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June 28, 2024

Rachel Clark
Market Compliance Director
Aetna
151 Farmington Avenue
Hartford, CT 06156-3124

Re: Aetna Health and Life Insurance Company (“AHLIC”)
2023 Network Adequacy Access Plan

Dear Ms. Clark:

The Maryland Insurance Administration (“Administration”) has completed its review of the Aetna Health and Life Insurance Company 2023 Network Adequacy Access Plan (the “AHLIC 2023 Access Plan”) filed on September 29, 2023, supplemented with additional information and documentation on October 31, 2023, December 20, 2023, January 12, 2024, April 19, 2024, and June 14, 2024. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

The Administration’s review of the AHLIC 2023 Access Plan has found that the access standards in COMAR 31.10.44.05 and .06 were not met for the following, based on the data self-reported by AHLIC. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

In addition to the specific provider and facility types listed in the chart in COMAR 31.10.44.04A(5), AHLIC reported separate travel distance metrics for 28 additional provider types, which, in previous reporting years, had been reported together under the categories “All Other licensed or certified providers under contract with a carrier not listed” and “All other licensed or certified facilities under contract with a carrier not listed.” and “All other licensed or certified facilities under contract with a carrier not listed.” Due to the wide variation of “All other...” provider types reported by different carriers, the Administration has provided additional guidance to carriers for the 2024 access plans to ensure greater uniformity in reporting across

carriers. For the following provider types and geographic regions, AHLIC reported that less than 100% of enrollees had access to a participating provider with a practicing location within the applicable maximum travel distance standard:

Provider/Facility	Geographic Region	Percentage of Enrollees within Standard
Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery	Urban	99.9%
	Suburban	99.9%
Pediatrics-Routine/Primary Care	Urban	99.9%
	Suburban	99.9%
Acute Inpatient Hospitals	Urban	99.9%
Ambulatory Infusion Centers	Urban	99.9%
Critical Care Services-Intensive Care Units	Urban	99.9%
Pharmacy	Suburban	99.9%
Opioid Treatment Service Provider	Suburban	99.9%
Residential Crisis Services	Urban	11.8%
	Suburban	93.8%
	Rural	93.8%

Additionally, of the 28 additional provider and facility types that were listed together in previous years under “All Other...” categories AHI reported a deficiency for 8 of the additional provider types in at least one zip code.

Travel Distance Waivers and Other Mitigating Factors

AHLIC provided the information required by COMAR 31.10.44.09A for each unmet travel distance standard described above. The Administration has considered the information provided by AHLIC, and has found good cause to grant a waiver of the applicable travel distance standard for the AHLIC Access Plan for the following provider and facility types: Gynecology, OB/GYN Nurse-Midwifery/Certified Midwifery; Pediatrics – Routine / Primary Care; Acute Inpatient Hospitals, Ambulatory Infusion Therapy Centers, Critical Care Services - Intensive Care Units, Pharmacy, and Opioid Treatment Services Provider.

The Administration determined that AHLIC provided sufficient information with respect to the provider and facility types listed above to demonstrate that providers necessary to meet the travel

distance standards were not available to contract with the carrier or were not available in sufficient numbers. The information provided by AHLIC included:

- Descriptions of efforts to locate any additional practicing providers within the required distance standard for each deficient service type and zip code using both internal reporting, such as non-participating provider claims data, and external resources, including federal and state-issued provider listings and the public provider directories of other carriers;
- Supporting documentation submitted for the AHLIC 2023 Access Plan demonstrating that in 2023, Aetna significantly increased the number of providers and facilities in its network of five of the listed deficient service types;
- A declaration that the company is in negotiations with an opioid treatment services facility that, if successful, would resolve the coverage gap;
- Mileage reports indicating that the failure to meet the travel distance standard for certain provider and facility types was the result of deficiencies of only a fraction of a mile.

The waivers of the travel distance standard for the providers and facilities listed above apply only to the access plan filings submitted in 2023.

