

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**CARESOURCE WEST VIRGINIA COMPANY (NAIC No. 15728)**

Administrative Proceeding No. 25-IC-185232

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, “Commissioner”), and CareSource West Virginia Company (hereinafter, “CareSource”) who, after consideration of the *Report of Market Conduct Examination* (hereinafter, the “*Examination Report*”) of CareSource have agreed to the entry of this Order.

FINDINGS OF FACT

1. The market conduct examination was a targeted examination focusing on the statutes, rules, and regulations pertaining to mental health parity. The examination was conducted in accordance with W.Va. Code §33-2-9(c) by examiners duly appointed by the Commissioner and covered the period of January 1, 2022 through December 31, 2022.
2. On or about August 25, 2025, the examiner filed with the Commissioner, pursuant to W. Va. Code §33-2-9, the *Examination Report*.
3. A true copy of the *Examination Report* was provided to CareSource and CareSource was notified, pursuant to W.Va. Code §33-2-9(j)(2), that it had ten (10) days after receipt of the *Examination Report* to file a submission or rebuttals with the Commissioner.

4. As set forth in the *Examination Report*, the examination focused on the methods used by CareSource to manage its operations for each of the areas examined, including whether and how CareSource complies with federal and state law regarding mental health parity.

5. The *Examination Report* is a report by exception. As such, only those standards tested where violations were noted are included in the *Examination Report*.

6. The Commissioner reviewed the *Examination Report* and considered all relevant information, including CareSource's response to the final *Examination Report*. Desiring to conclude this proceeding without the necessity of a formal proceeding, and the time, trouble, and expense involved in a formal proceeding, CareSource agrees to the entry of this Order and waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

#### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is conducted pursuant to and in accordance with W. Va. Code §33-2-9.

3. The Commissioner is charged with the responsibility of verifying CareSource's continued compliance with West Virginia law.

4. Violations of West Virginia law were identified in CareSource's examination as detailed in the attached *Examination Report*, a summary of which is set forth below.

- Pharmacy Formulary: There were multiple issues with respect to W.Va. Code §§ 33-25A-8u(c), 33-25A-8r(k), and 33-25A-8o(c)(1), 33-25A-8o(c)(2)(C). Dispensing limitations for Buprenorphine/naloxone products, Suboxone, Zubsolv, desvenlafaxine, and duloxetine. Required prior authorization for Vyvanse and buprenorphine tablets and imposed more restrictive step therapy on vraylar. Placed Lucemyra, Sublocade, Suboxone, and Zubsolv as non-formulary; had quantity limitations on Narcan, naloxone products, and Kloxxado. Step therapy medication policies were not operated properly.
- Utilization Review: There were issues regarding W.Va. Code § 33-25A-8s(d) and W.Va. Code R. §§ 114-95-7.1.c, 114-95-7.1.d, 114-95-7.2.a, 114-95-7.3.b.1.c, 114-95-7.3.a.9, and 114-95-8.2.a.10. The Insurance Commissioner's contact information was not listed in the adverse determination for standard and expedited utilization reviews as required by W.Va. Code R. §§ 114-95-7.3.a.9 and 114-95-8.2.a.10. There were issues with providing timely responses to requests.
- Claims: The claims processing address and the Insurance Commissioner's contact information was not listed in adverse determination when any element of a claim was rejected as required by W.Va. Code R. § 114-14-6.17. The company failed to provide a specific description of services rendered by the provider on the EOB as required by W.Va. Code R. §§ 114-14-4.1 and 114-14-4.2. Certain required language and information in the EOBs for denial of reimbursement for services of behavioral health, mental health and/or substance use disorders were not included as required by W.Va. Code R. §§ 114-64-6.3.1, 114-64-6.3.2, and 114-64-6.3.3.
- Appeals: There were instances where the company failed to properly inform the covered person of their rights in the adverse determination letter as required by W.Va. Code R. § 114-96-5.8.j.

- Mental Health Parity: CareSource provided comparative analyses for several nonquantitative treatment limitations (NQTL). After an examination of the comparative analyses, it was determined that the contents of the comparative analyses were not sufficiently specific, detailed, and reasoned to demonstrate that the processes, strategies, evidentiary standards, and other factors used to apply the non-quantitative treatment limitations (NQTL) to mental health (MH) or substance use disorder (SUD) benefits, as written and in operation, are comparable to, and were applied no more stringently than, the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs to medical and surgical benefits in each benefits classification, as required by 42 U.S.C. § 300gg-26(a)(8)(A)(iv) and W.Va. Code R. § 114-64-1, *et. seq.* As detailed in the *Examination Report*, there were a number of ways that the company's comparative analyses were determined to be insufficient.

5. The Commissioner has determined that CareSource should be assessed a monetary penalty for violating the standards as set forth in the *Examination Report*.

#### ORDER

Pursuant to W.Va. Code §§ 33-2-9(j)(3)(A), following the review of the *Examination Report*, the examination work papers, and CareSource's response thereto, the Commissioner and CareSource have agreed to enter into the Agreed Order adopting the *Examination Report* and the imposition of an administrative penalty as set forth below. It is accordingly **AGREED** and **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and by this reference, incorporated herein and made a part hereof, EXCEPT for findings 20, 22, and 25.

2. CareSource shall endeavor to comply with the recommendations contained in the *Examination Report*.

3. CareSource shall continue to monitor its compliance with applicable West Virginia law.

4. CareSource shall specifically cure the violations and deficiencies identified in the *Examination Report* to ensure compliance and conformity with West Virginia law, as set forth hereinabove, to the extent such has not already been completed and/or accomplished.

5. CareSource will file a Corrective Action Plan (CAP), subject to the approval of the Commissioner, which said CAP shall detail CareSource's changes to its procedures and/or internal policies to ensure compliance with West Virginia law and shall further incorporate all recommendations of the Commissioner's examiners and address all violations specifically cited in the *Examination Report*.

6. The CAP shall be submitted to the Commissioner for his approval within 30 days of the date this order is entered.

7. CareSource shall make reasonable changes to the CAP if and as directed by the Commissioner within 30 days of its receipt of the Commissioner's changes to, or disapproval of, the CAP.

8. CareSource shall, within 90 days of its receipt of notice from the Commissioner of his final approval thereof, implement the CAP.

9. Pursuant to W.Va. Code § 33-2-9(j)(4) within 30 days of the date this Order is entered, CareSource shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted *Examination Report* and this Order.

10. CareSource shall pay an administrative penalty in the amount of One Hundred Thousand Dollars (\$100,000.00) for its non-compliance with West Virginia law as set forth hereinabove, the assessment of which penalty is in lieu of any other regulatory penalty and shall be remitted within 30 calendar days of the date this order is entered by the Commissioner.

11. It is AGREED and ORDERED that all such statutory notices, administrative hearings and appellate rights are herein waived by CareSource concerning this Report of Market Conduct Examination and Agreed Order.

Entered this 17<sup>th</sup> day of December, 2025.



