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BULLETIN 24-10

Date: April 15, 2024

To: Insurers, Nonprofit Health Service Plans, and Health Maintenance Organizations (“Carriers”)

Re: 2024 Mental Health and Substance Use Disorder Analysis Reports and Data Reports

During the 2024 Legislative Session, the Maryland General Assembly unanimously passed Senate Bill 684/House Bill 1074, Health Insurance – Mental Health and Substance Use Disorder Benefits – Sunset Repeal and Modification of Reporting Requirements. Senate Bill 684/House Bill 1074 was passed as an emergency measure that will become effective the date the bill is signed by the Governor..

Senate Bill 684/House Bill 1074 significantly modified § 15-144 of the Insurance Article, Annotated Code of Maryland,¹ which requires carriers to submit non-quantitative treatment limitation (“NQTL”) reports to demonstrate compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (“Parity Act”). The purpose of this bulletin is to provide carriers with updated filing guidance for the NQTL analysis reports required to be submitted in 2024, in consideration of the statutory amendments.

Filing Instructions

The deadline to file the NQTL reports for 2024 was previously extended to July 1, 2024 in Bulletin 24-5. The July 1 date is consistent with § 15-144(c)(2), as amended by Senate Bill 684/House Bill 1074, and remains unchanged. Carriers should submit the NQTL reports electronically to the Maryland Insurance Administration (“MIA”) through an encrypted email sent to: mhpaea.mia@maryland.gov. In accordance with § 15-144(h), a carrier should annotate all

¹ All statutory references herein are to the Insurance Article of the Annotated Code of Maryland.

information within the report that the carrier requests to be treated as confidential, and must provide the statutory authority under the Public Information Act that authorizes the denial of access to the information.

The NQTL reports must be completed using only the forms and associated instructions developed by the Commissioner, which are posted on the [MIA website](#) under the heading “Mental Health and Substance Use Disorder NQTL Report.” The forms and instructions have recently been updated to conform to the statutory changes under § 15-144. Definitions of various terms used in this bulletin, in § 15-144, and in the template reporting forms are included in the MIA instructions and Code of Maryland Regulations (“COMAR”) 31.10.51. Carriers should refer to applicable definitions when completing the required reports.

In addition, in accordance with § 15-144(f), new standardized data templates have been developed to evaluate the comparative analysis of certain NQTLs in operation, and existing data templates have been revised. The proposed data templates are posted to the MIA website, and comments will be accepted for 30 days following the date of this bulletin. Comments should be sent to mhpaea.mia@maryland.gov with the subject line “Comments on NQTL Data Supplements.” The MIA will post the final data templates to the MIA website after considering the comments received. Data supplements are required to be filed with the NQTL reports by the July 1 deadline.

Content of Reports

Each carrier subject to § 15-144 must submit an NQTL report **for each product offered by the carrier in the individual, small, and large group markets**. Carriers are reminded that for the 2024 reports, it is no longer necessary to identify the five health benefit plans with the highest enrollment for each product and submit a separate report for each of those health benefit plans. Instead, except as described below, NQTL reports should be completed at the product level.

Each NQTL report must include the results of a comparative analysis conducted by the carrier on the following five NQTLs that have been selected by the Commissioner for the 2024 reporting period in accordance with § 15-144(c)(5):

1. Prior Authorization Review Process
2. Prescription Drug Formulary Design
3. Provider (Including Facility) Reimbursement
4. Strategies for Addressing Provider Shortages
5. Provider Network Directories

Carriers should refer to the updated MIA instructions for the definitions of the selected NQTLs and additional guidance on the reporting expectations.

The report must be accompanied by a statement, signed by a corporate officer, attesting to the accuracy of the information contained in the report. The statement must also attest that for each product, the NQTLs listed above, and the processes, strategies, evidentiary standards, or other factors used in designing and applying those NQTLs to mental health benefits, substance use disorder benefits, and medical/surgical benefits, are the same for all plans within the product, as

written and in operation. If the carrier is unable to provide this second attestation for any product, the carrier must note the exception(s) and must submit a separate comparative analysis and related data supplement for the applicable plans within that product that impose different NQTLs or use different factors.

Carriers are reminded that, even though the reports required to be filed by July 1, 2024 will include comparative analyses for only the five NQTLs identified above, § 15-144(c)(1) requires each carrier to:

- Identify **all** NQTLs applied to benefits for mental health and substance use disorders;
- Perform and document comparative analyses of the design and application of **all** NQTLs imposed on benefits for mental health and substance use disorders; and
- Provide each comparative analysis to the Commissioner or a member upon request.

In accordance with § 15-144(l)(2), failure to submit the NQTL reports required under § 15-144(c)(2) or provide a comparative analysis requested by the Commissioner or a member within the time periods specified in § 15-144(c)(1)(iii) and (iv) constitutes noncompliance with the Parity Act.

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:

Signature on Original
David Cooney
Associate Commissioner
Life and Health