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December 3, 2021

Ms. Gabriella Gold
Director, Network Innovation and Strategy
CareFirst BlueCross BlueShield
10455 Mill Run Circle
Owings Mills, MD 21117

Re: CareFirst of Maryland, Inc. ("CFMI")
Network Adequacy Filing 2020

Dear Ms. Gold:

The Maryland Insurance Administration ("Administration") has completed its review of the CFMI 2020 Network Adequacy Access Plan (the "CFMI 2020 Access Plan") filed on July 1, 2020, supplemented with additional information and documentation on December 11, 2020, April 12, 2021, June 18, 2021, and October 29, 2021. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

The CFMI 2020 Access Plan included accessibility data for two networks, the CFMI PPO network and the CFMI HMO network. CFMI clarified that the data and reports for the CFMI HMO network reflect members in non-risk HMO products funded by clients who self-insure. The reporting for the non-risk HMO product is not subject to review by the Administration and the findings in this letter are limited to CFMI's PPO network.

CFMI 2020 Access Plan-PPO Network

The Administration's review of the CFMI 2020 Access Plan has found that the access standards in COMAR 31.10.44.04, .05, .06, and .09 were not met for the following, based on the data self-reported by CFMI. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. Gynecology, OB/GYN providers met the required standard for 99.6% of urban enrollees, leaving 285 members outside the travel distance standard of five miles in three zip codes.

The standard was met for 99.3% of suburban enrollees, leaving 559 members outside the travel distance standard of ten miles in six zip codes.

2. Allergy and Immunology providers met the required standard for 99.5% of suburban enrollees, leaving 380 members outside the travel distance standard of thirty miles in one zip code.
3. Cardiovascular Disease providers met the required standard for 99.9% of urban enrollees, leaving 18 members outside the travel distance standard of ten miles in one zip code.
4. Dermatology providers met the required standard for 99.9% of urban enrollees, leaving 18 members outside the travel distance standard of ten miles in one zip code.
5. Gynecology only providers met the required standard for 99.5% of suburban enrollees, leaving 352 members outside the travel distance standard of thirty miles in three zip codes.
6. Neurology providers met the required standard for 99.9% of urban enrollees, leaving 28 members outside the travel distance standard of ten miles in two zip codes.
7. Oncology-Medical and Surgical providers met the required standard for 99.9% of urban enrollees, leaving 18 members outside the travel distance standard of ten miles in one zip code.
8. Pulmonology providers met the required standard for 99.9% of urban enrollees, leaving 18 members outside the travel distance standard of ten miles in one zip code.
9. Acute inpatient hospital facilities met the required standard for 99.9% of urban enrollees, leaving 67 members outside the travel distance standard of ten miles in two zip codes.
10. Critical Care Services-Intensive Care Unit facilities met the required standard for 99.9% of urban enrollees, leaving 43 members outside the travel distance standard of ten miles in two zip codes. The standard was met for 99.9% of suburban enrollees, leaving 37 members outside the travel distance standard of thirty miles in one zip code.
11. Outpatient Infusion/Chemotherapy facilities meet the required standard for 87.9% of urban enrollees, leaving 9,700 members outside the travel distance standard of ten miles in thirty-five zip codes. The standard was met for 92.7% of suburban enrollees, leaving 5,567 members outside the travel distance standard of thirty miles in thirteen zip codes.
12. All other licensed or certified facilities under contract with CFMI not listed met the required standard for 99.6% of rural enrollees, leaving 559 members outside the travel distance standard of ninety miles in four zip codes.

CFMI stated that with respect to the standard for acute inpatient hospitals, CFMI contracts with every eligible facility in the State and still did not meet a 100% standard for urban enrollees,

effectively rendering such a standard an impossibility. With respect to the standards for outpatient infusion/chemotherapy facilities, CFMI contends that a cause for the low results is that these services are available to members at many different provider types, for example outpatient departments at many hospitals. CFMI explained that it does not have the ability to count these other providers when accounting for outpatient infusion/chemotherapy facility providers. CFMI believes they have contracted with the available providers of these services and are working toward better reporting of these providers in the 2021 Access Plan.

When asked to explain the steps CFMI is taking to remedy the situation where the access standards are not met for certain provider and facility types in certain zip codes, CFMI indicated that they have conducted a search of providers practicing in the areas closest to the zip codes where they reported that no members had the required access. In each instance, CFMI stated they found that there are no providers practicing within the required travel distance standard. CFMI provided a list of the providers that are the closest providers to the zip codes. Each of the providers on the list were participating in the CFMI PPO network, with the travel distance to the closest provider ranging from six miles to thirty-five miles.