Allan L. McVey  
CPCU, ARM, AAI, AAM, AIS  
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the Insurance Commissioner:

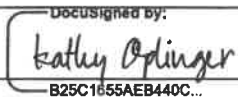


Jeffrey C. Black, Attorney Supervisor  
Regulatory Compliance and Enforcement

On behalf of CareSource:

By: Kathy Oplinger  
Print Name

Title: Director, KY/WV Marketplace

Signature:   
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Date: 12/16/2025

**WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER**



**REPORT OF MARKET CONDUCT EXAMINATION**

**OF**

**CARESOURCE WEST VIRGINIA COMPANY, NAIC #15728**

**August 25, 2025**

## MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: September 1, 2023 through September 25, 2024

EXAMINATION OF: CareSource West Virginia Company  
NAIC #15728

LOCATION: 400 Washington St. E  
Charleston, WV 25301

PERIOD COVERED: January 1, 2022 to December 31, 2022

EXAMINERS: Art Kusserow  
Tanner Qualls  
Sharon Wiernik  
June Coleman  
Tony Taylor  
Steven Gloc  
Puru Shrestha  
Matthew Sankey  
Trevor Strenchock  
Marilyn Vadon  
Maureen Hicks, Examiner-in-Charge  
Shelly Schuman, Supervisory Insurance Examiner

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SALUTATION

August 25, 2025

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS  
West Virginia Insurance Commissioner  
900 Pennsylvania Ave.  
Charleston, West Virginia 25302

Pursuant to the authority vested in the West Virginia Offices of the Insurance Commissioner, through W.Va. Code §33-25A-8u and W.Va. Rules §§114-64-7.3 and 8a, a targeted market conduct examination has been made of:

CareSource West Virginia Company  
NAIC #15728

400 Washington St. E  
Charleston, WV 25301

The following examination report is respectfully submitted.

## I. FOREWORD

This is a market conduct examination report (“Report”) of CareSource West Virginia Company (“the Company”), NAIC Code 15728. This examination was conducted at authorized offsite locations.

This Report is generally a report by exception. However, failure to criticize specific practices, procedures or files does not constitute approval thereof by the West Virginia Offices of the Insurance Commissioner (“WVOIC”).

During this examination, the examiners cited errors made by the Company. Statutory citations were as of the examination period unless otherwise noted.

## II. SCOPE OF THE EXAMINATION

The WVOIC has the authority to conduct this examination pursuant to, but not limited to, W.Va. Code §33-25A-8u and W.Va. Rules §§114-64-7.3 and 8a.

The purpose of the examination was to determine if the Company complied with the West Virginia and federal statutes, rules, and regulations, and to consider whether the Company's operations are consistent with the requirements of mental health parity. The examination period covered by this review was January 1, 2022 to December 31, 2022, unless otherwise noted. Errors outside of this time discovered during the examination, however, may also be included in the Report.

The examination involved the Health Maintenance Organization ("HMO") business.

The scope of this examination focused on mental health parity including the following areas: company operations and management, provider credentialing, provider relations, network adequacy, claims, complaints, appeals, external review, utilization review, mental health parity (quantitative and non-quantitative treatment limitation analyses), and pharmacy review.

In performing this examination, the examiners reviewed a sample of the Company's practices, procedures, products, and files. Therefore, some noncompliant events may not have been discovered. As such, this Report may not fully reflect all the practices and procedures of the Company. As indicated previously, failure to identify or criticize improper or noncompliant business practices in this state or other jurisdictions does not constitute acceptance of such practices.

### III. SUMMARY OF FINDINGS

The following table represents general findings with specific details in each section of the Report.

TABLE OF TOTAL VIOLATIONS						
Finding	Finding #	Code/Rule	Description of Violation	Samples	Number of Violations	Error %
Pharmacy Formulary	1	W.Va. Code §33-25A-8u(c)	Imposed more restrictive quantity limitations on Suboxone, Zubsolv, and buprenorphine/naloxone tablets/films compared to that of medical/surgical (M/S) medications. When approved for above label dosing the policy states, "Prior Authorization Required (Non-Preferred Product) Alternative preferred products include generic buprenorphine/naloxone sublingual tablets QUANTITY LIMIT— 30-day supply at a time only."	N/A	N/A	100%
Pharmacy Formulary	2	W.Va. Code §33-25A-8r(k)	Limited access to substance use disorder treatment when placing Lucemyra as non-formulary on all formularies. A member would be required to obtain a prior authorization/non-formulary coverage exception for approval of the medication.	N/A	N/A	100%
Pharmacy Formulary	3	W.Va. Code §33-25A-8r(k)	Imposed quantity limitations, a prospective utilization management requirement, on Narcan, generic naloxone, and Kloxxado. The medication is intended for immediate administration as emergency therapy in settings where opioids may be present.	N/A	N/A	100%
Pharmacy Formulary	4	W.Va. Code §33-25A-8r(k)	Imposed a coverage restriction when placing Sublocade as non-formulary during the examination period. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication.	8	8	100%
Pharmacy Formulary	5	W.Va. Code §33-25A-8r(k)	Imposed a coverage restriction when placing Suboxone as non-formulary. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication when the provider deemed the brand name medication medically necessary.	201	201	100%
Pharmacy Formulary	6	W.Va. Code §33-25A-8u(c)	Imposed more restrictive quantity limitations on desvenlafaxine during the examination period on the formulary. The Company limited members to one tablet daily on all strengths of Pristiq, Khedezla and desvenlafaxine ER tablets. These products are indicated for the treatment of major depressive disorder (MDD) and are commercially available in strengths of 25mg, 50mg, and 100mg per tablet.	N/A	N/A	100%

TABLE OF TOTAL VIOLATIONS						
Finding	Finding #	Code/Rule	Description of Violation	Samples	Number of Violations	Error %
Pharmacy Formulary	7	W.Va. Code §33-25A-8r(k)	Imposed quantity limitations, a prospective utilization management requirement, on all strengths of buprenorphine/naloxone products. The medications include Suboxone, Zubsolv, and buprenorphine/naloxone tablets/films. The medications had restrictive hard-limit quantity limitations.	4	4	100%
Pharmacy Formulary	8	W.Va. Code §33-25A-8r(k)	Imposed a coverage restriction when requiring a prior authorization for coverage of buprenorphine tablets. Subutex (buprenorphine) is indicated for the treatment of opioid dependence.	19	19	100%
Pharmacy Formulary	9	W.Va. Code §33-25A-8u(c)	Created a barrier to access when requiring a prior authorization on Vyvanse, the only FDA approved medication indicated for binge eating disorder (BED)	N/A	N/A	100%
Pharmacy Formulary	10	W.Va. Code §33-25A-8r(k)	Imposed a coverage restriction when placing Zubsolv as non-formulary. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication. Zubsolv is indicated for the treatment of opioid dependence.	2	2	100%
Claims – Autism Paid and Denied	11	W.Va. Code R. §§114-64-6.3.1, 114-64-6.3.2 and 114-64-6.3.3	Failed to include in the explanation of benefits, the required mental health parity disclosure language when any element of a behavioral health, mental health, and/or substance use disorders (MH/SUD) claim is denied.	28	5	18%
Claims – Autism Paid and Denied	12	W.Va. Code R. §§114-14-4.1 and 114-14-4.2	Failed to provide a specific description of services rendered by the provider on the explanation of benefits.	28	25	89%
Claims – Medical Paid	13	W.Va. Code R. §114-14-6.17	Failed to include the Commissioner website address in the required Commissioner’s contact information on the explanation of benefits when a denial is present.	30	4	13%
Claims – Medical Paid	14	W. Va. Code R. §§114-14-4.1 and 114-14-4.2	Failed to provide a specific description of services rendered by the provider on the explanation of benefits.	30	20	67%
Claims – Mental Health and Substance Use Disorder Denied	15	W.Va. Code R. §§114-64-6.3.1, 114-64-6.3.2 and 114-64-6.3.3	Failed to include in the explanation of benefits, the required mental health parity disclosure language when any element of a behavioral health, MH/SUD claim is denied.	30	30	100%
Utilization Review – Medical Approved	16	W.Va. Code §33-25A-8s(d)	Failed to provide a response within seven days of the electronic prior authorization submission.	30	8	27%
Utilization Review – Medical Approved	17	W.Va. Code R. §114-95-7.1.c	Failed to provide a response within 15 days of the Company receiving the request.	30	3	10%

