

BEFORE THE MARYLAND INSURANCE ADMINISTRATION

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

vs. *

CIGNA HEALTH AND LIFE INSURANCE *
COMPANY *
900 COTTAGE GROVE RD *
HARTFORD, CT 06152 *

CASE NO: MIA-2021-04-029

NAIC# 67369 *

CONSENT ORDER

This Consent Order is entered into by the Maryland Insurance Commissioner and CIGNA HEALTH AND LIFE INSURANCE COMPANY ("CIGNA" or "Respondent") pursuant to §§ 2-108, 2-204, and 4-113 of the Insurance Article, Maryland Code Annotated, to resolve the matter before the Maryland Insurance Administration ("Administration").

I. RELEVANT REGULATORY FRAMEWORK

1. Each insurer 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 insurer is required to file a report with the Administration demonstrating the insurer'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:

* * *

1. an insurer;

(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. CIGNA holds a Certificate of Authority to act as an insurer 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, CIGNA is required to file a network adequacy plan in accordance with COMAR 31.10.44.03.

8. On July 1, 2019, CIGNA submitted a Network Adequacy Plan (the "CIGNA 2019 Access Plan") to the Administration.

9. The CIGNA 2019 Access Plan included an executive summary form and several proprietary and confidential items, including details of the methodology CIGNA used to measure and assess its performance in meeting the network adequacy standards.

10. On August 1, 2019, CIGNA submitted a revised executive summary form to the Administration.

11. On September 25, 2020, the Administration sent a letter to CIGNA requesting additional information and documentation necessary for the Administration to evaluate whether the CIGNA 2019 Access Plan was in compliance with the Standards.

12. On November 2, 2020, CIGNA submitted additional information. The information included an explanation of CIGNA's methodology for selecting Essential Community Providers ("ECPs") and a chart listing the percentages of available ECPs that are participating providers in each urban, rural, and suburban area.

A The Access Plan-Travel Distance Standards

13. The data submitted by CIGNA in connection with the CIGNA 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.

* * *

(5) Chart of Travel Distance Standards.

	Urban Area Maximum Distance (miles)	Suburban Area Maximum Distance (miles)	Rural Area Maximum Distance Miles
Provider Type:			

* * *

Allergy and Immunology	15	30	75
ENT/Otolaryngology	15	30	75
Gastroenterology	10	30	75

* * *

Gynecology, OB/GYN	5	10	30
Gynecology Only	15	30	75
Neurology	10	30	60
Oncology- Radiation/Radiation Oncology	10	20	60
Ophthalmology	10	20	60
Pediatrics- Routine/Primary Care	5	10	30
Rheumatology	15	40	90
Urology	10	30	60

* * *

Facility Type:			
Acute Inpatient Hospitals	10	30	60
Critical Care Services- Intensive Care Units	10	30	100
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

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 CIGNA disclosed the following deficiencies based on distance of a provider to an enrollee's address:

(a) Allergy and Immunology providers met the required standard for 99.9% of suburban enrollees, leaving 1 enrollee outside the travel distance standard of thirty miles in one zip code, 21842.

(b) ENT/Otolaryngology providers met the required standard for 99.9% of suburban enrollees, leaving 2 enrollees outside the travel distance standard of thirty miles in one zip code, 21842.

- (c) Gastroenterology providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (d) Gynecology, OB/GYN providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of five miles in one zip code, 20714. The standard was met for 98.5% of suburban enrollees, leaving 206 enrollees outside the travel distance standard of ten miles in one zip code, 21716.
- (e) Gynecology Only providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of fifteen miles in one zip code, 20714.
- (f) Neurology providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (g) Oncology-Radiation/Radiation Oncology providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of fifteen miles in one zip code, 20714.
- (h) Ophthalmology providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (i) Pediatrics-Routine/Primary Care providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of five miles in zip code, 20714. The standard was met for 98.5% of

suburban enrollees, leaving 206 enrollees outside the travel distance standard of ten miles in one zip code, 21716.

- (j) Rheumatology providers met the required standard for 99.9% of urban enrollees, leaving 11 enrollees outside the travel distance standard of fifteen miles in one zip code, 20714.
- (k) Urology providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (l) Acute inpatient hospital facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (m) Critical Care Services- Intensive Care Units Facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (n) Diagnostic radiology facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.
- (o) Outpatient dialysis facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714. The standard was met for 97.3% of rural enrollees, leaving 571 enrollees outside the travel distance standard of fifty miles.

