Maryland
Hospital Association

March 27, 2023

Lisa Larson
Director of Hearings & Regulations
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Emailed to InsuranceRegReview.MIA@maryland.gov.

Re: Proposed Network Adequacy Regulations – February 2023

Dear Ms. Larson:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on the Maryland Insurance Administration's (MIA) proposed regulations at COMAR 31.10.44. MHA commends MIA for suggesting standards that give meaningful information to providers and consumers on network coverage. The following emphasizes our suggestions for provisions that resonate with MHA's priority issues.

Behavioral Health Care Access

Maryland hospitals occupy a unique position within the behavioral health continuum of care. Emergency departments are sometimes the first point of contact for individuals with behavioral health disorders; however, they need a full care continuum to meaningfully treat their concerns. Discharged patients must have immediate access to community behavioral health providers, or step-down programs, within their insurance networks. Without a robust network, patients—especially children and adolescents—are forced to board in hospitals for months at a time, which exacerbates their existing conditions.

We appreciate additional behavioral health specialties being included in the wait time and travel distance standards. We recommend revisiting those standards to measure carrier compliance and access. Additionally, we urge MIA to publicize the percent of out-of-network utilization from their members for behavioral health services, stratified by ZIP code. This could help hospitals discharge patients to appropriate step-down facilities, while also identifying areas of significant in-network provider shortages.

We also support MIA's proposal to require carriers to describe their incentives, such as educational loan repayment, for providers from diverse cultural, racial, or ethnic backgrounds.

Telehealth

We appreciate MIA's expanded telehealth data reporting and support the proposal to align the definition of telehealth with Insurance, § 15-139. As the definition of telehealth continues to evolve, referring to the relevant statutory definition will ease confusion and uncertainty among insurers, providers, and consumers.

MHA also appreciates MIA's consideration of the patient's choice in how they prefer to receive their care. The new provisions require carriers to provide coverage for corresponding in-person services if the patient chooses not to use telehealth services. This is a step toward ensuring patients receive care in the manner that is most beneficial to their specific circumstances.

Determining clinical appropriateness
MHA supports using "clinical appropriateness" to determine whether telehealth is the right delivery mode for a particular service. However, as currently constructed in the regulation, the determination of clinical appropriateness lacks any connection to the treating provider's judgment. The treating provider is best suited to identify whether the patient's clinical condition can be addressed via telehealth and, in consultation with the patient, if a telehealth visit can meet the patient's needs. Onerous upfront utilization management requirements to establish clinical appropriateness detracts from the primary focus of telehealth, which is patient care at the right place, time, and level, and may result in missed or skipped visits. We encourage MIA to require carriers to include their policies and criteria on clinical appropriateness of an offered telehealth visit, especially requirements placed on providers to prove the clinical appropriateness of a telehealth visit.

Out-of-state telehealth providers
Telehealth's portability is one of its most attractive features. MHA supports using out-of-state practitioners when necessary to supplement provider shortages and is working closely with the Maryland Health Care Commission on their interstate telehealth study to identify thoughtful licensure expansion policies. However, we are concerned carriers will use national telehealth organizations in lieu of building their network of local Maryland providers who offer both in-person and telehealth services. This is detrimental to efficient and effective patient care, especially as hybrid treatment plans (i.e., both in-person and telehealth visits with the same provider) become more common. Additionally, this practice results in Marylanders losing in-network coverage to locally available services in favor of providers unfamiliar with available care resources in the state.

We welcome MIA's proposal to require carriers to submit documentation identifying what services they offer through telehealth-only vendors or platforms. But this does not address our concerns regarding the loss of in-network coverage for local providers. We ask that MIA require carriers to share:

- Percentage of enrollees referred out-of-state for telehealth visits
- Types of visits referred out-of-state for telehealth
- Geographic data (e.g., state, ZIP code) for telehealth providers to whom they refer their enrollees to confirm compliance with state licensure compacts

Thank you for considering our views and recommendations. We look forward to working with MIA and all stakeholders throughout the regulatory process. Please do not hesitate to reach out to Diana Hsu (dhsu@mhaonline.org) with any questions.

Sincerely,

Erin M. Dorrien

Erin M. Dorrien
Vice President, Policy

CC: David Cooney, Associate Commissioner