TABLE OF TOTAL VIOLATIONS						
Finding	Finding #	Code/Rule	Description of Violation	Samples	Number of Violations	Error %
Utilization Review – Medical Denied	18	W.Va. Code R. §114-95-7.3	Failed to provide the member with a determination letter.	30	2	7%
Utilization Review – Mental Health and Substance Use Disorder Approved	19	W.Va. Code R. §114-95-7.1.c	Failed to provide a response within 15 days of the Company receiving the request.	30	1	3%
Drug Utilization Review – Substance Use Disorder Denied	20	W.Va. Code R. §114-95-7.3.b.1.C	Failed to prominently display a statement in any applicable non-English language clearly indicating how to access the language services provided by the carrier.	9	9	100%
Drug Utilization Review – Substance Use Disorder Denied	21	W.Va. Code R. §§114-95-7.3.a.9 and 114-95-8.2.a.10	Failed to provide a statement explaining the availability of and contact information for assistance through the Commissioner’s office with the adverse determination of the standard or expedited utilization management process.	9	8	89%
Drug Utilization Review – Mental Health Denied	22	W.Va. Code R. §114-95-7.3.b.1.C	Failed to prominently display a statement in any applicable non-English language clearly indicating how to access the language services provided by the carrier.	30	30	100%
Drug Utilization Review – Mental Health Denied	23	W.Va. Code R. §§114-95-7.3.a.9 and 114-95-8.2.a.10	Failed to provide a statement explaining the availability of and contact information for assistance through the Commissioner’s office with the adverse determination of the standard or expedited utilization management process.	30	22	73%
Appeals	24	W.Va. Code R. § 114-96-5.8.j	Failed to properly inform the covered person of their rights in the appeal adverse determination letter.	30	7	23%
Appeals	25	W.Va. Code R. §§114-96-5.9.a.1, 114-96-5.9.a.2 and 114-96-5.9.a.3	Failed to provide information listed in W.Va. Code R. §114-96-5.8 in a culturally and linguistically appropriate manner in accordance with federal regulations.	30	8	27%
Pharmacy Formulary	26	W.Va. Code §33-25A-8u(c)	Imposed a more restrictive quantity limitation policy on duloxetine. Duloxetine quantity limitation impacted patients being treated for mental health indications but did not comparably impact patients being treated for M/S indications.	N/A	N/A	100%
Pharmacy Formulary	27	W.Va. Code §33-25A-8o(c)(2)(C)	Created and operated step therapy medication policies that did not grant approval when a member is stable on a medication.	N/A	N/A	100%
Pharmacy Formulary	28	W.Va. Code §33-25A-8o(c)(2)(C)	Created and operated step therapy medication policies that did not grant approval after a patient tried a prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.	N/A	N/A	100%

TABLE OF TOTAL VIOLATIONS						
Finding	Finding #	Code/Rule	Description of Violation	Samples	Number of Violations	Error %
Pharmacy Formulary	29	W.Va. Code §33-25A-8u(c)(2)	Imposed a more restrictive step therapy policy on the mental health medication, vraylar, when compared to M/S medications. Vraylar is indicated to treat schizophrenia and bipolar I disorder.	N/A	N/A	100%
Pharmacy Formulary	30	W.Va. Code §33-25A-8o(c)(1), W.Va. Code R. §§114-95-7.3, 114-95-7.3.a.1, 114-95-7.3.a.4, and 114-95-7.3.a.7	Failed to provide the member and prescribing practitioner a clear and accurate process to request a step therapy exception determination. The Company issued inaccurate adverse determinations and implied that the member's request was rejected because the member had not documented trial of ALL formulary drugs, which is inconsistent with the drug policy criterion.	N/A	N/A	100%
Claims – Medical Denied	31	W.Va. Code R. §114-14-6.17	Failed to include the Commissioner website address in the required Commissioner's contact information on the explanation of benefits (EOB) when a denial is present.	30	30	100%
Claims – Medical Denied	32	W.Va. Code R. §§114-14-4.1 and 114-14-4.2	Failed to provide a specific description of services rendered by the provider on the EOB.	30	26	87%
Utilization Review – Denied Mental Health/Substance Use Disorder	34	W.Va. Code R. §114-95-7.1.d	Failed to provide a response within 30 days of the Company receiving the request.	30	1	3%
Utilization Review – Denied Mental Health/Substance Use Disorder	35	W.Va. Code R. §114-95-7.2.a	Failed to properly advise in its Evidence of Coverage (EOC) that a covered person will be notified of a failure to meet the issuer's filing procedure within five days of the receipt of the retrospective utilization review request.	N/A	N/A	100%
Utilization Review – Denied Mental Health/Substance Use Disorder	36	W.Va. Code §33-25A-8r(d)	Failed to provide the inpatient treatment of substance use disorders when determined medically necessary by the covered person's physician, psychologist or psychiatrist.	30	2	7%
Network Adequacy	37	W.Va. Code §§33-55-3(c)(1)(A) and (B)	Failed to provide the member with an In-Network provider within a reasonable travel distance.	30	2	7%

Interrelated Finding - Pharmacy	1	W.Va. Code §§33-51-11(a)(5) and 33-51-11(e)	Imposed a monetary advantage under the health benefit plan that would affect a member's choice among pharmacies. The Company offered a copay incentive for all members that filled a 90-day supply at mail order of 2.5x copay.	N/A	N/A	100%
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#### IV. COMPANY BACKGROUND

The Company was organized as a non-profit corporation domiciled in the state of West Virginia on January 30, 2015. The sole member of the Company is CareSource Management Group Company, which changed its name to CareSource effective September 14, 2020, in West Virginia. The Company received a Certificate of Authority ("COA") on April 15, 2015, to transact business as a Health Maintenance Organization in West Virginia in accordance with W. Va. Code §33-25A. Several amendments were made to the COA to expand the Company's service area. The Company is permitted to write in all 55 counties of West Virginia for which it began offering products effective January 1, 2021. The Company's only market line is offering qualified health plans on the Federal Exchange ("Marketplace") in West Virginia under the Affordable Care Act ("ACA").

## V. METHODOLOGY

The market conduct examination process places emphasis on an insurer's systems and procedures used in dealing with insureds and beneficiaries. The HMO business was reviewed in this examination. Self-funded or Medicare/Medicaid plans were not reviewed.

The scope of the examination will include, but is not limited to, the following market conduct areas as they relate to mental health parity and related activities:

- Company Operations and Management
- Provider Credentialing and Provider Relations
- Network Adequacy
- Claims
- Complaints (Grievances), Appeals and External Reviews
- Utilization Review (including Case Management)
- Pharmacy (Formulary Review and some data analysis)
- Quantitative Treatment Limitation ("QTL") Testing and Reports
- Non-quantitative Treatment Limitation ("NQTL") Comparative Analysis, Testing and Reports

The review of these categories was accomplished through examination of material related to the business functions, as well as interviews with various Company personnel and Company responses to the coordinator's handbook, information requests, and findings. Each of the categories listed above was examined for compliance with West Virginia and federal statutes, rules, and regulations.

