

September 7, 2021

Lisa Larson
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Baltimore, Maryland 21202

Sent via email to InsuranceReqReview.mia@maryland.gov

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

Dear Ms. Larson –

Thank you for the opportunity to provide comment on the draft regulations referenced above. Overall, MHAMD is very supportive of these proposed regulations, and we appreciate the time and thoughtfulness that went into their development. These brief comments speak specifically to some of the supporting instructions, data supplements, and related materials.

➤ **NQTL Analysis Report Template Form and Instructions for MHPAEA NQTL Analysis Report**

In general, MHAMD supports these forms, which provide detailed steps and instructions for analyzing health benefit plan NQTLs consistent with guidance issued on April 2, 2021, by the Departments of Labor, Health and Human Services, and Treasury (hereinafter “DOL guidance”).¹

However, we request the addition of language requiring plans to conduct and disclose quantitative analyses for each NQTL that has a factor or evidentiary standard that is or can be defined quantitatively. This language should be added to Steps 4 and 5 (relating to analyses of NQTLs as written and in operation, respectively) throughout these comparative analysis reports and template completion instructions. This is important language that would provide instructive data, and it is not inconsistent with the DOL guidance or the NAIC MHPAEA data collection tool.

➤ **MHPAEA Data Report Template Form and Data Supplements**

MHAMD supports these templates, which provide for quantitative analyses across multiple critical areas, including service denial rates, utilization review, formulary exceptions, provider credentialing and reimbursement rates.

¹ FAQs About Mental Health and Substance Use Disorder Parity Implementation and the Consolidated Appropriations Act, 2021, Part 45. <https://www.dol.gov/sites/dolgov/files/EBSA/aboutebsa/our-activities/resource-center/faqs/aca-part-45.pdf>.

Data Supplement 1 (Utilization Review) measures requests for out-of-network care for med/surg and MH/SUD. It also measures in-network vs. out-of-network request for prior authorizations and concurrent and retrospective reviews. This examination of the frequency of utilization review and out-of-network care provides a helpful quantitative comparison of network adequacy.

Data Supplement 3 (Provider Credentialing) is also important. This information, together with information to be gleaned from required NQTL Comparative Analysis #10 (Standards for Provider Credentialing and Contracting), is critical in measuring whether MH/SUD providers are added to the network with the same speed as med/surg providers. This is another measure that speaks to the adequacy of provider networks.

MHAMD is also very supportive of Data Supplement 4 (Reimbursement Rates). This template is consistent with the [Model Data Definitions and Methodology](#) (MDDM) tool, which outlines specific, detailed instructions and definitions developed to elicit reliable, consistent and responsive data. It uses the same methodology Milliman actuaries used in developing their reimbursement disparities reports in 2017 and 2019, and it is similar to the template Washington State has used in their parity audits with great success. The template closely aligns with Appendix II from the Department of Labor's [MHPAEA Self-Compliance Tool](#), and it satisfies new requirements for greater specificity in comparative analyses required by the Consolidated Appropriations Act of 2021, as outlined in the DOL guidance. While we support the development of additional quantitative and qualitative templates with specific methodologies for measuring reimbursement, we are confident in the validity and importance of these proposed templates.

Lastly, we request that you also include among these required templates two additional measures outlined in the MDDM tool. The MDDM Out-Of-Network Use template should be included to give an accurate measurement of disparities in Out of Network use for MH/SUD vs. med/surg. This measure is also being used by Washington state and has been validated by Milliman. In addition, we recommend the MDDM template that measures the level of participation by MH/SUD professional providers in the network directory. It is our understanding that, just like the Washington State Department of Insurance, the Texas Department of Insurance now uses measures for all four MDDM categories of quantitative measures.

Again, thank you for the opportunity to provide this feedback, and for your work to ensure Maryland carriers are in full compliance with MHPAEA. We appreciate your efforts, and your consideration of these comments.