fail first in the inpatient and outpatient benefit classifications. For fail first, the MCO failed to define factors in Step 3, evidentiary standards comparability and equivalent stringency, and failed to provide substantive comparative analyses in Step 3, evidentiary standards comparability and equivalent stringency, and Step 5, in operation comparability and equivalent stringency in the prescription drugs benefit classifications. Healthfirst also failed to provide all information and substantive comparative analyses in Steps 1 through 5 for provider credentialing in the inpatient and outpatient benefit classifications. Due to these findings, the State is not able to assess whether the MCO complies with MHPAEA for the above-referenced NQTLs.

Healthfirst Response:

Deficiency Overview:

In the statement of deficiency noted in the first column, the Department has annotated 5 key factors that contributed to the overall deficiency, which Healthfirst summarizes as follows:

1- *Information and substantive comparative analyses deficient for retrospective reviews – inpatient, outpatient, and prescription drugs*
2- *Information and substantive comparative analyses deficient for outlier review – inpatient, outpatient (all steps), and prescription drugs (steps 2-5)*
3- *Defined factors supporting evidentiary standards comparability and equivalent stringency deficient for experimental/investigational determinations – inpatient, outpatient (steps 3-5), and prescription drugs (steps 4-5)*
4- *Information and substantive comparative analyses deficient for fail first policies – inpatient, outpatient (all steps), evidentiary standards comp. and equivalent stringency (step 3), and prescription drugs (step 5 – operational)*
5- *Information and substantive comparative analyses deficient for credentialing – inpatient, outpatient (all steps)*

Corrective Action Plan:

A. Issue: Healthfirst failed to provide all information and substantive comparative analyses for retrospective review in Steps 1 through 5 in the inpatient, outpatient, and prescription drugs benefit classifications.

   Resolution Plan: As of the date of this submission, Healthfirst's Behavioral Health and Utilization Management Departments have completed a review and have submitted

policies and data internally for the category of retrospective review. The Compliance Monitoring Program, established as part of our prior corrective action plan is reviewing these submitted policies to ensure that we can update the Phase III worksheets. The objective is to ensure we can qualify our statements, providing all information and the results of our comparative analyses within those documents to attain compliance. This applies to the inpatient and outpatient areas. Pertaining to Pharmacy, our PBM is currently discussing these issues internally and has committed to finalizing review, performing the analyses, and relaying this information to us for our review so that we can ensure our worksheets for Phase III can be updated by the "Date Certain" listed within this Corrective Action Plan. The Healthfirst oversight team has set up regular meetings to track and manage the progress and sure completion by the Date Certain.

B. Issue: Healthfirst failed to provide all information and substantive comparative analyses for outlier review in Steps 1 through 5 in the inpatient and outpatient benefit classifications and in Steps 2 through 5 in the prescription drugs benefit classification.

Resolution Plan: Healthfirst does not employ any direct single-case outlier review process that would affect our UR process. For policy-level outlier review, we rely on regular reporting which is reviewed by the Quality Improvement Committee, which examines the volume and categories or types of review as well as associated outcomes. We will act on any materially aberrant outcomes (i.e., outliers), which could affect policy change resulting in a change to UR criteria or the UM process. To date, we have not identified any outliers during the period covered by the original Phase III submission through the present. If we were to find outliers, we would engage in a process including discussion and critical decision making to address the cause of the outliers. To comply with parity requirements as part of this corrective action plan, these processes will be documented to support the provision of additional detail and perform comparative analyses that reflect statistical analysis of any outlier-related actions. We do not expect to conduct any data-driven comparative analyses on policy changes in the near future, given the lack of outlier driven actions in our recent history. However, by documenting the reviews and our processes we will demonstrate equivalent stringency, and at minimum, our plan for conducting a comparative analysis of outlier review, should that occur in the future. We will be conducting this effort in the inpatient and outpatient benefit classifications and updating our Phase III worksheets accordingly. For the Pharmacy benefit classification, the aforementioned challenges and plan do not apply. Our PBM is currently discussing these issues internally to determine any actions for their outlier process. Comparative analyses and detail will be provided to us for our review within the first quarter of 2022 so that we can ensure our worksheets for Phase III can be updated by the "Date Certain" listed within this Corrective Action Plan. The Healthfirst oversight team has set up regular meetings to track and manage the progress and sure completion by the Date Certain.

C. Issue: Regarding experimental/investigational determinations, Healthfirst failed to define factors in Step 3, evidentiary standards comparability and equivalent stringency, in the inpatient and outpatient benefit classifications, and failed to provide substantive comparative analyses in Step 4, as written comparability and equivalent stringency, and Step 5, in operation comparability and equivalent stringency, in the inpatient, outpatient, and prescription drugs benefit classifications.

Resolution Plan: Prior to this Statement of Deficiency, Healthfirst had not formalized our experimental/investigational standards or process, which made it challenging to analyze or determine comparability of evidentiary standards or equivalent stringency in any benefit classification. As of the date of this submission, we have finalized a draft of our internal policy which will be reviewed and approved by our medical leadership team. This policy was drafted with the specific mindset of ensuring standards are applied equally across the medical and behavioral health spectrum, resulting in a measurable standard with which we

can monitor outcomes. Although the frequency of requests is low, we anticipate, as part of this corrective action plan, implementing our policy and standards before the end of 2021, and updating our Phase III worksheets on this topic to include our evidence used to establish comparability and equivalent stringency, and to perform comparative analyses supported by the data available to ensure mental health parity, by the "Date Certain" listed within this Corrective Action Plan. This effort includes in scope our inpatient, outpatient, and prescription drugs benefit classifications. The Healthfirst oversight team has set up regular meetings to track and manage the progress and sure completion by the Date Certain.