The following method was used to obtain the required samples and to ensure a statistically sound selection. Workpapers were developed from Company-generated Excel spreadsheets. Random statistical file selections were generated by the examiners from these spreadsheets.

### Company Operations and Management

A review was conducted of the Company's guidelines and procedures, policy forms, third party vendors, internal audits, record retention policy and procedures, certificate of authority, previous market conduct examinations and annual statements. These documents were reviewed for compliance with West Virginia codes, rules, and regulations. There were no exceptions noted.

### Provider Credentialing and Provider Relations

The Company was requested to provide policies and procedures or other documentation demonstrating that the Company establishes and maintains a program for credentialing and re-credentialing during the examination period. The Company provided a list of providers seeking credentialing and recredentialing. A random sample of these files was made by the examiners and submitted to the Company. These files and documents were reviewed for compliance with West Virginia statutes, rules, and regulations. In addition, trends related to provider relations issues were reviewed. There were no exceptions noted.

### Network Adequacy

The Company was requested to provide policies and procedures that it maintains a network that is sufficient in number, files an access plan, and provides all required contracts and forms. Additionally, it submitted policies and procedures or other documentation demonstrating that the health carrier provides at enrollment a provider directory that lists all providers who participate in

its network. The network adequacy documents were received and reviewed for compliance with West Virginia statutes, rules, and regulations. Exceptions were noted in the Report.

#### Claims

The Company was requested to provide a list of medical/surgical (“M/S”), mental health and substance use disorder (“MH/SUD”) claims during the examination period, to include all paid and denied claims. The Company identified the universe of all paid and denied claims; random samples of the files were made by the examiners and submitted to the Company. In addition, a targeted sample of autism paid and denied claims were selected for review. The files and responses to information requests were reviewed to ensure the claims were processed in compliance with West Virginia codes, rules, and regulations, and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (“MHPAEA”) of 2008 45 C.F.R. §146 et seq. Exceptions were noted in the Report.

#### Complaints, Appeals and External Reviews

The Company was requested to identify all consumer and WVOIC complaints, complaint logs, appeals and external reviews received during the examination period. There were no complaints or external reviews related to mental health parity reported by the Company. The appeals files were reviewed for compliance with West Virginia codes, rules, and regulations. Exceptions were noted in the Report.

#### Utilization Review

The Company was requested to identify all utilization reviews. The Company identified the universe of M/S and MH/SUD utilization reviews; random samples of the files were made by the examiners and submitted to the Company. The utilization review files and responses to information requests were received and reviewed for compliance with West Virginia codes, rules, and regulations. Exceptions were noted in the Report.

#### Pharmacy

The Company was requested to provide a list of M/S and MH/SUD pharmacy claims, appeals, external reviews, drug utilization reviews and formularies as well as policies and procedures. The Company identified the universe of all paid and denied claims and drug utilization reviews; random samples of the data files were reviewed by the examiners. There were no external reviews related to pharmacy services. The files and responses to information requests and the coordinator’s handbook were reviewed to ensure all activities were in compliance with West Virginia codes, rules, and regulations, and MHPAEA regulations. Exceptions were noted in the Report.

#### Mental Health Parity

The Company was requested to provide the mental health parity QTL testing and NQTL comparative analysis for review. Also, the Company was requested to identify and provide all pharmacy policies and procedures used during the experience period for mental health parity requirements. In accordance with the requirements of the examination, the data, and responses to follow up information requests were reviewed. The parity analyses and responses to follow up information requests were reviewed for compliance with West Virginia codes, rules, and regulations, as well as MHPAEA and ACA regulations. Exceptions were noted in the Report.

## VI. FINDINGS

### A. COMPANY OPERATIONS AND MANAGEMENT

There were no findings in the review of operations and management.

### B. PROVIDER CREDENTIALING AND PROVIDER RELATIONS

#### 1. Provider Credentialing

There were no findings in the review of provider credentialing files.

#### 2. Provider Relations

There were no findings in the review of provider relations.

### C. NETWORK ADEQUACY

1. Finding #37 - In two instances of the 30 MH/SUD denied utilization review files reviewed, for an error rate of 7%, the Company did not comply with W.Va. Code §§33-55-3(c)(1)(A) and (B) by failing to provide the member with an in-network provider within a reasonable travel distance.

### D. CLAIMS

#### 1. Medical/Surgical Paid Claims

- a. Finding #13 – In four instances of the 30 M/S paid claims files reviewed, for an error rate of 13%, the Company did not comply with W.Va. Code R. §114-14-6.17 by failing to include the Commissioner’s website address in the required Commissioner’s contact information on the explanation of benefits (“EOB”) when a denial is present. The notice must include the Commissioner’s address, telephone number and website address on the members’ EOB.

The Company stated that the required information is scheduled to be added to the EOB on June 28, 2024.

- b. Finding #14 - In 20 of the 30 instances of the M/S paid claim files reviewed, for an error rate of 67%, the Company failed to comply with W. Va. Code R. §§114-14-4.1 and 114-14-4.2, by not providing a specific description of services rendered by the provider on the EOB. Generic descriptions make it difficult for the members to reconcile with provider invoices and to determine their financial responsibility. For example, there were laboratory services shown as “physician services”. Therapy services were shown as “services rendered”. In some situations, the same current procedural terminology (“CPT”) code was given different descriptions on EOBs. The Company is currently implementing a new system; however, this system update will remain inadequate because the description of the services rendered remains generic on the EOBs.

The Company is in the process of implementing the service code mapping logic for CPT/ Healthcare Common Procedure Coding System (“HCPCS”) codes to the Marketplace plans which was targeted for completion on June 28, 2024. Health Insurance Portability

and Accountability Act (“HIPAA”) standard, American Academy of Professional Coders (“AAPC”) CPT and HCPCS Section description for code ranges will be utilized for this mapping.

2. Mental Health and Substance Use Disorder Paid Claims

There were no findings in the review of MH/SUD paid claims.

3. Medical/Surgical Denied Claims

- a. Finding #31 – In all 30 M/S denied claims files reviewed, for an error rate of 100%, the Company did not comply with W.Va. Code R. §114-14-6.17 by failing to include the Commissioner’s website address in the required Commissioner’s contact information on the EOB when a denial is present. The notice must include the Commissioner’s address, telephone number and website address on the member’s EOB.

The Company is currently revising the contact information for the Commissioner on the EOBs to comply with the requirements of W. Va. Code R §114-14-6.17.

- b. Finding #32 - In 26 instances of the 30 M/S denied claim files reviewed, for an error rate of 87%, the Company failed to comply with W.Va. Code R. §§114-14-4.1 and 114-14-4.2 by not providing a specific description of services rendered by the provider on the EOB. Generic descriptions make it difficult for the members to reconcile with provider invoices and to determine their financial responsibility. For example, there were laboratory services shown as “physician services”. Therapy services were shown as “services rendered”. The Company is currently implementing a new system; however, this system update will remain inadequate because the description of the services rendered remains generic on the EOBs.

The Company stated that new description mapping was scheduled to be updated June 28, 2024 and August 1, 2024.

4. Mental Health and Substance Use Disorder Denied Claims

- a. Finding #15 – In all 30 MH/SUD denied claim files reviewed, for an error rate of 100%, the Company did not comply with W.Va. Code R. §§114-64-6.3.1, 114-64-6.3.2 and 114-64-6.3.3 by failing to include in the EOBs, the required mental health parity disclosure language when any element of a behavioral health (“BH”) or MH/SUD claim is denied.

