

BEFORE THE MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE ADMINISTRATION \*  
200 ST. PAUL PLACE, SUITE 2700 \*  
BALTIMORE, MARYLAND 21202 \*

vs. \*

AETNA HEALTH, INC. \*  
151 FARMINGTON AVE \*  
HARTFORD, CT 06156 \*

NAIC# 95109 \*

CASE NO: MIA-2021-03-028

\*\*\*\*\*

**CONSENT ORDER**

This Consent Order is entered into by the Maryland Insurance Commissioner and AETNA HEALTH, INC. ("AHI" or "Respondent") pursuant to §§ 2-108 and 2-204 of the Insurance Article, and § 19-730 of the Health-General Article, Maryland Code Annotated, to resolve the matter before the Maryland Insurance Administration ("Administration").

**I. RELEVANT REGULATORY FRAMEWORK**

1. Each health maintenance organization ("HMO") that uses provider panels for health benefit plans offered in the State must assure that its provider panels meet certain adequacy standards. On July 1 of each year each HMO is required to file a report with the Administration demonstrating the HMO's compliance with those standards.

2. Section 15-112 of the Insurance Article provides, in pertinent part:

(a) (1) In this section the following words have the meanings indicated.

\* \* \*

(5) (i) "Carrier" means:

\* \* \*

3. a health maintenance organization;

(b) (1) Subject to paragraph (3) of this subsection, a carrier that uses a provider panel shall:

- (i) if the carrier is an insurer, nonprofit health service plan, health maintenance organization, or dental plan organization, maintain standards in accordance with regulations adopted by the Commissioner for availability of health care providers to meet the health care needs of enrollees;

\* \* \*

(c) (1) This subsection applies to a carrier that:

- (i) is an insurer, a nonprofit health service plan, or a health maintenance organization; and
- (ii) uses a provider panel for a health benefit plan offered by the carrier.

- (2) (i) On or before July 1, 2018, and annually thereafter, a carrier shall file with the Commissioner for review by the Commissioner an access plan that meets the requirements of subsection (b) of this section and any regulations adopted by the Commissioner under subsections (b) and (d) of this section.

3. The regulations referenced in § 15-112(c)(2)(i) of the Insurance Article are set forth in COMAR 31.10.44.

4. The network adequacy standards are set forth in COMAR 31.10.44.04 - .06 and consist of travel distance standards (COMAR 31.10.44.04), appointment waiting time standards (COMAR 31.10.44.05), and provider-to-enrollee ratio standards (COMAR 31.10.44.06) (collectively, the "Standards").

5. The access plan content and filing requirements are set forth in COMAR 31.10.44.03, which provides, in pertinent part:

.03 Filing of Access Plan.

C. Each annual access plan filed with the Commissioner shall include:

- (1) An executive summary in the form set forth in Regulation .09 of this chapter;
- (2) The information and process required by Insurance Article, §15-112(c)(4), Annotated Code of Maryland, and the methods used by the carrier to comply with the monitoring requirement under §15-112(c)(5);
- (3) Documentation justifying to the Commissioner how the access plan meets each network sufficiency standard set forth in Regulations .04—.06 of this chapter; and
- (4) A list of all changes made to the access plan filed the previous year.

6. COMAR 31.10.44.07 allows a carrier to apply for a temporary waiver from compliance with one or more of the Standards provided that certain criteria are met.

## II. FINDINGS

7. AHI holds a Certificate of Authority to act as a HMO in the State and uses provider panels for health benefit plans offered in the State. As such, it is subject to § 15-112 of the Insurance Article and the network adequacy standards set forth in COMAR 31.10.44.04 - .06. In addition, AHI is required to file a network adequacy plan in accordance with COMAR 31.10.44.03.

8. On July 1, 2019, AHI submitted a Network Adequacy Plan (the “AHI 2019 Access Plan”) to the Administration.

9. On July 16, 2019, the Administration reached out to AHI requesting additional information and clarification of the original information provided in the AHI 2019 Access Plan.

10. On July 29, 2019, AHI submitted additional information.

11. On January 30, 2020, the Administration sent a letter to AHI requesting additional information and documentation necessary for the Administration to evaluate whether AHI was in compliance with the Standards.

12. On March 24, 2020, AHI submitted additional information and documentation. The information included a revised executive summary form and several proprietary and confidential items, including the detailed network analysis methodology AHI used to measure and assess its performance in meeting the network adequacy standards and the process for monitoring and ensuring the sufficiency of the network to meet the health care needs of enrollees. The information also contained proprietary and confidential material describing the criteria used to select providers for participation in the network and a narrative description of outreach efforts to determine the availability of practitioners for recruitment in areas where enrollees are without the desired access in one or more of the urban, suburban, and rural counties.

