WES MOORE
Governor

ARUNA MILLER
Lt. Governor

KATHLEEN A. BIRRANE
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

Maryland
INSURANCE ADMINISTRATION

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

BULLETIN 23-8

Date: May 5, 2023

To: Insurers, Nonprofit Health Service Plans, Health Maintenance Organizations and Dental Plan Organizations (Carriers)

Re: 2023 Network Access Plan Filing Instructions

On April 24, 2023, the Maryland Insurance Administration (MIA) adopted revised network adequacy regulations for health benefit plans under Code of Maryland Regulations ("COMAR") 31.10.44. Notice of this Final Action was published in the May 5, 2023 issue of the Maryland Register. **The purpose of this bulletin is to advise carriers of the impact of the revised regulations on the network access plan filings for 2023, and to notify carriers that use provider panels for health benefit plans and dental plans of the applicable submission deadlines for the 2023 filings.**

Health Benefit Plan Filings

Impact of 2023 Regulatory Changes:

As indicated in COMAR 31.10.44.04H and .08A of the revised regulations, many of the new regulatory requirements apply only to annual access plans submitted on or after July 1, 2024. However, a significant number of the new provisions become effective on May 15, 2023. The MIA submitted the revised regulations for publication prior to the end of 2022, with the expectation that they would become final and effective by late January 2023. However, as a result of publication delays outside of MIA's control, the proposed regulations were not published in the Maryland Register until February 24, 2023, which decreased the time between the adoption of the final regulations, and the due date for the next annual network access plan filings by approximately three months.

In consideration of the scope of the regulatory changes that are effective in 2023, the MIA has determined that it is appropriate to extend the filing deadline for the 2023 reports to allow carriers sufficient time to comply with the revised regulations. The extension will be brief and commensurate with the period of delay in the anticipated effective date of the regulations. There was significant carrier engagement in the regulatory review process prior to the publication of the proposed regulations. Multiple pre-publication drafts of the regulations were vetted with stakeholders prior to the February 24, 2023 publication in the Maryland Register, and there were very few substantive changes between the pre-publication draft that was shared with stakeholders on July 7, 2022, and the February 24, 2023 version. Except for the changes that were clarifying in nature, all of the changes between the July 7, 2022 version and the February 24, 2023 version either eliminated requirements on carriers or deferred the effective date of the changes until July 1, 2024. Furthermore, many of the changes to the existing regulations that are effective for 2023 are intended to standardize methodology based on current industry standards, and the MIA has already been encouraging carriers to conform to these standards when submitting access plans under the existing regulations.

In accordance with COMAR 31.10.44.04, carriers that issue or renew health benefit plans in Maryland and use a provider panel for a health benefit plan offered in Maryland are required to file the annual access plan with the MIA on or before July 1 of each year. However, to provide additional time for carriers to incorporate the requirements of the revised regulations into the access plan filing for 2023, **the MIA will not take enforcement action against a carrier related to timelines for submission of the 2023 network access plan so long as the access plan is submitted on or before October 1, 2023**.

The MIA expects carriers to report network performance against all the new regulatory standards adopted in the revised regulations, including the new specific metrics related to travel distance, essential community providers, and appointment waiting times no later than October 1, 2023. The MIA also expects carriers to comply with the provisions in the revised regulations that standardize the required methodologies for measuring compliance with the various regulatory standards and require carriers to use a standardized format for submitting certain information and supporting documentation when filing their 2023 network adequacy reports. When reviewing the 2023 network access plan filings and evaluating compliance with the new standards, the MIA will 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.

Additional 2023 Filing Information:

In order to accommodate filing flexibility in future years, COMAR 31.10.44.04A was amended to remove the express text requiring all access plan filings to be submitted through the System for Electronic Rate and Form Filing (SERFF). However, for 2023 the MIA is directing carriers to submit the access plan filings through SERFF, in accordance with the Annual Filing Instructions posted on the Network Adequacy Regulations Information page of the MIA website. The Annual Filing Instructions provide detailed guidance on filing content and format, and should be reviewed in full prior to preparing and submitting a filing. A separate SERFF filing must be submitted for each distinct provider panel or network when the same carrier uses multiple networks for health

benefit plans in Maryland. Carriers are expected to annotate all confidential information within the report, and, as necessary, utilize the available functionality in SERFF to request confidentiality for specific parts of the filing.

The MIA has also updated the filing template forms available in SERFF to conform to the changes in COMAR 31.10.44 that apply to the annual access plans due in 2023. The updated templates will be available in SERFF within the next few weeks, and are available upon request by emailing networkadequacy.mia@maryland.gov. These template forms are designed to collect from all carriers in a uniform manner the specific data and information needed by the MIA to complete its reviews of the annual access plans. The template forms will remain optional for carriers to use in 2023. The MIA hereby solicits suggestions from carriers on how to improve the efficiency and utility of the templates, and once the templates are revised based on carrier feedback, use of the templates will be mandatory in future filing years.

Finally, the MIA reminds carriers that COMAR 31.10.44.04A requires carriers to use the instructions on the MIA's website to determine rural, suburban, and urban zip code areas, and that these instructions were updated in 2022 based on updated information provided by the Maryland State Department of Planning and the U.S. Census Bureau. Additional information regarding the specific zip code changes is provided on the MIA website

Dental Plan Filings

Carriers that issue or renew dental plans in Maryland and use a provider panel for a dental plan offered in Maryland should file the executive summary form described in COMAR 31.10.45.06 by December 1, 2023 through SERFF. The Annual Filing Instructions posted on the Network Adequacy Regulations Information page of the MIA website provide specific guidance for submitting access plan filings through SERFF. As a reminder, the executive summary form is not confidential information.

Questions about this Bulletin may be directed to the Life & Health Unit of the Maryland Insurance Administration at 410-468-2170.

KATHLEEN A. BIRRANE
Commissioner

By:

_____

David Cooney
Associate Commissioner
Life and Health