The Company is currently revising the required mental health parity disclosure language on the EOB when any element of a BH or MH/SUD claim is denied to comply with W.Va. Code R. §§114-64-6.3.1, 114-64-6.3.2 and 114-64-6.3.3.

5. Autism Paid and Denied Claims

- a. Finding #11 – In five instances of the 28 autism paid and denied claim files reviewed, for an error rate of 18%, the Company did not comply with W.Va. Code R. §§114-64-6.3.1, 114-64-6.3.2 and 114-64-6.3.3 by failing to include in the EOB, the required mental health parity disclosure language when any element of a BH or MH/SUD claim is denied.

The Company stated that the required information is scheduled to be added to the EOB on June 28, 2024.

- b. Finding #12 – In 25 instances of the 28 autism paid and denied claim files reviewed, for an error rate of 89%, the Company failed to comply with W.Va. Code R. §§114-14-4.1 and 114-14-4.2 by not providing a specific description of services rendered by the provider on the EOB. Generic descriptions make it difficult for the members to reconcile with provider invoices and to determine their financial responsibility. For example, an evaluation of speech service was shown as “services rendered”. In some situations, the same CPT code was given different descriptions on EOBs. The Company is currently implementing a new system; however, this system update will remain inadequate because the description of the services rendered remains generic on the EOBs.

The Company is in the process of implementing the service code mapping logic for CPT/HCPCS codes to the Marketplace plans which was targeted for completion on June 28, 2024. HIPAA standard, AAPC CPT and HCPCS Section description for code ranges will be utilized for this mapping.

#### E. COMPLAINTS, APPEALS AND EXTERNAL REVIEWS

##### 1. Offices of Insurance Commissioner Complaints

There were no WVOIC complaint files related to MH/SUD during the examination period.

##### 2. Direct Consumer Complaints

The Company reported no direct consumer complaints related to MH/SUD during the examination period.

##### 3. Mental Health and Substance Use Disorder Appeals

- a. Finding #24 – In seven instances of the 30 appeals files reviewed, for an error rate of 23%, the Company did not comply with W.Va. Code R. §114-96-5.8.j when it failed to properly inform the covered person of their rights in the appeal adverse determination letter. The Company did not include in the determination letter: *The notice that a covered person has the right to contact the Commissioner’s office for assistance with respect to any claim, grievance, or appeal at any time, including the telephone number and address of the Commissioner’s office.*

The Company stated that the Commissioner’s information was added to the template for the letters on December 21, 2022.

- b. Finding #25 – In eight instances of 30 appeals files reviewed, for an error rate of 27%, the Company did not comply with W.Va. Code R. §§114-96-5.9.a.1, 114-96-5.9.a.2 and 114-96-5.9.a.3 as the Company failed to provide information listed in W.Va. Code R. §114-96-5.8 in a culturally and linguistically appropriate manner in accordance with federal regulations. The determination letter did not contain a way in which the member could be provided this information in a non-English language. The Company did not provide a statement explaining the availability of interpretation and translation services in any language except English and is therefore not compliant with federal regulations. The Company must be in compliance with 45 CFR §92.11, which states the

notice must be provided in English and in at least the 15 most common languages spoken by people with limited English proficiency in the State.

There is no indication of any non-English notifications or non-English assistance from the Company. The absence of notification in languages other than English in the adverse determination letter could pose a challenge for members who do not speak English, hindering their comprehension of their rights.

4. Mental Health and Substance Use Disorder External Review

There were no MH/SUD external reviews reported for the examination period.

F. UTILIZATION REVIEW

1. Medical/Surgical Approved Utilization Review

- a. Finding #16 – In eight instances of the 30 M/S approved utilization review files reviewed, for an error rate of 27%, the Company did not comply with W.Va. Code §33-25A-8s(d) when it failed to provide a response within seven days of the electronic prior authorization submission.

The Company has implemented new and improved reporting for daily visibility, in real time, to track the timeliness of utilization review cases.

- b. Finding #17 – In three instances of the 30 M/S approved utilization review files reviewed, for an error rate of 10%, the Company did not comply with W.Va. Code R. §114-95-7.1.c when it failed to provide a response within 15 days of the Company receiving the request.

The Company has implemented new and improved reporting for daily visibility, in real time, to the timeliness of utilization review cases.

2. Mental Health and Substance Use Disorder Approved Utilization Review

- a. Finding #19 – In one instance of the 30 MH/SUD approved utilization review files reviewed, for an error rate of 3%, the Company did not comply with W.Va. Code R. §114-95-7.1.c when it failed to provide a response within 15 days of the Company receiving the request.

The Company has implemented new and improved reporting for daily visibility, in real time, to the timeliness of utilization review cases.

3. Medical/Surgical Denied Utilization Review

- a. Finding #18 – In two instances of the 30 M/S denied utilization review files reviewed, for an error rate of 7%, the Company did not comply with W.Va. Code R. §114-95-7.3 when it failed to provide the member with a determination letter.

The Company advised that human error caused the determination letter not to be generated.

4. Mental Health and Substance Use Disorder Denied Utilization Review
  - a. Finding #34 – In one instance of the 30 MH/SUD denied utilization review files reviewed, for an error rate of 3%, the Company did not comply with W.Va. Code R. §114-95-7.1.d when it failed to provide a response within 30 days of the Company receiving the request.

The Company has implemented a report for department leadership to monitor cases that are close to exceeding the responsive review timeframes set forth in the West Virginia code.

- b. Finding #35 – The Company did not comply with W.Va. Code R. §114-95-7.2.a when it failed to properly advise in its Evidence of Coverage (“EOC”) that a covered person will be notified of a failure to meet the issuer’s filing procedure within five days of the receipt of the retrospective utilization review request. According to the Company’s 2022 EOC, it stated, “If we need more information before we can make a decision, then we will notify you within thirty (30) days from receipt of the request.” The timeline is not compliant with the required five-day notification and hinders the member from a timely determination of healthcare benefits. As this affected written policy, a number of instances could not be calculated.

The Company stated it will update the notification requirements to reflect five calendar days for the EOC for plan year 2025.

- c. Finding #36 – In two instances of the 30 mental health and substance use disorder denied utilization review files reviewed, for an error rate of 7%, the Company did not comply with W.Va. Code §33-25A-8r(d) by failing to provide the inpatient treatment of SUDs when determined medically necessary by the covered person’s physician, psychologist or psychiatrist.

#### G. PHARMACY REVIEW

1. Pharmacy Paid and Denied Claims  
There were no findings in the analysis of pharmacy paid and denied claims.
2. Pharmacy Appeals  
There were no findings in the review of pharmacy appeals.
3. Mental Health and Substance Use Disorder Approved Drug Utilization Review  
There were no findings in the review of MH/SUD approved drug utilization review files.
4. Mental Health and Substance Use Disorder Denied Drug Utilization Review
  - a. Finding #20 – In all of the nine SUD denied drug utilization review files reviewed, for an error rate of 100%, the Company did not comply with W.Va. Code R. §114-95-7.3.b.1.C. when it failed to prominently display a statement in any applicable non-English language clearly indicating how to access the language services provided by the carrier. The Company stated that non-English assistance was available; however, the Company only provided a statement indicating how to access this assistance in English. The Company must be in compliance with 45 CFR §92.11, which states the notice must be

provided in English and in at least the 15 most common languages spoken by people with limited English proficiency in the State.