D. Issue: We failed to provide all information and substantive comparative analyses in Steps 1 through 5 for fail first policy in the inpatient and outpatient benefit classifications. We also failed to define factors in Step 3, evidentiary standards comparability and equivalent stringency, and failed to provide substantive comparative analyses in Step 3, evidentiary standards comparability and equivalent stringency, and Step 5, in operation comparability and equivalent stringency in the prescription drugs benefit classifications.

   Resolution Plan: Our Behavioral Health and Utilization Management Departments are in the process of identifying standards and policies that may not have been included in scope when initially providing our Phase III response. These standards will be used in developing a monitoring process to measure whether there is any failure pertaining to comparable evidentiary standards used in various actions and whether further effort is needed to ameliorate any issues. Our preliminary analysis seems to indicate that most if not all our fail first policies fall on the medical side. As noted, however, we will continue to conduct our review and analysis to be able to compare the results and outcomes of these policies. This is expected to yield standard comparative analyses that should reflect statistical outcomes of any fail first-related actions. We will be conducting this effort in the Healthfirst-managed inpatient and outpatient benefit classifications and updating our Phase III worksheets accordingly. Our corrective action plan includes an effort to coordinate a data stream with our delegated vendors for radiology and dental services which will permit Healthfirst to include those services in our comparative analyses to confirm equivalent stringency. Due to the size of that change, our delegated vendors will need until the end of the third quarter of 2022 to complete this change. We have identified this as the sole *exception* to the "Date Certain" specified in this Corrective Action Plan. The exact date is provided in that portion of this plan. For the Pharmacy benefit classification, our PBM is currently discussing these issues internally to determine any actions for their fail first process. Comparative analyses, documentation of evidentiary standards comparability and detailed information will be provided to us for our review within the first quarter of 2022 so that we can ensure our worksheets for Phase III can be updated by the "Date Certain" listed within this Corrective Action Plan. The Healthfirst oversight team has set up regular meetings to track and manage the progress and sure completion by the Date Certain.

E. Issue: Healthfirst failed to provide all information and substantive comparative analyses in Steps 1 through 5 for provider credentialing in the inpatient and outpatient benefit classifications.

   Resolution Plan: After reviewing our original Phase III response pertaining to credentialing, we admittedly misread a portion of the instructions which may have yielded the inappropriate results noted in this statement of deficiency. Our Credentialing Team has provided the evidentiary standards relied on for credentialing of all provider types (medical and behavioral health). These have since been assessed and determined to meet comparability standards to ensure compliance with parity compliance. However, we have also identified some delegated credentialing arrangements that are new since our last Phase III submission, which we will be evaluating through a vendor audit process to be conducted in the first quarter of 2022. As such, we are confident that we will be able to

perform a comparative analysis for both internal credentialing standards and timeframes as well as our delegated process to be completed by the "Date Certain" listed within this Corrective Action Plan. This will ensure our Phase III worksheets may be updated in a timely and accurate manner.

This corrective action plan will be supported by our formal compliance program that we have implemented to support our annual certification process. Throughout the effort to implement this corrective action plan and work related to our continued compliance program oversight, we will disclose to the State (Department of Health and Office of Mental Health) scenarios that are identified and addressed that impact parity compliance. Timing of reports may vary based on content of disparity or issue. Results will be reviewed by Compliance on a regular basis to oversee the monitoring process.

Remediation Escalation Process

If a disparity is identified, and a remediation plan fails based on monitoring results, the disparity issue will be escalated to Senior Leadership, Corporate Compliance Committee and the Board-level Audit, Risk and Compliance Committee as appropriate.

Commitment to Retain Updated Worksheets

Healthfirst remains committed to update and maintain the Phase 3 worksheets as required. Furthermore, we will include any supporting data elements to augment these worksheets in support of our comparative analysis results. This may add information to these worksheets but will not detract from or remove any of the required elements.

Lines of Business Impacted

The lines of business that are subject to this Statement of Deficiency are Mainstream Medicaid and HARP. Therefore, this Plan of Correction impacts those two lines of business.

Responsible Parties

The roles listed below represent the individuals defined as the principal point of accountability for their area. We have included a list of the names of individuals currently in those roles outside of this formal document.

Leading this initiative will be:

- **Physical Health Medical Director**
- **Behavioral Health Medical Director**
- **VP Utilization Management**
- **VP Pharmacy**

Date Certain

We will complete the efforts described in this Corrective Action Plan no later than **April 30, 2022**, with the following exception: For only the Fail First related portion for our non-pharmacy delegated vendors, we will complete that portion by **September 30, 2022**.

Monitoring / Auditing

The **Healthfirst Chief Compliance Officer** will monitor and provide assurance oversight of the comparative analysis program. Operational monitoring has been initiated in raw form, to be refined as we gain insight through our oversight process. Ongoing recurrent monitoring processes have been established as part of the Compliance Monitoring Program described above. Internal Auditing will be initiated as deemed necessary.

Education

Corporate training for mental health parity requirements has already been rolled out and completed by all Healthfirst employees as of October 11, 2021. We will continue to refine this training to ensure education of all employees responsible for establishing and maintaining parity during any policy changes, system updates or document edits throughout the year.