**A. The Access Plan-Travel Distance Standards**

13. The data submitted by AHI in connection with the AHI 2019 Access Plan failed to demonstrate compliance with the Travel Distance Standards.

14. COMAR 31.10.44.04 provides, in pertinent part:

.04 Travel Distance Standards

A. Sufficiency Standards.

(1) Except as stated in §B of this regulation, each provider panel of a carrier shall have within the geographic area served by the carrier's network or networks, sufficient primary care physicians, specialty providers, behavioral health and substance use disorder providers, hospitals, and health care facilities to meet the maximum travel distance standards listed in the chart in §A(5) of this regulation for each type of geographic area. The distances

listed in §A(5) of this regulation shall be measured from the enrollee's place of residence.

(2) When an enrollee elects to utilize a gynecologist, pediatrician, or certified registered nurse practitioner for primary care, a carrier may consider that utilization as a part of its meeting the primary care provider standards listed in §A(5) of this regulation.

\* \* \*

(5) Chart of Travel Distance Standards.

	Urban Area Maximum Distance (miles)	Suburban Area Maximum Distance (miles)	Rural Area Maximum Distance Miles
<b>Provider Type:</b>			

\* \* \*

Primary Care Provider	5	10	30
Pediatrics	5	10	30
Allergy and Immunology	15	30	75
Applied Behavioral Analyst	15	30	60
Dermatology	10	30	60
ENT/Otolaryngology	15	30	75

\* \* \*

Gynecology, OB/GYN	5	10	30
Gynecology Only	15	30	75
Oncology-Medical and Surgical	10	20	60
Ophthalmology	10	20	60

Psychiatry	10	25	60
Urology	10	30	60

\* \* \*

<b>Facility Type:</b>			
Diagnostic Radiology	10	30	60
Outpatient Dialysis	10	30	50
Outpatient Infusion/Chemotherapy	10	30	60

\* \* \*

Skilled Nursing Facilities	10	30	60
Surgical Services (Outpatient or Ambulatory Surgical Center)	10	30	60
Inpatient Psychiatric Facility	15	45	75
Other Behavioral Health/Substance Abuse Facilities	10	25	60

15. COMAR 31.10.44.09 provides, in pertinent part:

.09 Network Adequacy Access Plan Executive Summary Form

- A. For each provider panel used by a carrier for a health benefit plan, the carrier shall provide the network sufficiency results for the health benefit plan service area as follows:

(1) Travel Distance Standards

\* \* \*

(b) List the total number of certified registered nurse practitioners counted as a primary care provider.

(c) List the total percentage of primary care providers who are certified registered nurse practitioners.

16. The data self-reported by AHI disclosed the following deficiencies based on distance of a provider to an enrollee's address:

- (a) Primary Care Providers met the required standard for 99.9% of suburban enrollees, leaving 9 enrollees outside of the travel distance standard of ten miles in one zip code, 20625.
- (b) Pediatric providers met the required standard for 99.5% of urban enrollees, leaving 27 members outside the travel distance standard of five miles in one zip code, 20714. The standard was met for 99.6% of suburban enrollees, leaving 27 members outside the travel distance standard of ten miles in one zip code, 21716.
- (c) Allergy and immunology providers met the required standard for 99.9% of suburban enrollees, leaving 8 members outside the travel distance standard of thirty miles in one zip code, 21842.
- (d) Applied behavioral analyst providers met the required standard for 99.9% of urban enrollees, leaving 7 members outside the travel distance standard of fifteen miles in one zip code 21767. The standard was met for 99.7% of suburban enrollees, leaving 104 members outside the travel distance standard of thirty miles. The standard was met for 99.2% of rural enrollees, leaving 215 members outside the travel distance standard of sixty miles.

Suburban Zip Codes

- i. 11 members in zip code 21826
- ii. 89 members in zip code 21842
- iii. 4 members in zip code 21843

Rural Zip Codes

- i. 125 members in zip code 21811
- ii. 3 members in zip code 21813
- iii. 1 member in zip code 21501
- iv. 12 members in zip code 21502
- v. 1 member in zip code 21504
- vi. 4 members in zip code 21530
- vii. 1 member in zip code 21532
- viii. 3 members in zip code 21829
- ix. 1 member in zip code 21536
- x. 7 members in zip code 21539
- xi. 5 members in zip code 21541
- xii. 8 members in zip code 21841
- xiii. 17 members in zip code 21550
- xiv. 1 member in zip code 21556
- xv. 2 members in zip code 21851
- xvi. 24 members in zip code 21863

- (e) Dermatology providers met the required standard for 99.8% of urban enrollees, leaving 65 members outside the travel distance standard of ten miles in one zip code, 20714.