There is no indication of any non-English notifications or non-English assistance from the Company. The absence of notification in languages other than English in the adverse determination letter could pose a challenge for members who do not speak English, hindering their comprehension of their rights.

- b. Finding #21 – In eight of nine SUD denied drug utilization review files reviewed, for an error rate of 89%, the Company did not comply with W.Va. Code R. §§114-95-7.3.a.9 and 114-95-8.2.a.10 when it failed to provide a statement explaining the availability of and contact information for assistance through the Commissioner’s office with the adverse determination of the standard or expedited utilization management process.
- c. Finding #22 – In all of the 30 MH denied drug utilization review files reviewed, for an error rate of 100%, the Company did not comply with W.Va. Code R. §114-95-7.3.b.1.C. when it failed to prominently display a statement in any applicable non-English language clearly indicating how to access the language services provided by the carrier. The Company stated that non-English assistance was available, however the Company only provided a statement indicating how to access this assistance in English. The Company must be in compliance with 45 CFR §92.11, which states the notice must be provided in English and in at least the 15 most common languages spoken by people with limited English proficiency in the State.

There is no indication of any non-English notifications or non-English assistance from the Company. The absence of notification in languages other than English in the adverse determination letter could pose a challenge for members who do not speak English, hindering their comprehension of their rights.

- d. Finding #23 – In 22 of 30 MH denied drug utilization management files reviewed, for an error rate of 73%, the Company did not comply with W.Va. Code R. §§114-95-7.3.a.9 and 114-95-8.2.a.10 when it failed to provide a statement explaining the availability of and contact information for assistance through the Commissioner’s office with the adverse determination of the standard or expedited utilization management process.

The Company stated that since the audit timeframe, the letter has been revised to include the Commissioner’s information in the “Other Resources Available to You” section.

#### 5. Pharmacy Formulary

- a. Finding #1 – The Company did not comply with W.Va. Code §33-25A-8u(c) by imposing more restrictive quantity limitations on Suboxone, Zubsolv, and buprenorphine/naloxone tablets/films compared to that of M/S medications. When approved for above label dosing the policy states, “Prior Authorization Required (Non-Preferred Product) Alternative preferred products include generic buprenorphine/naloxone sublingual tablets QUANTITY LIMIT— 30-day supply at a time only.” The buprenorphine/naloxone products are indicated for treatment of opioid dependence and are dispensed long term for maintenance therapy. This policy creates

a barrier to treatment when a member is prescribed above label dosing on these medications for fentanyl abuse or other high dose opioid abuse. Other medical/surgical medications when approved for above label dosing were not subjected to more stringent quantity limitations at the time of dispensing. As this affected written policy and there was no way to track the number of instances when a medication could have been prescribed, a number of violations could not be calculated.

- b. Finding #2 – The Company did not comply with W.Va. Code §33-25A-8r(k) by limiting access to SUD treatment when placing Lucemyra as non-formulary on all formularies. A member would be required to obtain a prior authorization/non-formulary coverage exception for approval of the medication. Lucemyra is indicated for the mitigation of opioid withdrawal symptoms to facilitate abrupt opioid discontinuation in adults. The American Society of Addiction Medicine (“ASAM”) discusses its role in treatment of managing opioid withdrawal in patients with substance use disorders. Lucemyra may be used for withdrawal management in an outpatient setting, where monitoring of blood pressure and management of hypotension is more difficult. Although the Company did not reject any claims at point of sale during the examination period, the policy in operation was noncompliant with state code.
- c. Finding #3 – The Company did not comply with W.Va. Code §33-25A-8r(k) when imposing quantity limitations, a prospective utilization management requirement, on Narcan, generic naloxone, and Kloxxado. Naloxone is indicated for the emergency treatment of known or suspected opioid overdose as manifested by respiratory and/or CNS depression. The medication is intended for immediate administration as emergency therapy in settings where opioids may be present. The policy creates a barrier to emergency treatment for patients and does not follow current ASAM guidelines. The ASAM guidelines recommend naloxone should be provided to patients being treated for, or with a history of opioid use disorder and both patients and family members/significant others should be trained in the use of naloxone in case of unexpected overdose. ASAM supports broadened accessibility to naloxone for individuals commonly in a position to initiate early response to evidence of opioid overdose. The individuals include family members, significant others, companions of people who use or are prescribed opioids, and people who use or are prescribed opioids. Although the Company did not reject any claims at point of sale during the examination period, the policy in operation was noncompliant with state code.

The Company stated it will take the appropriate steps to remove the restriction of the quantity limitations.

- d. Finding #4 – The Company did not comply with W.Va. Code §33-25A-8r(k) by imposing a coverage restriction when placing Sublocade as non-formulary during the examination period. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication. Sublocade is indicated for the treatment of moderate to severe opioid use disorder. The coverage restriction creates a barrier for members and providers in the overall treatment plan of a patient diagnosed with SUD. The Company noted that eight total claims were rejected in 2022 for “Product/Service Not Covered” (NCPDP reject 70).

- e. Finding #5 – The Company did not comply with W.Va. Code §33-25A-8r(k) by imposing a coverage restriction when placing Suboxone as non-formulary. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication. Suboxone is indicated for the treatment of opioid dependence. The Company’s policy states a prior authorization would be approved once the member would follow the step therapy requirements. The coverage restriction creates a barrier for consumers and providers in the overall treatment plan of a patient diagnosed with substance use disorder. The Company noted that 201 claims were rejected in 2022 for “Product/Service Not Covered” (NCPDP reject 70).
  
- f. Finding #6 - The Company did not comply with W.Va. Code §33-25A-8u(c) by imposing more restrictive quantity limitations on desvenlafaxine during the examination period on the formulary. The Company limited members to one tablet daily on all strengths of Pristiq, Khedezla and desvenlafaxine ER tablets. These products are indicated for the treatment of major depressive disorder (“MDD”) and are commercially available in strengths of 25mg, 50mg, and 100mg per tablet. The Food and Drug Administration (“FDA”) approved maximum dose of desvenlafaxine is 400mg/day for MDD. As a result of this quantity limitation, a provider would be required to submit a prior authorization to obtain a dose over 100mg/day, thus creating barriers of access to MH medications. The Company provided a policy, CareSource West Virginia Marketplace Quantity Limit Detail (PY2022). The policy shows desvenlafaxine tablets were limited to one tablet per day. The policy in operation was noncompliant with state and federal mental health parity laws

The Company did not apply the same processes, strategies, evidentiary standards, or other factors to a MH medication compared to the same processes, strategies, evidentiary standards, or other factors both as written and in operation to M/S medications.

- g. Finding #7 – The Company did not comply with W.Va. Code §33-25A-8r(k) when imposing quantity limitations, a prospective utilization management requirement, on all strengths of buprenorphine/naloxone products. The medications include Suboxone, Zubsolv, and buprenorphine/naloxone tablets/films. The medications had restrictive hard-limit quantity limitations. The buprenorphine/naloxone products are indicated for treatment of opioid dependence. This policy creates a barrier to treatment when a member is prescribed above label dosing on these medications for fentanyl abuse or other high dose opioid abuse. Requiring a doctor to authorize a quantity limitation on prescribed a buprenorphine/naloxone combination product for above label dosing when clinically appropriate is a prior authorization and is prohibited. The Company noted four requests for buprenorphine/naloxone were denied.