Appointment Waiting Time Standards

13. The 15 calendar day appointment waiting time standard for routine primary care was met for 79% of enrollees. This represents a deficiency of 16 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
14. The 30 calendar day appointment waiting time standard for preventive visit/well visit was met for 82% of enrollees. This represents a deficiency of 10 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
15. The 30 calendar day appointment waiting time standard for non-urgent specialty care was met for 87% of enrollees. This represents a deficiency of 8 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
16. The 10 calendar day appointment waiting time standard for non-urgent behavioral health/substance use disorder services was met for 75% of enrollees. This represents a deficiency of 20 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).

CFMI was unable to report the appointment waiting times specific to the CFMI PPO provider network and stated that this was due to the methodology they employed to survey by provider network panel. CFMI states that they have one PPO provider network that serves two memberships and they are unable to separate the survey responses by membership. CFMI states that they are in the process of a re-evaluation of their current methodology and development of new methodologies for wait time assessment. CFMI is evaluating a number of options, including an expansion of provider surveys, to gain a more accurate response rate.

Provider-to-Enrollee Ratio Standards

17. The CFMI 2020 Access Plan and the executive summary form failed to report a distinct provider to enrollee ratio for substance use disorder care and services as required by COMAR 31.10.44.06B and 31.10.44.09A(3). CFMI maintains that under their current licensing structure, there is no special designation for providers who render substance use disorder services. Therefore, CFMI reported the behavioral health care provider-to-enrollee ratio as the substance use disorder provider-to-enrollee ratio in the access plan and in the executive summary plan form.

Waiver Request

The Administration has considered CFMI's request for a waiver for the appointment waiting time standards for routine primary care, preventive visit/well visit, non-urgent specialty care, and non-urgent behavioral health/substance use disorder services. The waiver request was made on July 1, 2020, with additional information to support this request filed on December 11, 2020.

The criteria that must be met in order to qualify for a waiver of a standard are set forth in COMAR 31.10.44.07. The Administration may find good cause to grant the network adequacy waiver request if the carrier demonstrates that the physicians, other providers, or health care facilities necessary for an adequate network: are not available to contract with the carrier; are not available in sufficient numbers; have refused to contract with the carrier; or are unable to reach agreement with the carrier.

The CFMI waiver request submitted on July 1, 2020 includes a description of CFMI's recruitment efforts to contract with additional providers and a list of providers that CFMI attempted to contract with, identified by name and specialty, a description of how and when CFMI last contacted the providers, and the reason each provider gave for refusing to contract with CFMI. The dates included in the list for when contact with the provider first occurred were for a time period beginning in January 2019 and ending in December of 2019, with only three cases opened in 2020. After reviewing the list, the Administration asked CFMI to provide a list of providers that CFMI attempted to contract with where contact with the provider was made after the date of CFMI's waiver request in their 2019 Access Plan filing. On December 11, 2020, CFMI submitted a list of their recruitment efforts since July 1, 2019 and indicated that the COVID-19 pandemic had impacted their recruitment efforts in 2020.

Please be advised that the Administration has not found good cause to grant the waiver requests for the appointment waiting time standards based on the following:

- The recruitment list submitted on December 11, 2020 includes only 13 providers for the categories of routine primary care and preventive visit/well visit. These were listed as general medicine, internal medicine, PCP, pediatrics and family practice. Only one of these providers was first contacted in 2020. The information provided by CFMI does not sufficiently demonstrate that CFMI engaged in adequate provider recruitment efforts to address the extent of the deficiency in the waiting time standards for these appointment

categories, and does not appear to be sufficient evidence that providers are not available for an adequate network; are not available in sufficient numbers; have refused to contract with CFMI; or are unable to reach agreement with CFMI to meet the waiting time standards for routine primary care and preventive visits/well visits. The waiver requests for the appointment waiting time standards for routine primary care and preventive visit/well visit are, therefore, denied.