- (f) ENT/Otolaryngology providers met the required standard for 99.9% of suburban enrollees, leaving 19 members outside the travel distance standard of thirty miles in one zip code, 21842.
- (g) Gynecology, OB/GYN providers met the required standard for 99.6% of urban enrollees, leaving 55 members outside the travel distance standard of five miles in one zip code, 20714. The standard was met for 99.6% of suburban enrollees, leaving 54 members outside the travel distance standard of ten miles.

Suburban Zip Codes

- i. 4 members in zip code 20625
  - ii. 50 members in zip code 21716
- (h) Gynecology Only providers met the required standard for 99.9% of suburban enrollees, leaving 6 members outside the travel distance standard of thirty miles in one zip code, 21842.
- (i) Oncology-Medical and Surgical providers met the required standard for 99.6% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714.
- (j) Ophthalmology providers met the required standard for 99.6% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714.
- (k) Psychiatry providers met the required standard for 99.7% of suburban enrollees, leaving 93 members outside the travel distance standard of twenty-five miles in two zip codes, 21842 and 21843.

- (l) Urology providers met the required standard for 99.6% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714. The standard was met for 99.9% of rural enrollees, leaving 46 members outside the travel distance standard of sixty miles.

Rural Zip Codes

- i. 3 members in zip code 21502
  - ii. 4 members in zip code 21539
  - iii. 1 member in zip code 21520
  - iv. 1 member in zip code 21531
  - v. 5 members in zip code 21536
  - vi. 1 member in zip code 21539
  - vii. 6 members in zip code 21541
  - viii. 24 members in zip code 21550
  - ix. 1 member in zip code 21561
- (m) Diagnostic radiology facility providers met the required standard for 99.6% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714.
- (n) Outpatient Dialysis facility providers met the required standard for 99.8% of rural enrollees, leaving 58 members outside the travel distance standard of fifty miles.

Rural Zip Codes

- i. 1 member in zip code 21501
- ii. 13 members in zip code 21502

- iii. 1 member in zip code 21504
- iv. 4 members in zip code 21539
- v. 1 member in zip code 21520
- vi. 1 member in zip code 21531
- vii. 5 members in zip code 21536
- viii. 1 member in zip code 21539
- ix. 6 members in zip code 21541
- x. 24 members in zip code 21550
- xi. 1 member in zip code 21561

(o) Outpatient infusion/chemotherapy facility providers did not meet the required standard for any of AHI's urban enrollees, leaving 28,514 urban enrollees outside the travel distance standard of ten miles. The standard was met for 11.8% of suburban enrollees, leaving 29,125 members outside the travel distance standard of thirty miles. The standard was met for 55.7% of rural enrollees, leaving 13,616 enrollees outside the travel distance standard of 60 miles.

Urban Zip Codes

- i. 14 members in zip code 20714
- ii. 691 members in zip code 21061
- iii. 550 members in zip code 21114
- iv. 86 members in zip code 21225
- v. 64 members in zip code 21201
- vi. 69 members in zip code 21202
- vii. 12 members in zip code 21203

- viii. 51 members in zip code 21205
- ix. 360 members in zip code 21206 (Baltimore City)
- x. 216 members in zip code 21207(Baltimore City)
- xi. 88 members in zip code 21209 (Baltimore City)
- xii. 41 members in zip code 21210 (Baltimore City)
- xiii. 113 members in zip code 21211
- xiv. 166 members in zip code 21212 (Baltimore City)
- xv. 173 members in zip code 21213
- xvi. 144 members in zip code 21214
- xvii. 350 members in zip code 21215 (Baltimore City)
- xviii. 197 members in zip code 21216
- xix. 185 members in zip code 21217
- xx. 251 members in zip code 21218
- xxi. 17 members in zip code 21222 (Baltimore City)
- xxii. 96 members in zip code 21223
- xxiii. 238 members in zip code 21224 (Baltimore City)
- xxiv. 98 members in zip code 21225
- xxv. 13 members in zip code 21227 (Baltimore City)
- xxvi. 3 members in zip code 21228 (Baltimore City)
- xxvii. 297 members in zip code 21229 (Baltimore City)
- xxviii. 272 members in zip code 21230
- xxix. 97 members in zip code 21231
- xxx. 77 members in zip code 21234
- xxxi. 197 members in zip code 21239 (Baltimore City)

- xxxii. 2 members in zip code 21297
- xxxiii. 4 members in zip code 21071
- xxxiv. 406 members in zip code 21133
- xxxv. 88 members in zip code 21204
- xxxvi. 83 members in zip code 21206 (Baltimore County)
- xxxvii. 385 members in zip code 21207 (Baltimore County)
- xxxviii. 82 members in zip code 21209 (Baltimore County)
- xxxix. 9 members in zip code 21210 (Baltimore County)
- xl. 84 members in zip code 21212 (Baltimore County)
- xli. 10 members in zip code 21215 (Baltimore County)
- xl.ii. 458 members in zip code 21222 (Baltimore County)
- xl.iii. 30 members in zip code 21224 (Baltimore County)
- xl.iv. 346 members in zip code 21227 (Baltimore County)
- xl.v. 629 members in zip code 21228 (Baltimore County)
- xl.vi. 54 members in zip code 21229 (Baltimore County)
- xl.vii. 484 members in zip code 21234
- xl.viii. 356 members in zip code 21236
- xl.ix. 48 members in zip code 21239 (Baltimore County)
- l. 1 member in zip code 21250
- li. 101 members in zip code 20714