The Company stated it will take the appropriate steps to remove the quantity limit applied to formulary buprenorphine/naloxone products.

- h. Finding #8 – The Company did not comply with W.Va. Code §33-25A-8r(k) by imposing a coverage restriction when requiring a prior authorization for coverage of

buprenorphine tablets. Subutex (buprenorphine) is indicated for the treatment of opioid dependence. The Company's policy states a prior authorization would be approved once specific criteria are met. West Virginia code prohibits imposition of prior authorization on SUD medications. The coverage restriction creates a barrier for consumers and providers in the overall treatment plan of a patient diagnosed with SUD. The Company noted that 19 claims were rejected at point of sale. The prospective utilization management requirements imposed by the Company on the SUD medication were not compliant with state codes.

The Company stated it will take the appropriate steps to remove the prior authorization restriction and the quantity limit to generic Subutex tablets.

- i. Finding #9 – The Company did not comply with W.Va. Code §33-25A-8u(c) by creating a barrier to access when requiring a prior authorization on Vyvanse, the only FDA approved medication indicated for binge eating disorder (“BED”). There are no comparable M/S examples where 100% or all medications FDA approved for a common disease state such as BED are excluded from the formulary. Vyvanse experienced more restrictive NQTL during the examination period. Two main limitations imposed by the Company included formulary design and prior authorization requirements. Enforcing a prior authorization on the only medication approved by the FDA for BED, created a barrier to access that was not comparable to any M/S diagnosis. The policy in operation was noncompliant with state and federal mental health parity laws.

The Company did not apply the same processes, strategies, evidentiary standards, or other factors to a MH medication compared to the same processes, strategies, evidentiary standards, or other factors both as written and in operation to M/S medications.

- j. Finding #10 – The Company did not comply with W.Va. Code §33-25A-8r(k) by imposing a coverage restriction when placing Zubsolv as non-formulary. A member would be required to obtain a prior authorization, a prospective utilization management requirement, for approval of the medication. Zubsolv is indicated for the treatment of opioid dependence. The Company's policy states a prior authorization would be approved once the member would follow the step therapy requirements. The coverage restriction creates a barrier for consumers and providers in the overall treatment plan of a patient diagnosed with SUD.

The Company noted two claims rejected for “Product Service Not Covered” (NCPDP reject 70).

- k. Finding #26 – The Company did not comply with W.Va. Code §33-25A-8u(c) by imposing a more restrictive quantity limitation policy on duloxetine. Duloxetine impacts patients being treated for MH indications but does not comparably impact patients being treated for M/S indications. The policy in operation was noncompliant with state and federal mental health parity laws.

The Company did not apply the same processes, strategies, evidentiary standards, or other factors to a MH medication compared to the same processes, strategies, evidentiary standards, or other factors both as written and in operation to M/S medications. The Company required a member with MH disorders to take two dosages of medication and pay two separate copays for the FDA approved maximum dosage for duloxetine unless a prior authorization was requested. The only way a member could receive three capsules of 30mg duloxetine was through a quantity limit exception. Members with MH disorders titrating to a dose of 90mg incurred a higher cost with multiple copays and the process was more restrictive than M/S diagnoses.

- I. Finding #27 – The Company did not comply with W.Va. Code §33-25A-8o(c)(2)(C) when creating and operating step therapy medication policies that do not grant approval when a member is stable on a medication. The Company inappropriately denied medication coverage after the member established stability on the current medication. The Company required documentation from the provider showing improvement or benefit from the current medication. The policy operated by the Company is not in compliance with the W.Va. code. Approvals were not granted when the patient established stability or was currently taking the medication which was evident in the drug utilization review data.

An example of the non-compliance was noted in the MH drug utilization review file sample 29, The Company provided a denial letter that stated, “Coverage is provided for continuation when the member has shown documented improvement while on the requested medication (for example, improvement in a person’s mood, energy, and ability to function).”

The policies and procedures implemented in the Company’s drug utilization review process were not compliant with W.Va. Code §33-25A-8o.

- m. Finding #28 – The Company did not comply with W.Va. Code §33-25A-8o(c)(2)(C) when creating and operating step therapy medication policies. The Company did not grant approval after a patient tried a prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event. The approval/exception process is considered a step therapy process when the patient is required to try and fail a medication prior to the approval of another medication, regardless of the medication’s status of being formulary or non-formulary. The Company failed to incorporate step therapy exception policies that offered coverage approval when a member tried a medication in the same pharmacologic class or with the same mechanism of action. Although the Company did not reject any claims at point of sale during the examination period, the policy in operation was noncompliant with state code.
- n. Finding #29 – The Company did not comply with W.Va. Code §33-25A-8u(c)(2) by imposing a more restrictive step therapy policy on the MH medication, Vraylar, when

compared to M/S medications. Vraylar is indicated to treat schizophrenia and bipolar I disorder. The Company required trial and failure of aripiprazole for 30 days prior to approval of Vraylar. This policy was more restrictive because there are other medications indicated to treat these diagnoses, but the Company only allowed use of one selective medication prior to approval of Vraylar.

Other medications indicated to treat schizophrenia are quetiapine, ziprasidone, clozapine, paliperidone, Latuda, olanzapine, Fanapt, Saphris, and risperidone. Medications available to treat bipolar I disorder are quetiapine, ziprasidone, Latuda, olanzapine, and risperidone. By limiting a member to trial and failure of one selective MH medication and not having a comparable policy related to M/S medications the Company was non-compliant with state and federal mental health parity laws.

- o. Finding #30 – The Company did not comply with W.Va. Code §33-25A-8o(c)(1), W.Va. Code R. §§114-95-7.3, 114-95-7.3.a.1, 114-95-7.3.a.4, and 114-95-7.3.a.7 by failing to provide the member and prescribing practitioner a clear and accurate process to request a step therapy exception determination. The Company issued inaccurate adverse determinations and implied that the member’s request was rejected because the member had not documented trial of ALL formulary drugs, which was inconsistent with the drug policy criterion. The Company stated that specific outreach to the members to identify and explain the incorrect denial language was not completed. Therefore, the adverse determinations were not set forth in a manner that could be understood by the covered person, because the reason for the determination was based on an inaccurate criterion.
  
- p. Interrelated Finding #1 - The Company did not comply with W.Va. Code §§33-51-11(a)(5) and 33-51-11(e) by imposing a monetary advantage under the health benefit plan that would affect a member’s choice among pharmacies. The Company offered a copay incentive for all members that filled a 90-day supply at mail order of 2.5x copay. The Company’s stated, “for plan year 2022, mail order prescriptions filled for a 90-day supply were priced at 2.5x the 30-day copay while retail prescriptions filled for a 90-day supply were priced at 3x the 30-day copay.”

The Company stated the update to comply with the rule went into effect January 1, 2023.

#### H. MENTAL HEALTH PARITY

- 1. Certificate of Coverage Forms  
There were no parity findings in the review of the Certificates of Coverage forms.
  
- 2. Quantitative Treatment Limitations Assessments  
There were no findings in the review of the QTL assessments.

3. Nonquantitative Treatment Limitations Comparative Analysis

The Company provided comparative analyses for the following NQTLs: (1) prior authorization; (2) concurrent review; (3) retrospective review; (4) medical necessity (5) blanket exclusions; (6) formulary; (7) network reimbursement standards; (8) Rx prior authorization; (9) Rx step therapy fail first; (10) Rx quantity dose limit; (11) network admissions/credentialing; and (12) provider reimbursement.