- The recruitment list submitted on December 11, 2020 includes numerous specialty providers, but not in sufficient numbers throughout the CFMI service area to satisfactorily demonstrate: that CFMI engaged in adequate provider recruitment efforts to address the extent of the deficiency in the waiting time standard for this appointment category; and that providers are not available for an adequate network; are not available in sufficient numbers; have refused to contract with CFMI; or are unable to reach agreement with CFMI to meet the waiting time standards for non-urgent specialty care. Also, according to the recruitment list, only one specialty provider was first contacted in 2020. The waiver request for the appointment waiting time standard for non-urgent specialty care is, therefore, denied.
- The recruitment list submitted on December 11, 2020 includes providers of behavioral health/substance use disorder services, but for many CFMI did not describe any follow-up after the initial contact in 2019. According to the recruitment list, only one behavioral health provider was first contacted in 2020. In addition, the locations of the behavioral health providers that were contacted are concentrated in the District of Columbia and Montgomery County, Maryland. The CFMI waiver request did not provide sufficient numbers of providers throughout the service area that were contacted nor did it describe adequate efforts made by CFMI to demonstrate that CFMI engaged in adequate provider recruitment efforts to address the extent of the deficiency in the waiting time standard for this appointment category; and that the physicians, other providers, or health care facilities necessary for an adequate network: were not available to contract with CFMI; were not available in sufficient numbers; refused to contract with CFMI; and/or were unable to reach agreement with CFMI to meet the appointment waiting time standard for non-urgent behavioral health/substance use disorder services. The waiver request for the appointment waiting time standard for non-urgent behavioral health/substance use disorder services is, therefore, denied.

CFMI 2019 Access Plan Consent Order

On May 12, 2021, the Administration and CFMI entered into a Consent Order to resolve matters related to the CFMI 2019 Access Plan. The Administration had concluded in the Consent Order that CFMI violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by filing an access plan that failed to comply with required travel distance standards and appointment waiting time standards, and by failing to measure and report a required provider-to-enrollee ratio for substance abuse care or services in both the access plan and the executive summary. The Administration imposed an administrative penalty on CFMI of \$100,000 for the violations, but suspended the penalty pending the Administration's (i) review of the access plan submitted by CFMI in 2021; (ii) determination as to whether the 2021 access plan substantiates

representations made by CFMI related to its intent to adjust record keeping methodologies and to improve its compliance with the access standards; and (iii) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

As detailed above, the CFMI 2020 Access Plan illustrates that in categories where the travel distance standards were not met at 100%, all were within 99%, with the exception of outpatient infusion/chemotherapy facilities (urban 87.9%, suburban 92.7%). CFMI believes they have contracted with additional available providers of these services and are working toward better reporting of these providers in the 2021 Access Plan.

In the CFMI 2020 Access Plan, improvement was shown for three of the 2019 non-compliant categories of appointment waiting times standards and in two of the categories the percentage met remained the same. The percentage met for urgent care (including medical, behavioral health, and substance use disorder services) increased from 93% to 96% and is compliant with the standard. The percentages met for routine primary care and preventive visit/well visit remained the same at 79% and 82%, respectively. The percentage met for non-urgent specialty care increased from 79.96% to 87% and the percentage met for non-urgent behavioral health/substance use disorder services increased from 57.53% to 75%. Although improvement was shown, CFMI failed to meet the 95% standard for four of the 2019 non-compliant categories.

In the Consent Order, CFMI agreed to include the required provider-to-enrollee ratio for substance use disorder care or services in its 2020 Access Plan and in the 2020 executive summary form. The CFMI 2020 Access Plan shows that CFMI continues to be unable to measure and report a distinct provider-to-enrollee ratio for substance use disorder care or services. CFMI maintains that under their current licensing structure, there is no special designation for providers who render substance use disorder services, and that every licensed behavioral health care provider can appropriately treat substance use disorders within the scope of their licensure. Therefore, CFMI reported the behavioral health care provider-to-enrollee ratio as the substance use disorder provider-to-enrollee ratio in the access plan and in the executive summary plan form.

The CFMI 2020 Access Plan shows some improvement in compliance with the access standards, but there continue to be areas where the access standards are not met, as noted above. The CFMI 2021 Access Plan, submitted on July 1, 2021, is currently under review by the Administration. Upon completion of the review, a determination will be made on whether the administrative penalty should be paid, reduced, or rescinded.

CFMI 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.

Ms. Gabriella Gold
December 3, 2021
Page 7

Very truly yours,

A handwritten signature in black ink, appearing to read 'David Cooney', written in a cursive style.

David Cooney
Associate Commissioner
Life and Health