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October 4, 2024

Ms. Arpita Dumra  
Senior Regulatory Affairs Analyst  
Optimum Choice, Inc.  
4 Taft Court  
Rockville, MD 20850

Re: Optimum Choice, Inc. ("OCI")  
2023 OCI-Gated Network Adequacy Access Plan  
2023 OCI-Exchange Network Adequacy Access Plan  
(Collectively, "the OCI 2023 Access Plans")

Dear Ms. Dumra:

The Maryland Insurance Administration ("Administration") has completed its review of the OCI 2023 Access Plans filed on October 2, 2023, supplemented with additional information and documentation on December 7, 2023, January 8, 2024, February 1, 2024, May 2, 2024, May 6, 2024, May 7, 2024, June 24, 2024, and June 28, 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 OCI 2023 Access Plans 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 OCI. 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), OCI reported separate travel distance metrics for 16 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." For the following provider types and geographic regions, OCI reported that less than 100% of enrollees had access to a participating provider with a practicing location within the applicable maximum travel distance standard:

***OCI-Gated 2023 Network Adequacy Access Plan***

<b>Provider/Facility</b>	<b>Geographic Region</b>	<b>Percentage of Enrollees within Standard</b>
Addiction Medicine	Urban	92%
	Suburban	95.2%
	Rural	93.3%
Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery	Urban	99.7%
	Suburban	99.9%
Pediatrics-Routine/Primary Care	Urban	99.8%
	Suburban	99.9%
Acute Inpatient Hospitals	Urban	99.7%
Ambulatory Infusion Centers	Urban	99.7%
Critical Care Services-Intensive Care Units	Urban	99.7%
Residential Crisis Services	Urban	3%
	Suburban	95.5%
	Rural	88.5%
Substance Use Disorder Residential Treatment Facility	Suburban	99.8%
	Rural	99.5%

Additionally, of the 16 additional provider types that were listed together in previous years under the “All Others...” categories OCI reported a deficiency for six of them in at least one zip code.

***OCI-Exchange Network Adequacy Access Plan<sup>1</sup>***

<b>Provider/Facility</b>	<b>Geographic Region</b>	<b>Percentage of Enrollees within Standard</b>
Addiction Medicine	Urban	95.8%
	Suburban	96%
	Rural	97.4%
ENT/Otolaryngology	Suburban	98.5%
Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery	Urban	99.6%
	Suburban	97.2%

<sup>1</sup> For the provider type “Oncology – Medical and Surgical,” the revised executive summary filed on June 28, 2024 reported a deficiency for the suburban geographic region, with 99.9% of enrollees within standard. However, the detailed zip code and enrollee information included in the supporting documentation demonstrated that all enrollees resided within the maximum travel distance standard for this provider type.

<b>Provider/Facility</b>	<b>Geographic Region</b>	<b>Percentage of Enrollees within Standard</b>
Pediatrics-Routine/Primary Care	Urban	99.9%
	Suburban	98.9%
Rheumatology	Rural	98.3%
Acute Inpatient Hospitals	Urban	95.1%
Ambulatory Infusion Centers	Urban	95.1%
Critical Care Services-Intensive Care Units	Urban	95.1%
Residential Crisis Services	Urban	0%
	Suburban	37.4%
	Rural	84.5%
Skilled Nursing Facilities	Urban	98.2%
	Suburban	99.9%
Substance Use Disorder Residential Treatment Facility	Suburban	99.9%
	Rural	99.5%

Additionally, of the 16 additional provider types that were listed together in previous years under the “All Others...” categories OCI reported a deficiency for seven of them in at least one zip code.

#### Travel Distance Waivers and Other Mitigating Factors

OCI provided the information required by COMAR 31.10.44.09A for most of the unmet travel distance standards described above. The Administration has found good cause to grant a waiver of the applicable travel distance standard for the following because OCI demonstrated that providers necessary for an adequate network were not available or were not yet able to reach a contract agreement.

#### *OCI-Gated 2023 Network Adequacy Access Plan*

- Addiction Medicine
- Pediatrics-Routine/Primary Care
- Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery in zip codes 21403, 21913, and 21224
- Acute Inpatient Hospital
- Critical Care Services / Intensive Care Units
- Ambulatory Infusion Centers
- Substance Use Disorder Residential Treatment Facility

#### *OCI-Exchange Network Adequacy Access Plan*

- Addiction Medicine
- ENT/Otolaryngology in 21842
- Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery in zip codes 20732, 21702, 21716, 21842, and 21913
- Pediatrics-Routine/Primary Care
- Rheumatology
- Acute Inpatient Hospital
- Critical Care Services / Intensive Care Units
- Ambulatory Infusion Centers

The Administration determined that OCI provided sufficient information for the deficient service types listed above to demonstrate that providers necessary to meet the travel distance standards were not available to contract with the carrier, were not available in sufficient numbers, had not yet accepted a contract, or had declined a contract. The information provided by OCI included:

- Declarations of ongoing negotiations and continued good faith efforts to contract with ENT/Otolaryngology and Rheumatology providers previously identified who, if contracted, would resolve the deficiency for enrollees outside the travel distance standard;
- Descriptions of efforts to locate any additional practicing providers within the required distance standard for each deficient service type and zip code using the Maryland Active Provider Directory and online searches;
- Declarations that the efforts to locate additional providers revealed that OCI is already contracted with the nearest practicing provider for certain deficient service types listed above, and that there are no other providers currently available within standard.