- lii. 683 members in zip code 21044
- liii. 574 members in zip code 21045
- liv. 3 members in zip code 21150
- lv. 5 members in zip code 20810
- lvi. 333 members in zip code 20814
- lvii. 175 members in zip code 20815
- lviii. 133 members in zip code 20816
- lix. 1 member in zip code 20824
- lx. 2 members in zip code 20848
- lxi. 4 members in zip code 20849
- lxii. 690 members in zip code 20850
- lxiii. 200 members in zip code 20851
- lxiv. 495 members in zip code 20852
- lxv. 395 members in zip code 20853
- lxvi. 333 members in zip code 20877
- lxvii. 4 members in zip code 20884
- lxviii. 410 members in zip code 20886
- lix. 2 members in zip code 20891
- lxx. 269 members in zip code 20895
- lxxi. 11 members in zip code 20896
- lxxii. 543 members in zip code 20901
- lxxiii. 666 members in zip code 20902
- lxxiv. 206 members in zip code 20903
- lxxv. 787 members in zip code 20904

lxxvi. 791 members in zip code 20906  
lxxvii. 9 members in zip code 20907  
lxxviii. 635 members in zip code 20910  
lxxix. 297 members in zip code 20912  
lxxx. 2 members in zip code 20913  
lxxxi. 19 members in zip code 20914  
lxxxii. 7 members in zip code 20915  
lxxxiii. 6 members in zip code 20918  
lxxxiv. 10 members in zip code 20703  
lxxxv. 945 members in zip code 20706  
lxxxvi. 128 members in zip code 20710  
lxxxvii. 130 members in zip code 20712  
lxxxviii. 100 members in zip code 20722  
lxxxix. 10 members in zip code 20731  
xc. 241 members in zip code 20737  
xci. 6 members in zip code 20738  
xcii. 331 members in zip code 20740  
xciii. 8 members in zip code 20741  
xciv. 1 member in zip code 20742  
xcv. 1,250 members in zip code 20743  
xcvi. 769 members in zip code 20745  
xcvii. 989 members in zip code 20746  
xcviii. 1,492 members in zip code 20747  
xcix. 1,250 members in zip code 20748

- c. 16 members in zip code 20750
- ci. 3 members in zip code 20752
- cii. 18 members in zip code 20753
- ciii. 25 members in zip code 20757
- civ. 13 members in zip code 20768
- cv. 542 members in zip code 20770
- cvi. 205 members in zip code 20781
- cvii. 441 members in zip code 20782
- cviii. 362 members in zip code 20783
- cix. 520 members in zip code 20784
- cx. 1030 members in zip code 20785
- cxii. 2 members in zip code 20788
- cxiii. 33 members in zip code 20791
- cxiiii. 2 members in zip code 20797
- cxv. 39 members in zip code 20903
- cxvi. 3 members in zip code 20904
- cxvii. 24 members in zip code 20912

#### Suburban Zip Codes

- i. 386 members in zip code 20724
- ii. 68 members in zip code 20764
- iii. 39 members in zip code 20794
- iv. 276 members in zip code 21012
- v. 477 members in zip code 21060



- vi. 332 members in zip code 21076
- vii. 178 members in zip code 21090
- viii. 263 members in zip code 21108
- ix. 837 members in zip code 21113
- x. 1,024 members in zip code 21122
- xi. 2 members in zip code 21123
- xii. 70 members in zip code 21140
- xiii. 667 members in zip code 21144
- xiv. 384 members in zip code 21146
- xv. 327 members in zip code 21401
- xvi. 3 members in zip code 21402
- xvii. 274 members in zip code 21403
- xviii. 1 member in zip code 21404
- xix. 255 members in zip code 21409
- xx. 17 members in zip code 21208
- xxi. 7 members in zip code 21237
- xxii. 1 member in zip code 21027
- xxiii. 25 members in zip code 21043
- xxiv. 314 members in zip code 21093
- xxv. 3 members in zip code 21094
- xxvi. 632 members in zip code 21117
- xxvii. 187 members in zip code 21128
- xxviii. 268 members in zip code 21208
- xxix. 375 members in zip code 21220