Rural Zip Codes

- i. Zip code 21521 has 2 members outside the travel distance standard.
- ii. Zip code 21502 has 50 members outside the travel distance standard.
- iii. Zip code 21529 has 1 member outside the travel distance standard.
- iv. Zip code 21532 has 88 members outside the travel distance standard.
- v. Zip code 21539 has 5 members outside the travel distance standard.
- vi. Zip code 21543 has 1 member outside the travel distance standard.
- vii. Zip code 21545 has 13 members outside the travel distance standard.
- viii. Zip code 21557 has 5 members outside the travel distance standard.
- ix. Zip code 21562 has 15 members outside the travel distance standard.
- x. Zip code 21520 has 103 members outside the travel distance standard.
- xi. Zip code 21522 has 2 members outside the travel distance standard.
- xii. Zip code 21531 has 17 members outside the travel distance standard.
- xiii. Zip code 21532 has 14 members outside the travel distance standard.
- xiv. Zip code 21536 has 84 members outside the travel distance standard.
- xv. Zip code 21538 has 3 members outside the travel distance standard.
- xvi. Zip code 21539 has 2 members outside the travel distance standard.

xvii. Zip code 21541 has 10 members outside the travel distance standard.

xviii. Zip code 21550 has 123 members outside the travel distance standard.

xix. Zip code 21561 has 32 members outside the travel distance standard.

xx. Zip code 21562 has 1 member outside the travel distance standard.

(p) Outpatient infusion/chemotherapy facility providers met the required standard for 42% of urban enrollees, leaving 12,155 enrollees outside the travel distance standard of ten miles. The standard was met for 92.3% of suburban enrollees, leaving 1,384 enrollees outside the travel distance standard of thirty miles.

Urban Zip Codes

i. Zip code 21114 has 216 members outside the travel distance standard.

ii. Zip code 20714 has 42 members outside the travel distance standard.

iii. Zip code 21236 has 96 members outside the travel distance standard.

iv. Zip code 21234 has 1 member outside the travel distance standard.

v. Zip code 20814 has 108 members outside the travel distance standard.

- vi. Zip code 20815 has 91 members outside the travel distance standard.
- vii. Zip code 20816 has 51 members outside the travel distance standard.
- viii. Zip code 20877 has 285 members outside the travel distance standard.
- ix. Zip code 20884 has 1 member outside the travel distance standard.
- x. Zip code 20896 has 4 members outside the travel distance standard.
- xi. Zip code 20787 has 2 members outside the travel distance standard.
- xii. Zip code 20891 has 1 member outside the travel distance standard.
- xiii. Zip code 20895 has 100 members outside the travel distance standard.
- xiv. Zip code 20886 has 258 members outside the travel distance standard.
- xv. Zip code 20849 has 1 member outside the travel distance standard.
- xvi. Zip code 20850 has 281 members outside the travel distance standard.
- xvii. Zip code 20851 has 85 members outside the travel distance standard.

- xviii. Zip code 20852 has 279 members outside the travel distance standard.
- xix. Zip code 20853 has 155 members outside the travel distance standard.
- xx. Zip code 20901 has 292 members outside the travel distance standard.
- xxi. Zip code 20902 has 446 members outside the travel distance standard.
- xxii. Zip code 20903 has 130 members outside the travel distance standard.
- xxiii. Zip code 20904 has 158 members outside the travel distance standard.
- xxiv. Zip code 20906 has 531 members outside the travel distance standard.
- xxv. Zip code 20907 has 2 members outside the travel distance standard.
- xxvi. Zip code 20908 has 1 member outside the travel distance standard.
- xxvii. Zip code 20910 has 355 members outside the travel distance standard.
- xxviii. Zip code 20911 has 1 member outside the travel distance standard.
- xxix. Zip code 20916 has 2 members outside the travel distance standard.

- xxx. Zip code 20918 has 4 members outside the travel distance standard.
- xxxi. Zip code 20912 has 232 members outside the travel distance standard.
- xxxii. Zip code 20913 has 1 member outside the travel distance standard.
- xxxiii. Zip code 20710 has 104 members outside the travel distance standard.
- xxxiv. Zip code 20722 has 63 members outside the travel distance standard.
- xxxv. Zip code 20731 has 5 members outside the travel distance standard.
- xxxvi. Zip code 20743 has 1,023 members outside the travel distance standard.
- xxxvii. Zip code 20791 has 5 members outside the travel distance standard.
- xxxviii. Zip code 20799 has 4 members outside the travel distance standard.
- xxxix. Zip code 20740 has 182 members outside the travel distance standard.
- xl. Zip code 20742 has 1 member outside the travel distance standard.
- xli. Zip code 20747 has 931 members outside the travel distance standard.

- xlii. Zip code 20753 has 3 members outside the travel distance standard.
- xliii. Zip code 20768 has 7 members outside the travel distance standard.
- xliv. Zip code 20770 has 375 members outside the travel distance standard.
- xlv. Zip code 20781 has 125 members outside the travel distance standard.
- xlvi. Zip code 20782 has 402 members outside the travel distance standard.
- xlvii. Zip code 20783 has 316 members outside the travel distance standard.
- xlviii. Zip code 20784 has 411 members outside the travel distance standard.
- xlix. Zip code 20785 has 793 members outside the travel distance standard.
- I. Zip code 20703 has 1 member outside the travel distance standard.
- li. Zip code 20706 has 626 members outside the travel distance standard.
- lii. Zip code 20712 has 135 members outside the travel distance standard.
- liii. Zip code 20745 has 595 members outside the travel distance standard.