The waivers of the travel distance standard for the providers and facilities listed above apply only to the access plan filings submitted in 2023. In order for the Administration to consider granting waivers of the travel distance standards in subsequent years for the provider types and zip codes where OCI described negotiations and contracting efforts with identified provider targets, OCI will need to provide detailed updates on those efforts and, if applicable, a reasonable explanation for the failure to complete the process.

For the remaining provider types and facility types where OCI reported a travel distance deficiency, the Administration has determined that the information OCI provided in accordance with COMAR 31.10.44.09(A)(B) was insufficient to justify a waiver of the travel distance standards for the 2023 OCI Access Plans. The required waiver information was completely missing for certain provider types, and the documentation that was submitted for the other provider types either contained contradictory statements, or otherwise failed to demonstrate that the providers necessary for an adequate network were not available to contract with OCI, were

not available in sufficient numbers, refused to contract with OCI, or were unable to reach an agreement.

The Administration notes that these deficiencies for which a waiver is not being granted are either marginal in nature and only impacting a minimal number of enrollees, or 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, the Administration has determined in its exercise of enforcement discretion, not to impose a penalty for these travel distance deficiencies. For Residential Crisis Services, Substance Use Disorder Residential Treatment Facilities where OCI reported a deficiency in at least one zip code for the OCI 2023 access plans, the Administration considered that OCI 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. For ENT/Otolaryngology<sup>2</sup>, Gynecology, OB/GYN, Nurse-Midwifery/Certified Midwifery<sup>3</sup>, and Skilled Nursing Facilities, the Administration considered the lack of seriousness of the deficiency and the minimal number of enrollees impacted.

While the Administration determined that a penalty for failure to meet the travel distance standard and for the incomplete waiver information submission was not warranted for 2023, the Administration expects OCI's 2024 access plan to demonstrate significant improvement in compliance with the standard and in the quality of its waiver information. OCI must specifically address each waiver template item in every zip code where there is an unmet standard. Statements that the nearest contracted provider or facility is within x miles of that standard may be included as an additional extenuation, but cannot substitute for documentation of search efforts to identify new recruitment targets.

### Essential Community Provider Standards

The data self-reported by OCI in its 2023 access plans showed that the essential community provider (ECP) inclusion standard of 30% for the category of Substance Use Disorder services in suburban and urban geographic areas were not met.

<b>ECP Service Type</b>	<b>Standard</b>	<b>Urban Compliance Percentage</b>	<b>Suburban Compliance Percentage</b>
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<sup>2</sup> Excluding the zip codes referenced above where a waiver was granted.

<sup>3</sup> Excluding the zip codes referenced above where a waiver was granted.

Substance Use Disorder Services	30%	18.8%	16%
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OCI provided the information required by COMAR 31.10.44.09A for each unmet ECP inclusion standard described above. The Administration has considered the information provided by OCI, 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, OCI provided information demonstrating that the failure to meet the ECP inclusion standard for 2023, after OCI consistently reported exceeding the ECP standard in prior reporting years, was due to the regulatory changes to the definitions and methodologies for calculating the revised standard under the new network adequacy regulations. The drop in the reported compliance percentages was not caused by a proportional loss of previously contracted ECPs.

The Administration advised carriers in Bulletin 23-8 that 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, the Administration has determined in its exercise of enforcement discretion, not to impose a penalty for the ECP inclusion standard for the OCI 2023 Access Plans. Based on the information provided by OCI, the Administration determined there was insufficient time between the finalization of the revised regulations and the due date of the 2023 access plan filings for OCI to identify, recruit, credential, and contract with a sufficient number of ECPs necessary to meet the inclusion standard under the revised methodology. OCI 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 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 OCI disclosed that the percentage of available in-person appointments meeting standard in the following service types was less than 90%:

<b>Appointment / Service Type</b>	<b>Standard</b>	<b>% of Standard Met</b>
Inpatient Urgent Care for Mental Health Services	72 hours	Report unavailable*
Inpatient Urgent Care for Substance Use Disorder Services	72 hours	Report unavailable*
Outpatient urgent care for mental health services	72 hours	68.4%
Outpatient urgent care for substance use disorder services	72 hours	72.4%
Non-urgent mental health care	10 calendar days	82.7%
Non-urgent substance use disorder care	10 calendar days	86.6%

\*OCI reported that it was unable to collect the data for the 2023 filing year because its vendor survey statement of work did not include surveying network facilities for Inpatient Urgent Care Mental Health Services or Inpatient Urgent Care for Substance Use Disorder Services. To meet the requirement, OCI reported that it designed an in-house survey to distribute to all participating facilities and the identified appropriate respondent. The subsequent deployment was completed in May 2024 and will be repeated in October 2024.

For the other appointment waiting time categories of Urgent Care for Medical Services, Routine Primary Care, Preventative Visit Care/Well Visit and Non-urgent Specialty Care, OCI reports meeting the required 90% standard based on provider survey results. Supporting documentation, including provider survey results, were included in the 2023 OCI access plans to validate the reported values.

OCI 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 OCI, 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, OCI 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:

- OCI 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;
- The information submitted by OCI in accordance with COMAR 31.10.44.09A, while not sufficient to justify a waiver of the standards, did demonstrate that the failure to meet the standards was partly caused by an insufficient number of in-person or hybrid services providers available to contract with OCI;
- OCI included a description of its efforts to locate additional in-person medical specialty providers, mental health, and substance use disorder providers using external sources such as the public provider directories of other carriers, Maryland's Active Providers Directory, and online searches.

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

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

OCI 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*

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Mental Health Parity and Network Adequacy  
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