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April 26, 2018

The Honorable Benjamin Cardin
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The Honorable Andrew Harris
The Honorable Dutch Ruppersberger
The Honorable John Sarbanes
The Honorable Anthony Brown
The Honorable Steny Hoyer
The Honorable John Delaney
The Honorable Elijah Cummings
The Honorable Jamie Raskin

Dear Maryland Congressional Delegation:

We are writing to alert you to a problem with the way the administrators of the Maryland Medicaid program are interpreting a provision of the Affordable Care Act. Their interpretation, which differs from that of other state administrators, is resulting in disrupted psychiatric care for a large number of Marylanders enrolled in the Medicaid program. We hope you will ask the Centers for Medicare & Medicaid Services to clarify the law, with the goal of reversing our state officials' decision to enforce their interpretation.

The provision in question is section 6401 of the Affordable Care Act, which is found in the Code of Federal Regulations: 42 CFR § 455.410(b): "The State Medicaid agency must require all ordering or referring physicians or other professionals providing services under the State plan or under a waiver of the plan in the fee-for-service program to be enrolled as participating Medicaid providers."

There are many physicians who choose not to enroll fully as billing providers in the Medicaid program, but who provide services, including prescribing medication, to Medicaid recipients. This is particularly true in our field of psychiatry, where many of us have solo or small practices, without the billing and support staff that would allow us to participate in Medicaid.

Our state officials, however, have told us that our "Ordering, Referring, and Prescribing (ORP)" status will no longer allow us to bill Medicaid patients (or their families) for any services under the terms of the Affordable Care Act. Furthermore, if we do not enroll, **Medicaid patients under our care will no longer have their prescriptions and labs paid by Medicaid.** This seems to be a Maryland, not necessarily

MARYLAND PSYCHIATRIC SOCIETY



Page two

an ACA, stipulation: ORPs in other states, such as Texas, New York and Nevada, can still treat Medicaid recipients and bill them or their families (often at a reduced fee) outside the Medicaid program. Medicare allows this as well, if the provider has officially opted out. Maryland is essentially saying that psychiatrists must now either enroll, see all Medicaid patients for free, or transfer all their Medicaid patients to someone who is enrolled as a provider.

There is a serious shortage of psychiatrists in many states, including Maryland. Our state is further restricting Medicaid recipients' access to needed psychiatric care through this interpretation. This is particularly onerous for those seeking medication treatment for opioid dependence, as there is an even more significant shortage of qualified providers. We fear that there will be more overdose deaths if Marylanders with opioid addiction have fewer providers who can help them.

We are getting reports from our members that patients are having their prescriptions denied at pharmacies because their psychiatrist has not enrolled as a Medicaid provider. Some of these are very sick patients who are completely out of their medication. We are concerned that these patients may suffer severe and irreparable harm to their health as a result. On April 23, we requested that Maryland Medicaid suspend the denials until we can get clarification that would allow psychiatrists to determine what arrangements they need to make. We did not receive a response to our request.

In summary, we believe the purpose of the Affordable Care Act was to increase access to health care for all Americans. The way Maryland's Medicaid administration is implementing the law will restrict, not expand, access to care for many Marylanders. We urge you to direct our federal officials to instruct Maryland state officials to do as other states are doing and allow ORP providers to arrange private pay arrangements with Medicaid patients, whose prescriptions and labs will continue to be paid by Medicaid.

If you have questions, please contact Maryland Psychiatric Society Executive Director Heidi Bunes at 410-625-0232 or heidi@mdpsych.org. Thank you for your attention to this critically important issue.

Sincerely,



Jennifer T. Palmer, M.D.
President

cc: Governor Larry Hogan
Secretary Robert Neall
American Psychiatric Association