- xxx. 329 members in zip code 21221
- xxxi. 293 members in zip code 21237
- xxxii. 488 members in zip code 21244
- xxxiii. 5 members in zip code 21282
- xxxiv. 1 member in zip code 21284
- xxxv. 134 members in zip code 21286
- xxxvi. 5 members in zip code 21913
- xxxvii. 948 members in zip code 20602
- xxxviii. 1,387 members in zip code 20603
- xxxix. 41 members in zip code 20604
  
- xl. 4 members in zip code 20612
- xli. 9 members in zip code 20625
- xl.ii. 492 members in zip code 21009
- xl.iii. 545 members in zip code 21014
- xl.iv. 120 members in zip code 21017
- xl.v. 298 members in zip code 21040
- xl.vi. 787 members in zip code 20723
- xl.vii. 71 members in zip code 20763
- xl.viii. 192 members in zip code 20794
- xl.ix. 4 members in zip code 21041
- l. 565 members in zip code 21042
- li. 834 members in zip code 21043
- lii. 305 members in zip code 21046
- lii.iii. 557 members in zip code 21075

- liv. 51 members in zip code 21076
- lv. 8 members in zip code 20707
- lvi. 412 members in zip code 20817
- lvii. 18 members in zip code 20818
- lviii. 322 members in zip code 20854
- lix. 1 member in zip code 20859
- lx. 213 members in zip code 20866
- lxi. 385 members in zip code 20905
- lxii. 234 members in zip code 20623
- lxiii. 15 members in zip code 20704
- lxiv. 456 members in zip code 20705
- lxv. 792 members in zip code 20707
- lxvi. 539 members in zip code 20708
- lxvii. 5 members in zip code 20709
- lxviii. 594 members in zip code 20715
- lxix. 762 members in zip code 20716
- lxx. 8 members in zip code 20717
- lxxi. 22 members in zip code 20718
- lxxii. 3 members in zip code 20719
- lxxiii. 927 members in zip code 20720
- lxxiv. 1,185 members in zip code 20721
- lxxv. 1 member in zip code 20724
- lxxvi. 10 members in zip code 20725
- lxxvii. 1,717 members in zip code 20735

- lxxviii. 1,913 members in zip code 20744
- lxxix. 27 members in zip code 20749
- lxxx. 257 members in zip code 20769
- lxxxi. 1 member in zip code 20771
- lxxxii. 2,019 members in zip code 20774
- lxxxiii. 7 members in zip code 20775
- lxxxiv. 18 members in zip code 20792
- lxxxv. 20 members in zip code 21826
- lxxxvi. 75 members in zip code 21842
- lxxxvii. 2 members in zip code 21843

#### Rural Zip Codes

- i. 1 member in zip code 21501
- ii. 13 members in zip code 21502
- iii. 1 member in zip code 21504
- iv. 9 members in zip code 21530
- v. 4 members in zip code 21539
- vi. 1 member in zip code 21555
- vii. 49 members in zip code 20711
- viii. 42 members in zip code 20733
- ix. 1 member in zip code 20736
- x. 38 members in zip code 20751
- xi. 24 members in zip code 20754
- xii. 26 members in zip code 20758
- xiii. 2 members in zip code 20765

- xiv. 3 members in zip code 20776
- xv. 26 members in zip code 20778
- xvi. 21 members in zip code 20779
- xvii. 112 members in zip code 21037
- xviii. 2 members in zip code 21106
- xix. 2 members in zip code 20610
- xx. 9 members in zip code 20615
- xxi. 5 members in zip code 20629
- xxii. 489 members in zip code 20639
- xxiii. 532 members in zip code 20657
- xxiv. 88 members in zip code 20676
- xxv. 274 members in zip code 20678
- xxvi. 211 members in zip code 20685
- xxvii. 32 members in zip code 20688
- xxviii. 37 members in zip code 20689
- xxix. 328 members in zip code 20732
- xxx. 375 members in zip code 20736
- xxxi. 235 members in zip code 20754
- xxxii. 84 members in zip code 21629
- xxxiii. 27 members in zip code 21632
- xxxiv. 8 members in zip code 21636
- xxxv. 26 members in zip code 21639
- xxxvi. 3 members in zip code 21640
- xxxvii. 1 member in zip code 21641

- xxxviii. 13 members in zip code 21649
- xxxix. 24 members in zip code 21655
- xl. 1 member in zip code 21657
- xli. 37 members in zip code 21660
- xl.ii. 266 members in zip code 21901
- xl.iii. 7 members in zip code 21902
- xl.iv. 118 members in zip code 21903
- xl.v. 112 members in zip code 21904
- xl.vi. 204 members in zip code 21911
- xl.vii. 11 members in zip code 21912
- xl.viii. 8 members in zip code 21914
- xl.ix. 25 members in zip code 21915
- l. 2 members in zip code 21916
- li. 50 members in zip code 21917
- lii. 120 members in zip code 21918
- liii. 30 members in zip code 21919
- liv. 2 members in zip code 21920
- lv. 524 members in zip code 21921
- lvi. 7 members in zip code 21922
- lvii. 3 members in zip code 21930
- lviii. 882 members in zip code 20601
- lix. 28 members in zip code 20611
- lx. 58 members in zip code 20613
- lxi. 23 members in zip code 20617

