

**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 Empire Blue Cross Blue Shield HealthPlus	TYPE OF SURVEY: Focus Survey: MHPAEA Testing Phase I and Phase II Workbooks
STREET ADDRESS, CITY, STATE, ZIP CODE 9 Pine Street New York, NY 10005	SURVEY DATES: August 22, 2018 – September 22, 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>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.</p> <p>Deficiency:</p> <p>Based on the review of Empire Blue Cross Blue Shield HealthPlus' (HealthPlus) 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 out of network coverage standards.</p> <ul style="list-style-type: none"> Specifically, in Phase I, HealthPlus failed to provide substantive comparative analyses for (Step 3) evidentiary standards comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency for prescription drug prior authorization. For concurrent review, HealthPlus failed to provide substantive comparative analyses for (Step 2) factors triggering the NQTL for inpatient and (Step 3) evidentiary standards comparability and equivalent 	

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stringency for outpatient. Additionally, HealthPlus failed to define factors in (Step 3) evidentiary standards comparability and equivalent stringency for outpatient and provide all required information and substantive comparative analyses for Steps 2 through 5 for prescription drug concurrent review.

The MCO failed to provide substantive comparative analyses for (Step 3) evidentiary standards comparability and equivalent stringency and (Step 5) in operation comparability and equivalent stringency for prescription drug medical necessity criteria and (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, HealthPlus failed to provide all information and substantive comparative analyses for (Step 2) factors triggering the NQTL, (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 inpatient coding edits. For outpatient, emergency care, and prescription drug coding edits, the MCO failed to provide substantive comparative analyses for (Step 3) evidentiary standards comparability and equivalent stringency, (Step 4) as written comparability and equivalent stringency (outpatient and emergency care only), and (Step 5) in operation comparability and equivalent stringency.

Additionally, the MCO failed to provide all information and substantive comparative analyses for (Step 2) factors triggering the NQTL (inpatient only), (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 inpatient and outpatient out of network coverage standards.

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