For the remaining provider and facility types, where AHLIC reported a deficiency, the Administration determined that the carrier failed to provide sufficient information to demonstrate that the conditions necessary for the granting of a waiver as described in COMAR 31.10.44.09B were satisfied. However, the Administration notes that these other deficiencies are related to new travel distance standards that were effective for the first time in 2023 under the revised network adequacy regulations. In Bulletin 23-8, issued on May 5, 2023, the Administration advised carriers that when reviewing the 2023 network access plan filings and evaluating compliance with the new standards, the Administration would take into consideration the fact that the reports were required to be filed shortly after the effective date of the revised regulations in determining deficiencies and the regulatory response to such deficiencies. Consequently, despite the low compliance percentages, the Administration has determined in its exercise of enforcement discretion, not to impose a penalty for the travel distance deficiencies for Residential Crisis Services for the AHLIC 2023 Access Plan, having considered that AHLIC provided a detailed description of the steps it will take to address the deficiencies and achieve compliance for the 2024 access plan filings and demonstrated that all reasonable good faith efforts to comply with the standards were undertaken following adoption of the final regulations.

Appointment Waiting Time Standards

The data self-reported by AHLIC disclosed that the percentage of available in-person appointments in the following service types did not meet the required 90%:

Appointment / Service Type	Standard	% of Standard Met
Urgent care for medical services	72 hours	87%
Routine primary care	15 calendar days	86%
Preventive care / well visit	30 calendar days	87%
Non-urgent specialty care	30 calendar days	86%
Non-urgent mental health care	10 calendar days	66.7%
Non-urgent substance use disorder care	10 calendar days	73.9%

For the other appointment waiting time categories of Inpatient urgent care for mental health services, Inpatient urgent care for substance use disorder services, Outpatient urgent care for mental health services, and Outpatient urgent care for substance use disorder services, AHLIC reports meeting the required 90% standard based on provider survey results.

AHLIC provided the information required by COMAR 31.10.44.09A for each unmet appointment waiting time standard described above. The Administration has considered the information provided by AHLIC, and has determined that the carrier failed to provide sufficient information to demonstrate that the conditions necessary for the granting of a waiver as described in COMAR 31.10.44.09B were satisfied. However, AHLIC provided information demonstrating that the failure to meet the applicable waiting time standards was due to the regulatory changes in the methodology for measuring appointment waiting time, and insufficient time to address previously unidentified deficiencies for new categories of appointments. In accordance with Bulletin 23-8, the Administration has determined in its exercise of enforcement discretion, not to impose a penalty for the appointment waiting time deficiencies for 2023 for the following reasons:

- AHLIC provided a description of the steps it will take to address the deficiencies and achieve compliance for the 2024 access plan filings and demonstrated that reasonable good faith efforts to comply with the standards were undertaken following adoption of the final regulations;
- The information submitted by AHLIC in accordance with COMAR 31.10.44.09A, while not sufficient to justify a waiver of the standards, did indicate that an insufficient number of providers willing to contract with AHLIC contributed partly to the failure to meet the standards, and AHLIC included a description of its efforts to locate additional in-person medical specialty providers and mental health and substance use disorder providers using external sources such as the public provider directories of other carriers, Maryland's Active Providers Directory, analytics services, and online searches, and included listings of identified recruitment targets and the status of negotiations with additional providers.

This determination letter is limited to review of the AHLIC 2023 Access Plan, and is independent of the Administration's review of any other Network Adequacy Access Plans and submissions in connection thereof which are filed by AHLIC. The enforcement discretion

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exercised for 2023 does not extend to access plan filings submitted for 2024, and the Administration expects to see significant improvement in compliance levels for the 2024 plans.

Aetna has the right to request a hearing on this determination letter in accordance with § 2-210 of the Insurance Article. A request for a hearing must be made in writing and received by the Administration within thirty (30) days of the date of this letter. The rules for requesting a hearing are set forth in COMAR 31.02.01.

Very truly yours,

Candace Lemon-Arrington

Candace Lemon-Arrington
Data and Compliance Analyst
Life and Health