



September 9, 2021

Ms. Lisa Larson
Director of Regulatory Affairs
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202
Submitted via: MHPAEA.mia@maryland.gov

**RE: Comments on Draft Proposed Supporting Documents for COMAR
31.10.51 – *Mental Health Benefits and Substance Use Disorder Benefits –
Reports on Nonquantitative Treatment Limitations and Data***

Dear Ms. Larson:

On behalf of the Association for Behavioral Health and Wellness (ABHW), we appreciate the opportunity to comment on the Maryland Insurance Administration's (MIA) draft templates and instructions for the Mental Health Parity and Addiction Equity Act (MHPAEA) reports required to be submitted to MIA pursuant to SB 0334/HB 0455 of 2020.

ABHW is the trade association which serves as the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in both the public and private sectors to treat mental health, substance use disorders, and other behaviors that impact health and wellness. Many ABHW members provide behavioral health insurance coverage to individuals in the state Maryland.

For more than two decades, ABHW has supported mental health and addiction parity and our members work vigorously to understand and implement MHPAEA. Given the significantly increased activity around MHPAEA compliance this past year, we urge MIA to reconsider the proposed templates and corresponding instructions.

Insurers and payers are working diligently to ensure compliance with the evolving federal reporting requirements pursuant to the Consolidated Appropriations Act (CAA) while simultaneously keeping up with the changes introduced at the state level. The lack of uniformity between state and federal requirements leads to confusion when preparing the non-quantitative treatment limitations (NQTL) analyses. As such, we strongly urge MIA to align its reporting template with the current federal DOL tool for MHPAEA compliance by postponing the utilization of the Data Supplements proposed to accompany the NQTL Analysis Report for two main reasons:


- It is likely that the Department of Labor (DOL), U.S. Department of Health and Human Services (HHS), and the Department of Treasury (Treasury) (collectively the tri-Departments) will issue further guidance on CAA implementation. In their recent FAQs, the tri-Departments indicated that using the DOL Self-Compliance Tool will put plans and issuers “in a strong position to comply with the CAA’s requirement”. Therefore, additional requirements would be unnecessary for CAA compliance. The proposed Data Supplements go well beyond the DOL’s Tool and CAA requirements and should therefore be removed for the time being.
- The draft MIA NQTL Analysis Report Template Form and the MHPAEA Data Report Template Form incorporate the information required by SB 334/HB 455. Additionally, SB 334/HB 455 includes a request for MIA to provide updates on new reporting requirements by December 2023 and December 2025. We believe this request provides MIA the opportunity to review the collected data and determine whether the information received from the templates is sufficient. If the collected data is lacking, MIA can then work with stakeholders to make the necessary improvements. As such, the Data Supplements are superfluous at this time.

We strongly believe that postponing the utilization of the Data Supplements will allow MIA to determine whether additional reporting is necessary after the tri-Departments’ regulations are released and the new MIA NQTL Analyses and MHPAEA Data Template Forms have been in use for a period of time. As always, MIA has complete authority within a market conduct review to fully review MHPAEA parity compliance in the time leading up to 2025.

ABHW members strive to ensure access to behavioral health services and are committed to meeting MHPAEA compliance requirements. The CAA provides a foundation for improved compliance by codifying the NQTL comparative analysis requirements from the DOL Tool, thus clarifying for both states and insurers/plans the NQTL reporting requirements. Since this is an evolving issue, we strongly urge MIA to pause using the Data Supplements at this time.

ABHW thanks the MIA for this opportunity to provide our comments on parity compliance. Please feel free to contact Deepti Loharikar, Director of Regulatory Affairs, at loharikar@abhw.org or 202-505-1834 with any questions.

Sincerely,



Pamela Greenberg, MPP
President and CEO