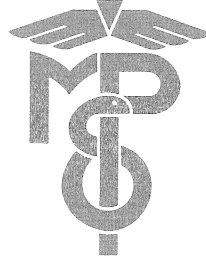
MARYLAND PSYCHIATRIC SOCIETY



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August 21, 2017

Ms. Lisa Larson
Regulations Manager
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Dear Ms. Larson:

On behalf of over 700 member psychiatrists in our state, the Maryland Psychiatric Society would like to offer comments on the new ***COMAR 31.10.44 Network Adequacy*** regulations that were proposed in the *Maryland Register* on July 21. The problem of inadequate provider networks is a longstanding and prominent concern among our members that has been exacerbated over the years by administrative burdens, contract requirements and low reimbursement rates. We greatly appreciate your efforts to improve carriers' networks, which will ultimately lead to better health outcomes for policyholders. Following are our comments:

First, ***.02 Definitions*** defines "urgent care" for psychiatric issues in (25)(a)(v) as "remaining seriously mentally ill with symptoms that cause the enrollee to be a danger to self or others." This is the definition used to determine that the patient meets civil commitment standards, which is an emergency situation. It should not be used in the context of waiting time for an urgent outpatient appointment. We recommend that "urgent" be defined as a condition that is likely to deteriorate to an emergency situation within 72 hours. The problem is that (25)(a)(v) is worded in terms of present dangerousness rather than possible future dangerousness.

> **We propose** the following revision:
>
> *(25)(a)...in absence of treatment within 72 hours would result in:*
> *(v) ...worsening of symptoms that may cause the enrollee to be a danger to self or others.*

Second, ***.04 Travel Distance Standards*** references "mental health and substance use disorder providers;" however, the charts of maximum travel distances by provider type fail to specify the distance for substance use disorder (SUD) providers. These providers would appear to fall under the category "Other Provider Not Listed."

> **We recommend** that the charts include a specific SUD provider category with the same travel distance standards as for Psychiatry.

In addition, this section of the proposed regulations requires the network to include an inpatient psychiatric facility within 15 or 45 or 75 miles depending on the region of the state. This

would often conflict with Maryland's emergency petition regulations that require police to take such a patient only to certain designated psychiatric emergency facilities. The link to the most recent facility list here: https://bha.health.maryland.gov/Documents/DPEF%202016.pdf. Not all inpatient psychiatric facilities are designated psychiatric emergency facilities.

We propose that this regulation add a definition that states

"'inpatient psychiatric facility' means, for the purposes of these regulations, a designated emergency facility, as defined by COMAR 10.21.15.02."

Third, as proposed, ***.05 Appointment Waiting Time Standards*** as well as ***.09*** include conflicting language regarding Psychiatry. It appears that Psychiatry and SUD providers could fall under Non-urgent specialty care (for board-certified psychiatrists and addictionologists) or Non-urgent mental health/substance use disorder services (for non-board-certified physicians). This ambiguous distinction in the time parameters is unnecessary and confusing.

We recommend that all charts and references should be changed to indicate that in all cases board certification for these physicians does not exclude them from the 10 calendar day wait times that apply for other mental health/SUD providers.

Fourth, we believe that ***.07 Waiver Request Standards*** does not include sufficient incentives to ensure that carriers make every effort to establish provider networks that are adequate for enrollees in practice. As you know, studies have quantified the extreme, widespread problem of phantom networks of psychiatrists in Maryland and other states. Our referral service regularly receives phone calls from people who are frustrated by their inability to make an in-network appointment with a psychiatrist within a reasonable time or distance. The numbers that are associated with the wait times and distance calculations that these regulations propose can be easily manipulated by the carriers to show that on paper they comply. Contracting practices, reimbursement rates and administrative burdens have driven many psychiatrists out of networks. There should be more pressure for carriers to address these issues so they can attract outpatient psychiatrists in particular.

To that end, **we recommend** adding the following two items for this section:

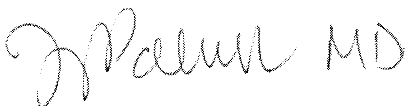
C. Add this to the list of required items for the carrier's waiver request: *A calculation by Provider Type of the ratio of out of network claims to total claims for each CPT code processed for that Provider Type during the preceding year.*

New item: *D. All information associated with a carrier's network adequacy waiver request will be available to the public.*

Finally, we note that due to the recommended change in .07 above, ***.08 Confidential Information in Access Plans*** would need to be revised to strike subsections B., C. and D. entirely.

Thank you very much for this opportunity to give feedback on the new network adequacy regulations. We appreciate your consideration of these recommendations. We would be glad to provide any additional information you may need. Please contact Heidi Bunes at heidi@mdpsych.org or 410-625-0232 if you have questions.

Sincerely,



Jennifer T. Palmer, M.D.
President