



November 22, 2021

Lisa Larson  
Director of Regulations  
Maryland Insurance Administration  
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Baltimore, MD 21202

Submitted to: [insurancereview.mia@maryland.gov](mailto:insurancereview.mia@maryland.gov)

Dear Ms. Larson.

Thank you for the opportunity to submit comments on the proposed regulations to implement Insurance Article, § 15-144, to ensure uniform definitions and methodology for reporting health plan compliance with state and federal standards under the Mental Health Parity and Addiction Equity Act. The following comments are submitted by the Legal Action Center and the sixteen (16) undersigned members of the Maryland Parity Coalition. The Center is a law and policy organization that fights discrimination, builds health equity, and restores opportunity for individuals with substance use disorders, criminal records, and HIV or AIDS. The Center convenes the Maryland Parity Coalition – a group of advocates, consumers, and providers of mental health and substance use disorder care – which was actively involved in the enactment of HB 455/SB 334 and the MIA’s Parity Workgroup process.

We support the MIA’s proposed rule and appreciate several revisions that respond to comments submitted by the Center and Parity Coalition members during the workgroup process. Specifically, we support:

- In the definition of “medical necessity,” the reference to the Insurance Code § 15-802 that requires issuers to use the American Society of Addiction Medicine criteria when making medical necessity determinations for substance use disorder treatment;
- The addition of definitions for “Parity Act” and “Parity Act classification;” and
- The deletion of specific definitions from the proposed rule and inclusion of those definitions with specific revisions in the Instructions for MHPAEA Compliance Reporting for NQTLs.

We remain concerned that the proposed rule includes a definition of “MH/SUD,” defined as “mental health benefits and substance use disorder benefits as a combined category,” (Sec. 31.10.51.03(B)(9)) and uses that term throughout the proposed rule to describe the comparative analysis that an issuer must conduct for non-quantitative treatment limitation (NQTL) that it applies to mental health benefits and to substance use disorder benefits. **The regulation should clearly reflect the analytical standard that the MIA has included in its instructions; i.e. the issuer must report mental health disorder benefits and substance use disorder benefits separately if “the description and/or application of factors, processes, strategies,**

**evidentiary standards, or sources is different for mental health and substance use disorder benefits as written or in operation....”** (MHPAEA Compliance Reporting for NQTLs at 1). Conversely, the analysis for mental health disorder and substance use disorder benefits may be combined only “when the description and application of factors, processes, strategies, evidentiary standards, and sources are the same for both.” *Id.*

**This standard is best conveyed in the regulation by (1) removing the definition of MH/SUD from the proposed rule, (2) converting the term “MH/SUD” to “mental health benefits” and “substance use disorder benefits” throughout the rule, and (3) placing the term “MH/SUD” in the instructions, as the MIA has done for many other terms that are used in the templates. Additionally, the relevant statement in the instructions should be revised to read:**

In completing the analysis report, ~~MH/SUD~~ **mental health benefits and substance use disorder benefits** may be combined when the description and application of factors, processes, strategies, evidentiary standards, and sources are the same for **both benefits**....

MHPAEA Compliance Reporting for NQTLs at 1 (new language bold and underlined).

We believe this framework is important to ensure that issuers adopt a correct and consistent analytical approach. We note that the League of Life and Health Insurers’ September 9, 2021 letter includes a recommendation from a League member to **“combin[e] mental health (MH) and substance use disorder (SUD) be combined [sic] as Medical and Surgical (M/S) are combined. Other states have agreed to combine MH/SUD.”** League Letter at 4. This comment referenced and requested revision to the one form – MHPAEA Data Report Template Form – that separated out data reporting for mental health and substance use disorder benefits. The League member has put forward an *incorrect* analytical approach.

**To avoid all confusion, we urge the MIA to remove the term MH/SUD from the rule, replace all references to MH/SUD with the full terms, already defined in the proposed rule (“mental health benefits” and “substance use disorder benefits”) and insert the term “MH/SUD” as defined in the proposed rule in the template instructions.**

Thank you for considering our views. We are happy to respond to any questions.



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Addiction Connections Resource  
Black Mental Health Alliance for Education & Consultation, Inc.  
Daniel Carl Torsch Foundation  
Institutes for Behavior Resources, Inc./REACH Health Services  
James’ Place, Inc.  
Maryland Addiction Directors Council (MADC)  
Maryland Association for the Treatment of Opioid Disorders (MATOD)

Maryland Coalition of Families  
Maryland and District of Columbia Society of Addiction Medicine (MDDCSAM)  
Maryland Psychiatric Society  
Maryland Psychological Association  
National Council on Alcoholism and Drug Dependence-Maryland (NCADD-Maryland)  
Western Maryland Area Health Education Center West (AHEC West)  
Voices of Hope  
Laura Mitchell, Individual Advocate  
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