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**Via email:** [InsuranceRegReview.mia@maryland.gov](mailto:InsuranceRegReview.mia@maryland.gov)

Director of Regulatory Affairs  
The Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, Maryland 21202

Re: Draft Proposed Network Adequacy Regulations COMAR 31.10.44.02 et seq.

Dear Director:

The Health Education and Advocacy Unit of the Office of the Attorney General's Consumer Protection Division (HEAU) appreciates the opportunity to comment on the Insurance Commissioner's proposed amendments to Regulations .02 through .10 under COMAR 31.10.44 (Network Adequacy). The HEAU also thanks the Insurance Commissioner and staff for hosting the Network Adequacy Workgroup, and numerous public hearings, which allowed consumers and other stakeholders to present factual information relating to ongoing adequacy concerns and to discuss how best to improve current regulations.

The HEAU supports the proposed amendments because they improve the specificity and clarity of the current regulations in a way that better matches the intent of the network adequacy statute, Md. Code Ann., Ins. § 15-112(b)(3)(a carrier shall "ensure that all enrollees, including adults and children, have access to providers and covered services without unreasonable travel or delay...including essential community providers...and covered services provided through local health departments, including behavioral health care services, to the extent that local health departments are willing to participate on a carrier's provider panel"). There are also new tools provided to the Insurance Commissioner to evaluate compliance which should work well in this clearer, well-defined context.

New providers and facilities are defined in Regulation .02 (ambulatory infusion therapy centers, drug and alcohol treatment programs, and school-based health centers, among others) and included in the Travel Distance Standards and charts in Regulation .05, along with newly

specific entries (child psychiatry, geriatric psychiatry, licensed professional counselor, physician certified in addiction medicine). In addition, they are all subject to the Appointment Waiting Time standards in Regulation .06, which are clarified and expanded. Carriers are expressly required to monitor the availability of services in specified ways, and to verify they are maintaining sufficient capacity to meet wait time standards on a quarterly basis. They must notify the Administration within 10 business days of identifying deficiencies in the provider network and the efforts that have been taken or will be taken to correct the deficiency.

The HEAU believes these new provisions should result in improved wait times for consumers, subject to one concern. Consumer choice has been eliminated as an element of proffered telehealth appointments that may count toward a carrier's compliance with wait time standards in Regulation .06B(3). This change, while it may be appropriate in the midst of the current pandemic, could harm consumers who would otherwise not elect a telehealth appointment after the pandemic ends. Restoring the current language ("elects to utilize a telehealth appointment"), or adding equivalent language would preserve consumer choice.

We believe the increased specificity in the filed access plan required by Regulation .04.C(3) will benefit consumers with limited English proficiency or illiteracy; diverse cultural or ethnic backgrounds; physical or mental disabilities; and serious, chronic or complex health conditions. We also support the specific requirement in Regulation .04.C(5) that the access plan describe the network access to hospital-based providers in each hospital listed on the provider panel. The HEAU has received complaints about surprise billing by out-of-network providers delivering services at in-network hospitals who may not be covered by the new provisions, e.g., emergency department providers who are not physicians but independently bill for services (physician assistants, nurse practitioners), neonatologists providing NICU services and pediatricians performing routine well-baby visits as part of newborn discharges. In order for the MIA and others to understand the scope of this network inadequacy, we ask that language be added to Regulation .04.C(5) that would encompass these specifically enumerated providers.

On behalf of consumers, the HEAU thanks the Insurance Commissioner for proposing the draft amendments and for considering our comments.

Sincerely,

*Patricia F. O'Connor*

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