- lxii. 120 members in zip code 20622
- lxiii. 11 members in zip code 20632
- lxiv. 259 members in zip code 20637
- lxv. 125 members in zip code 20640
- lxvi. 20 members in zip code 20645
- lxvii. 618 members in zip code 20646
- lxviii. 36 members in zip code 20658
- lxix. 13 members in zip code 20659
- lxx. 83 members in zip code 20662
- lxxi. 71 members in zip code 20664
- lxxii. 71 members in zip code 20675
- lxxiii. 55 members in zip code 20677
- lxxiv. 47 members in zip code 20693
- lxxv. 546 members in zip code 20695
- lxxvi. 41 members in zip code 21613
- lxxvii. 8 members in zip code 21631
- lxxviii. 2 members in zip code 21632
- lxxix. 1 member in zip code 21634
- lxxx. 33 members in zip code 21643
- lxxxi. 2 members in zip code 21648
- lxxxii. 1 member in zip code 21659
- lxxxiii. 2 members in zip code 21664
- lxxxiv. 2 members in zip code 21835
- lxxxv. 1 member in zip code 21869

lxxxvi. 1 member in zip code 21520  
lxxxvii. 1 member in zip code 21531  
lxxxviii. 5 members in zip code 21536  
lxxxix. 1 member in zip code 21539  
xc. 6 members in zip code 21541  
xci. 24 members in zip code 21550  
xcii. 1 member in zip code 21561  
xciii. 404 members in zip code 21001  
xciv. 51 members in zip code 21005  
xcv. 2 members in zip code 21010  
xcvi. 85 members in zip code 21015  
xcvii. 64 members in zip code 21028  
xcviii. 56 members in zip code 21034  
xcix. 300 members in zip code 21078  
c. 45 members in zip code 21154  
ci. 17 members in zip code 21160  
cii. 1 member in zip code 21610  
ciii. 68 members in zip code 21620  
civ. 6 members in zip code 21635  
cv. 9 members in zip code 21645  
cvi. 7 members in zip code 21651  
cvii. 17 members in zip code 21661  
cviii. 20 members in zip code 21678  
cix. 1 member in zip code 20601



- cx. 19 members in zip code 20608
- cx. 242 members in zip code 20613
- cxii. 104 members in zip code 20772
- cxiii. 140 members in zip code 21617
- cxiv. 54 members in zip code 21619
- cxv. 22 members in zip code 21620
- cxvi. 44 members in zip code 21623
- cxvii. 37 members in zip code 21638
- cxviii. 4 members in zip code 21649
- cxix. 13 members in zip code 21651
- cxx. 6 members in zip code 21657
- cxxi. 38 members in zip code 21658
- cxxii. 212 members in zip code 21666
- cxxiii. 13 members in zip code 21668
- cxxiv. 5 members in zip code 21817
- cxxv. 1 member in zip code 21821
- cxxvi. 4 members in zip code 21822
- cxxvii. 1 member in zip code 21836
- cxxviii. 4 members in zip code 21838
- cxxix. 3 members in zip code 21851
- cxxx. 20 members in zip code 21853
- cxxx. 9 members in zip code 21871
- cxxxii. 6 members in zip code 20606
- cxxxiii. 20 members in zip code 20609

cxxxiv. 14 members in zip code 20618  
cxxxv. 339 members in zip code 20619  
cxxxvi. 50 members in zip code 20620  
cxxxvii. 50 members in zip code 20621  
cxxxviii. 52 members in zip code 20622  
cxxxix. 27 members in zip code 20624  
cxl. 7 members in zip code 20627  
cxli. 19 members in zip code 20628  
cxlii. 13 members in zip code 20630  
cxliii. 224 members in zip code 20634  
cxliv. 288 members in zip code 20636  
cxlv. 473 members in zip code 20650  
cxlvi. 496 members in zip code 20653  
cxlvii. 20 members in zip code 20656  
cxlviii. 634 members in zip code 20659  
cxlix. 4 members in zip code 20660  
cl. 15 members in zip code 20667  
cli. 24 members in zip code 20670  
clii. 9 members in zip code 20674  
cliii. 12 members in zip code 20680  
cliv. 30 members in zip code 20684  
clv. 5 members in zip code 20687  
clvi. 26 members in zip code 20690  
clvii. 13 members in zip code 20692

