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Life and Health

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202  
Direct Dial: 410-468-2170 Fax: 410-468-2204  
Email: [pamela.obrien@maryland.gov](mailto:pamela.obrien@maryland.gov)  
410-468-2000 1-800-492-6116  
TTY: 1-800-735-2258  
[www.insurance.maryland.gov](http://www.insurance.maryland.gov)

June 28, 2024

Sanjay Mathur  
Supervisor, Reporting and Data Analytics  
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.  
2101 East Jefferson Street  
Rockville, MD 20852

Re: Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.  
2023 Network Adequacy Access Plan

Dear Mr. Mathur:

The Maryland Insurance Administration (“Administration”) has completed its review of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. 2023 Network Adequacy Access Plan (the “KFHP 2023 Access Plan”) filed on September 30, 2023, supplemented with additional information and documentation on January 25, 2024, May 9, 2024, and June 7, 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 KFHP 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 KFHP. 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 31.10.44.04B(5), KFHP reported separate travel distance metrics for 11 additional provider 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.” 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, KFHP reported that less than 100% of enrollees had access to a participating provider with a practicing location within the applicable maximum travel distance standard:

<b>Provider/Facility</b>	<b>Geographic Region</b>	<b>Percent of Enrollees within Standard</b>
Addiction Medicine	Urban	92.1%
	Suburban	95.7%
Psychology	Urban	99.9%
Residential Crisis Services	Urban	0%
	Suburban	0%
	Rural	0%
Substance Use Disorder Residential Treatment Facility	Urban	97.9%

Additionally, of the 11 additional provider under the categories “All Other ..,” KFHP reported a deficiency for two provider types in at least one zip code.

#### Travel Distance Waivers and Other Mitigating Factors

KFHP 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 KFHP and has found good cause to grant a waiver of the applicable travel distance standard for Psychology. The Administration determined that KFHP provided sufficient information to demonstrate that despite ongoing negotiation and continued good faith efforts to contract with providers previously identified who, if contracted, would resolve the deficiency for enrollees outside the travel distance standard, those providers have been unable to reach agreement with KFHP to date.

The waiver of the travel distance standard for Psychology applies only to the access plan filing submitted in 2023.

For the remaining provider and facility types where KFHP 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 Addiction Medicine, Residential Crisis Services, Substance Use Disorder Residential Treatment Facility, and the additional “All other...” provider types referenced above where KFHP reported a

deficiency in at least one zip code for the KFHP 2023 Access Plan, having considered that KFHP 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. This included a description of KFHP's efforts to identify available facilities to recruit, as evidenced by statements of attempts to identify, contact, and negotiate with relevant facility types in specific zip codes for these service types for which new travel distance standards were introduced in the 2023 revision of COMAR 31.10.44.

### Appointment Waiting Time Standards

The data self-reported by KFHP disclosed that the percentage of available in-person appointments meeting the regulatory standard in the following service types was less than 90%:

<b>Appointment / Service Type</b>	<b>Standard</b>	<b>% of Standard Met</b>
Outpatient urgent care for substance use disorder services	72 hours	85.7%
Non-urgent mental health care	10 calendar days	59.8%
Non-urgent substance use disorder care	10 calendar days	59.8%

For the other appointment waiting time categories of Urgent Care for Medical Services, Inpatient Urgent Care for Mental Health Services, Inpatient Urgent Care for Substance Use Disorder Services, Routine Primary Care, Preventative Visit Care/Well Visit, and Non-urgent Specialty Care, KFHP reports meeting the 90% standard, based on data from its internal appointment management system and survey results of contracted providers.

KFHP 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 KFHP and has found 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, KFHP 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:

- KFHP 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.

Mr. Sanjay Mathur

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- The information submitted by KFHP 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 KFHP contributed partly to the failure to meet the standards, and KFHP included a description of its efforts to locate additional in-person outpatient urgent care substance use disorder services using internal sources such as out-of-network claims data and external sources such as the public provider directories of other carriers, Maryland's Active Providers Directory, 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 KFHP 2023 Access Plan and is independent of the Administration's review of any other Network Adequacy Access Plans and submissions in connection thereof that are filed by KFHP. The enforcement discretion 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.

KFHP 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,

*Pam O'Brien*

Pam O'Brien  
Network Adequacy Analyst III  
Mental Health Parity and Network Adequacy  
Life and Health