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November 23, 2020

Kathleen A. Birrane  
Commissioner  
Maryland Insurance Administration  
200 St. Paul Place  
Suite 2700  
Baltimore, Maryland 21202-2272

Re: Mental health parity reporting regulations

Dear Commissioner Birrane:

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) thanks you for presenting expert testimony today that promises to educate the Administration and consumers about Maryland's new mental health parity reporting law and the national scope of reports analyzing behavioral health disparities and provider reimbursement, and recommendations as to the non-quantitative treatment limitations that satisfy the reporting requirements. The HEAU supported 2020 Senate Bill 334 because robust and standardized reporting should result in the improved delivery of mental health and substance use disorder treatments in Maryland. In the past, carriers have not adequately reported to the Maryland Insurance Administration (MIA) about whether their plans, as written and in operation, have parity between mental health and substance use disorder (MH/SUD) benefits and medical/surgical benefits, as required by the Mental Health Parity and Addiction Equity Act of 2008 (the Parity Act). We look forward to working with the MIA and all stakeholders to create regulations that will best enable the MIA to meaningfully assess and enforce carriers' compliance with the Parity Act in a way that effectively and timely ensures consumers obtain coverage for the services they are paying for and are entitled to receive in a nondiscriminatory manner.

Consumers who require MH/SUD treatments urgently need solutions to persistent problems of inadequate networks, unaffordable prescription drugs, and criteria that limit the scope or duration of benefits for services provided under a plan. The MIA's three market conduct studies have identified parity violations and other disparities that may result from discriminatory practices that prevent consumers from accessing the benefits they have paid for. These surveys took a great deal of time, but have provided a blueprint for the MIA, coupled with the DOL's Self-Compliance Tool for the Mental Health Parity and Addiction Equity Act and the NAIC Commissioners' Data Collection Tool for Mental Health Parity Analysis to create the standard report form and regulations to implement the reporting requirements.

There is little doubt that waiting for consumers to file parity complaints with the MIA or relying on market conduct studies to uncover parity violations, does not timely and effectively address discriminatory practices.

The Parity Act requires carriers to assess and document plan parity as written and in operation, but not a single carrier could produce documentation of an operational plan review as required by the Act when the MIA conducted its 3<sup>rd</sup> market survey. We hope the reporting regulations ultimately adopted by the MIA provide consumers the verification of parity compliance - as reported, and in operation - they deserve.

Thank you for your consideration.

Sincerely,

*Patricia F. O'Connor*

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