clviii. 102 members in zip code 21601  
clix. 4 members in zip code 21612  
clx. 13 members in zip code 21625  
clxi. 9 members in zip code 21654  
clxii. 4 members in zip code 21657  
clxiii. 5 members in zip code 21662  
clxiv. 6 members in zip code 21663  
clxv. 7 members in zip code 21673  
clxvi. 1 member in zip code 21676  
clxvii. 3 members in zip code 21679  
clxviii. 115 members in zip code 21801  
clxix. 8 members in zip code 21802  
clxx. 121 members in zip code 21804  
clxxi. 10 members in zip code 21822  
clxxii. 17 members in zip code 21830  
clxxiii. 15 members in zip code 21837  
clxxiv. 13 members in zip code 21849  
clxxv. 14 members in zip code 21850  
clxxvi. 6 members in zip code 21856  
clxxvii. 4 members in zip code 21861  
clxxviii. 2 members in zip code 21865  
clxxix. 12 members in zip code 21874  
clxxx. 20 members in zip code 21875  
clxxxi. 1 member in zip code 21804

clxxxii. 100 members in zip code 21811  
clxxxiii. 10 members in zip code 21813  
clxxxiv. 1 member in zip code 21822  
clxxxv. 2 members in zip code 21829  
clxxxvi. 3 members in zip code 21841  
clxxxvii. 39 members in zip code 21851  
clxxxviii. 20 members in zip code 21863  
clxxxix. 2 members in zip code 21864  
cx. 6 members in zip code 21872

- (p) Skilled nursing facility providers met the required standard for 99.6% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714.
- (q) Surgical services (outpatient or ambulatory surgical center) facility providers met the required standard for 99.7% of urban enrollees, leaving 115 members outside the travel distance standard of ten miles in one zip code, 20714.
- (r) Inpatient psychiatric facility providers met the required standard for 99% of urban enrollees, leaving 269 members outside the travel distance standard of fifteen miles in two zip codes, 21402 and 21403.
- (s) Other behavioral health/substance abuse facility providers met the required standard for 99.7% of suburban enrollees, leaving 97 members outside the travel distance standard of twenty-five miles in two zip codes, 21842 and 21843.

17. AHI submitted an executive summary as a part of the AHI 2019 Access Plan. The executive summary provides that the specific number of registered nurse practitioners counted as primary care is not included in the geo-access data and that their systems are unable to determine the percentage of registered nurse practitioners that practice as primary care.
18. The AHI 2019 Access Plan has failed to include in the executive summary, the number of certified registered nurse practitioners counted as a primary care providers and the total percentage of primary care providers who are certified registered nurse practitioners.

**B. The Access Plan-Essential Community Providers**

19. COMAR 31.10.44.04C(1) provides that each provider panel of a carrier, that is not a group model HMO provider panel, shall include at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas.
20. AHI submitted an executive summary form as a part of the AHI 2019 Access Plan. The executive summary form states that 779 essential community providers are participating in the AHI network, which represents 33.92% of the total essential community providers available in the AHI service area. AHI did not provide documentation to establish the percentages of essential community providers that are participating providers in each urban, rural, and suburban area within AHI's service area.
21. The data submitted by AHI in connection with the AHI 2019 Access Plan failed to demonstrate that at least 30 percent of the available essential community

providers in each of the urban, rural, and suburban areas are included in the AHI network.

**C. The Access Plan-Appointment Waiting Time Standards**

22. The data submitted by AHI in connection with the AHI 2019 Access Plan failed to demonstrate compliance with Appointment Waiting Time Standards.

23. COMAR 31.10.44.05 states, in pertinent part:

.05 Appointment Waiting Time Standards

A. Sufficiency Standards.

(1) Subject to the exceptions in §B of this regulation, each carrier’s provider panel shall meet the waiting time standards listed in §C of this regulation for at least 95 percent of the enrollees covered under health benefit plans that use that provider panel.

(2) When it is clinically appropriate and an enrollee elects to utilize a telehealth appointment, a carrier may consider that utilization as a part of its meeting the standards listed in §C of this regulation.

\* \* \*

C. Chart of Waiting Time Standards

Waiting Time Standards	
Urgent care (including medical, behavioral health, and substance use disorder services)	72 hours
Routine Primary Care	15 Calendar Days
Preventive Visit/Well Visit	30 Calendar Days
Non-Urgent Specialty Care	30 Calendar Days
Non-urgent behavioral health/substance use disorder services	10 Calendar Days

24. The data self-reported by AHI disclosed the following deficiencies:

(a) Urgent care behavioral health/substance use disorder services met the 72-hour standard for 80% of enrollees, representing a deficiency of 15 percentage points.

(b) Non-urgent behavioral health/substance use disorder services met the required standard of 10 calendar days for 89% of enrollees, representing a deficiency of 6 percentage points.