- llv. Zip code 20750 has 1 member outside the travel distance standard.
- lv. Zip code 20737 has 148 members outside the travel distance standard.
- lvi. Zip code 20738 has 2 members outside the travel distance standard.
- lvii. Zip code 20903 has 30 members outside the travel distance standard.
- lviii. Zip code 20746 has 676 members outside the travel distance standard.
- lix. Zip code 20752 has 1 member outside the travel distance standard.
- lx. Zip code 20912 has 16 members outside the travel distance standard.
- lxi. Zip code 20748 has 947 members outside the travel distance standard.
- lxii. Zip code 20757 has 15 members outside the travel distance standard.

Suburban Zip Codes

- i. Zip code 20602 has 479 members outside the travel distance standard.
- ii. Zip code 20603 has 487 members outside the travel distance standard.
- iii. Zip code 20604 has 5 members outside the travel distance standard.

iv. Zip code 20735 has 79 members outside the travel distance standard.

iii. Zip code 20744 has 325 members outside the travel distance standard.

iv. Zip code 20749 has 9 members outside the travel distance standard.

(q) Skilled nursing facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.

(r) Surgical Services (Outpatient or Ambulatory Surgical Center) facility providers met the required standard for 99.9% of urban enrollees, leaving 12 enrollees outside the travel distance standard of ten miles in one zip code, 20714.

17. CIGNA submitted an executive summary plan form as a part of the CIGNA 2019 Access Plan. The executive summary provides that nurse practitioners provide primary care service to enrollees in accordance with their policy; however, the reporting system does not currently distinguish nurse practitioners by specialty.

18. The CIGNA 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. On November 2, 2020, CIGNA submitted a geographical distribution chart listing the percentages of available essential community providers that are participating providers in each urban, rural, and suburban area.

21. The data self-reported by CIGNA disclosed the following deficiencies:

(a) In urban areas, 98 essential community providers participate in the network, representing 17.6% of available essential community providers, a deficiency of 12.4 percentage points.

(b) In suburban areas, 30 essential community providers participate in the network, representing 16% of available essential community providers, a deficiency of 14 percentage points.

(c) In rural areas, 110 essential community providers participate in the network, representing 29.8% of available essential community providers, a deficiency of .2 percentage points.

C. The Access Plan-Appointment Waiting Time Standards

22. The data submitted by CIGNA in connection with the CIGNA 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 CIGNA disclosed the following deficiencies:

- (a) Urgent care (behavioral health/substance use disorder) waiting time was measured using a 48-hour standard, in place of the 72-hour State standard. Also, the data was obtained from a National Customer Survey and not limited to Maryland enrollees. Using this data, CIGNA reported that the standard was met for 53% of enrollees, representing a deficiency of 42 percentage points.
- (b) Urgent Care (medical specialty care) met the 72-hour standard for 93% of enrollees, representing a deficiency of 2 percentage points.

- (c) Preventive visit/well visit met the 30 calendar day standard for 93% of enrollees, representing a deficiency of 2 percentage points.
- (d) Non-Urgent Behavioral Health/Substance Use Disorder Services met the required standard of 10 calendar days for 76% of enrollees, representing a deficiency of 19 percentage points. This data was also obtained from the National Customer Survey and not limited to Maryland enrollees.

25. CIGNA reported that telehealth appointments were not captured in the appointment waiting time analysis.

26. CIGNA has acknowledged the deficiencies in its self-reported data regarding appointment waiting time standards. CIGNA reported that the 48-hour urgent care (behavioral health/substance use disorder) access standard was developed in accordance with NCQA accreditation standards. CIGNA also acknowledged that it used its National Customer Survey measure, as opposed to Maryland specific data, because that was the only data available at the time of the 2019 data submission. CIGNA reported that the issue has since been remediated and its 2020 data submission included Maryland specific access to care data.

III. CONCLUSIONS OF LAW

27. The Administration concludes that CIGNA violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by filing 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 filing an access plan that failed to comply with the requirement that at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas are included in the network.

28. Section 4-113 of the Insurance Article states in pertinent part:

(b) The Commissioner may deny a certificate of authority to an applicant or, subject to the hearing provisions of Title 2 of this article, refuse to renew, suspend, or revoke a certificate of authority if the applicant or holder of the certificate of authority:

(1) violates any provision of this article other than one that provides for mandatory denial, refusal to renew, suspension, or revocation for its violation[.]

* * * *

(d) Instead of or in addition to suspending or revoking a certificate of authority, the Commissioner may:

(1) impose on the holder a penalty of not less than \$100 but not more than \$125,000 for each violation of this article[.]

ORDER

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

A. That, pursuant to § 4-113 of the Insurance Article, based on consideration of COMAR 31.02.04.02, the Administration imposes an administrative penalty on CIGNA of \$100,000 for the violations of § 15-112 of the Insurance Article and COMAR 31.10.44.03C identified here;

B. The obligation of CIGNA to pay the aforesaid administrative penalty is hereby suspended pending the Administration's (i) review of the access plan submitted by CIGNA in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by CIGNA 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 and Health

Date: 4/27/21

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: Monica L. Schmude

Signature: signature on original

Title: Vice President of CATHC

Date: 4/6/21