After an examination of the comparative analyses, it was determined that the contents of the comparative analyses were not sufficiently specific, detailed, and reasoned to demonstrate that the processes, strategies, evidentiary standards, and other factors used to apply an NQTL to MH/SUD benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, and other factors used to apply an NQTL to medical or surgical benefits in the applicable benefits classification as required by 42 U.S.C. 300gg-26(a)(8)(A)(iv)) and W.Va. Code. R. §114-64-1, et seq.

There were a number of ways that the Company's comparative analyses were determined to be insufficient, which included, but were not limited to, the following:

- A. The comparative analyses did not correlate with the requirements as indicated in the coordinator's handbook and as set forth in 42 U.S.C. Section 300gg-26(a)(8)(A).
- B. The comparative analyses did not sufficiently identify what benefits or plan terms the NQTLs applied to, as required by 42 U.S.C. 300gg-26(a)(8)(A)(i).
- C. The comparative analyses did not adequately identify and describe specific plan or coverage terms of other relevant terms regarding the NQTLs, including Company policies, procedures, and processes and the policies, procedures, and processes of any vendor(s), as required by 42 U.S.C. 300gg-26(a)(8)(A)(i).
- D. There was inadequate supporting documentation or information included with the submissions or the supporting documentation was not properly referenced or integrated with the analysis provided.
- E. The comparative analysis did not specifically identify the factors used to determine that the NQTLs will apply to MH/SUD benefits and medical/surgical benefits, as required by 42 U.S.C. § 300gg-26(a)(8)(A)(ii).
- F. The comparative analyses did not sufficiently define the factors identified, nor did they sufficiently delineate and compare the sources or evidentiary standards for each factor used to determine that the NQTLs would apply, as required by 42 U.S.C. 300gg-26(a)(8)(A)(ii) and (iii).
- G. The comparative analyses did not demonstrate that the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs to MH or SUD benefits, as written and in operation, are comparable to, and were applied no more stringently than, the processes, strategies, evidentiary

standards, and other factors used to apply the NQTLs to medical or surgical benefits in each benefits classification, as required by 42 U.S.C. 300gg-26(a)(8)(A)(iv).

- H. The Company did not include data in the comparative analysis or included data without appropriate explanation or an inadequate explanation as to how the data was collected or how the data demonstrates compliance with the comparability and equitable stringency application
- I. The comparative analyses did not provide the specific findings and conclusions reached by the Company, including any results of the analyses that indicated that the plan or coverage was or was not in compliance with MHPAEA, as required by 42 U.S.C. 300gg-26(a)(8)(A)(v).
- J. The Company did not appropriately define or explain its relationship with vendors that may have design or management responsibilities for the NQTLs and how MHPAEA compliance was assured/coordinated, including the Company's pharmacy benefits manager.
- K. The Company did not provide a comparative analysis for every NQTL it imposed on M/S and MH/SUD benefits (e.g., quantity limits).

The Company was informed that the NQTL comparative analyses were insufficient. The Company was then asked to revise its NQTL comparative analyses, offered guidance and the opportunity to ask questions, and asked to submit revised NQTL comparative analyses that comply with federal and state laws, regulations, and guidance as part of the WVOIC's 2024 annual data call for the 2023 plan year. Accordingly, the Company revised its NQTL comparative analyses, which are being reviewed by the WVOIC. The WVOIC will contact the Company with respect to its compliance at a later date.

## VII. SUMMARY OF EXAMINATION RECOMMENDATIONS

1. The Company should review the appeal adverse determination letters to ensure the required language found in W.Va. Code R. §114-96-5.8.j is included and the member is properly advised of their rights.
2. The Company should implement the necessary updates to the appeals adverse determination letters to ensure compliance with the requirements set forth in W.Va. Code R. §§114-96-5.9.a.1, 114-96-5.9.a.2 and 114-96-5.9.a and ensure the information is available in a culturally and linguistically appropriate manner.
3. The Company should implement updates to the EOB to comply with the requirements of W.Va. Code R. §114-14-6.17 and include the Insurance Commissioner's complete contact information.
4. The Company should implement updates to the service code mapping logic utilized in the EOBs to ensure compliance with W.Va. Code R. §§114-14-4.1 and 114-14-4.2 and provide members with clear and specific descriptions of services.

5. The Company should ensure that EOBs involving MH/SUD services are sent and are in compliance with all mental health parity disclosure elements required in W.Va. Code R. §§114-64-6.2, 114-64-6.3 and its subsections.
6. The Company should generate reports to ensure compliance with W.Va. Code R. §114-95-7.1 and manage the timing within the authorization steps to ensure that the utilization review process is completed with the required timeframes.
7. The Company should complete an audit of inpatient SUD utilization review denials to ensure compliance with W.Va. Code §33-25A-8r and verify members are able to access the benefit, without the imposition of additional obstacles.
8. The Company should continuously review and update its drug policies and procedures to ensure compliance with W.Va. Code §33-25A-8u(c) and avoid imposing restrictive quantity limitations, which may create a barrier to treatment. The Company should also remove prior authorization/diagnosis code mandates for dispensing Vyvanse for BED.
9. The Company should complete internal evaluations to ensure compliance with W.Va. Code §33-25A-8r(k) and avoid implementing more restrictive prior authorization processes and step therapy policies for MH/SUD medications.
10. When processing drug utilization review files, the Company should comply with W.Va. Code §33-25A-8o(c)(2)(C) and implement policies to override restrictive step therapy mandates when a member tries a medication in the same pharmacologic class or with the same mechanism of action.
11. The Company should ensure formularies are in compliance with all federal and state regulations related to MHPAEA.
12. The Company should provide a current address and phone number when recommending an in-network provider to ensure compliance with W.Va. Code §§33-55-3(c)(1)(A) and (B).

**EXAMINATION REPORT SUBMISSION**

The courtesy and cooperation of the officers and employees of the Company during the examination are acknowledged and appreciated.

Art Kusserow  
Tanner Qualls  
Sharon Wiernik  
June Coleman  
Tony Taylor  
Steven Gloc  
Puru Shrestha  
Matthew Sankey  
Trevor Strenchock  
Marilyn Vadon  
Maureen Hicks, Examiner-in-Charge  
Shelly Schuman, Supervisory Insurance Examiner

Respectfully submitted,

*Maureen Hicks*

MAUREEN HICKS  
EXAMINER-IN-CHARGE

*Shelly Schuman*

SHELLY SCHUMAN  
SUPERVISORY INSURANCE EXAMINER

EXAMINER'S AFFIDAVIT

State of South Carolina  
County of Charleston

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, Maureen Hicks, Market Regulation Senior Examiner, being duly sworn, state as follows:

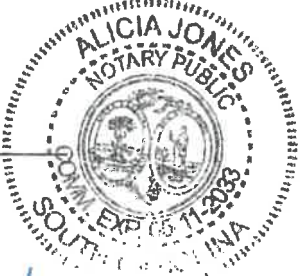
1. I have the authority to represent West Virginia in the examination of CareSource West Virginia Company.
2. I have reviewed the examination work papers and examination report, and the examination of CareSource West Virginia Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

  
\_\_\_\_\_  
Maureen Hicks, MCM

Subscribed and sworn before me by Maureen Hicks on this 22<sup>nd</sup> day of April, 2025.

  
\_\_\_\_\_  
Notary Public



My commission expires: 5/11/33