25. AHI has acknowledged the deficiencies in its self-reported data regarding appointment waiting time standards. AHI advised that the AHI 2019 Access Plan filing measured appointment waiting times for urgent care behavioral health/substance use disorder services against the Aetna urgent care standard of 48 hours, which is more stringent than the state standard of 72 hours. AHI advised that the survey tool used for this measurement did not allow measurement against the 72-hour standard.

### **III. CONCLUSIONS OF LAW**

26. The Administration concludes that AHI violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by submitting an access plan that failed to comply with the required travel distance standards and appointment waiting time standards, by failing to include in the executive summary plan form the required information regarding certified registered nurse practitioners, and by failing to demonstrate that at least 30 percent of the available essential community

providers in each of the urban, rural, and suburban areas are included in the AHI network.

27. Section 19-729(a) of the Health-General Article states in pertinent part:

- (a) A health maintenance organization may not:
  - (1) Violate any provision of this subtitle or any rule or regulation adopted under it[.]

28. Section 19-730 of the Health-General Article states in pertinent part:

- (a) If any person violates any provision of § 19-729 of this subtitle, the Administration may:
    - (1) Issue an administrative order that requires the health maintenance organization to:
      - (i) cease inappropriate conduct or practices by it or any of the personnel employed or associated with it;
- \* \* \*
- (2) In addition to suspending or revoking a certificate of authority:
    - (i) impose a penalty of not less than \$100, but not more than \$125,000 for each violation[.]

### ORDER

**WHEREFORE**, for the reasons set forth above, it is **ORDERED** by the Commissioner and consented to by the Respondent:

A. That, pursuant to § 19-730 of the Health-General Article, based on consideration of COMAR 31.02.04.02, the Administration imposes an administrative penalty on AHI of \$75,000 for the violations of § 15-112 of the Insurance Article and COMAR 31.10.44.03C identified here;

B. The obligation of AHI to pay the aforesaid administrative penalty is hereby suspended pending the Administration's (i) review of the access plan submitted by AHI



in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by AHI related to its intent to adjust record keeping methodologies and to improve its compliance with the Standards; and (iii) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

#### **OTHER PROVISIONS**

C. The executed Order and any administrative penalty shall be sent to the attention of: David Cooney, Associate Commissioner, Life and Health, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

D For the purposes of the Administration and for any subsequent administrative or civil proceedings concerning Respondent, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information about the Respondent made under the Maryland Public Information Act, or properly made by governmental agencies, this Order will be kept and maintained in the regular course of business by the Administration. For the purposes of the business of the Administration, the records and publications of the Administration will reflect this Order.

E. The parties acknowledge that this Order resolves all matters relating to the factual assertions and agreements contained herein and are to be used solely for the purposes of this proceeding brought by or on behalf of the Administration. Nothing herein shall be deemed a waiver of the Commissioner's right to proceed in an administrative action or civil action for violations not specifically identified in this Order, including, but not limited to, specific consumer complaints received by the Administration, nor shall anything herein be deemed a waiver of the right of the Respondent to contest other proceedings by the Administration. This Order shall not be

construed to resolve or preclude any potential or pending civil, administrative, or criminal action or prosecution by any other person, entity or governmental authority, including but not limited to the Insurance Fraud Division of the Administration, regarding any conduct by the Respondent including the conduct that is the subject of this Order.

F. Respondent has had the opportunity to have this Order reviewed by legal counsel of its choosing, and is aware of the benefits gained and obligations incurred by the execution of the Order. Respondent waives any and all rights to any hearing or judicial review of this Order to which it would otherwise be entitled under the Insurance Article with respect to any of the determinations made or actions ordered by this Order.

G This Order contains the entire agreement between the parties relating to the administrative actions addressed herein. This Order supersedes any and all earlier agreements or negotiations, whether oral or written. All time frames set forth in this Order may be amended or modified only by subsequent written agreement of the parties.

H. This Order shall be effective upon signing by the Commissioner or his designee, and is a Final Order of the Commissioner under § 2-204 of the Insurance Article.

I. Failure to comply with the terms of this Order may subject Respondent to further legal and/or administrative action.

**Kathleen A. Birrane**  
**INSURANCE COMMISSIONER**

signature on original

By: David Cooney  
Associate Commissioner, Life & Health

Date: 3/26/2021

RESPONDENT'S CONSENT

RESPONDENT hereby CONSENTS to the representations made in, and to the terms of, the above Consent Order. On behalf of Respondent, the undersigned hereby affirms that he or she has taken all necessary steps to obtain the authority to bind Respondent to the obligations stated herein and does in fact have the authority to bind Respondent to the obligations stated herein.

Name: Michael Bucci

Signature:  signature on original

Title: Aetna, President, Capitol Market

Date: 3/19/2021