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August 12, 2022

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

Re: Draft Proposed Regulation Chapter 44 Network Adequacy

Dear Commissioner Birrane:

The Maryland Psychiatric Society (MPS) appreciates this opportunity to submit comments on the draft proposed Network Adequacy regulation revisions. The MPS is a state medical association whose physician members specialize in the diagnosis, treatment and prevention of mental illnesses including substance use disorders. As noted in our comments on the original regs, the problem of inadequate provider networks is a longstanding concern among our members that continues to be exacerbated by administrative burdens, contract requirements and low reimbursement rates.

We appreciate the care and effort the Commission has taken in creating the draft modifications, which we largely support as written. However, we fully support the comments submitted by Ellen Weber, J.D. at Legal Action Center (LAC), to which the MPS is a signatory. In addition, we offer the following recommendations to strengthen the draft.

The first relates to carrier network directories, which continue to create confusion for consumers due to inaccuracies and inadequate detail. Many psychiatrists are credentialed for insurance coverage at an institution but do not participate in their private practice. Our members continue to receive calls years after leaving hospital work or get calls at their office saying they're listed as participating when they only do so in the hospital setting. Including psychiatrists who do not participate except for inpatient care in a provider directory overstates the number available to consumers who need an outpatient appointment and leads to frustration as they call unsuccessfully a list of potential providers who are not participating in that setting. Possible ways to address this shortcoming are:

- carriers using claims activity to identify providers who do not participate for outpatient care and not list them in the directory or report them to MIA under this regulation,
- including this distinction in the participation contract with the carrier and reporting network provider counts to MIA separately for inpatient vs outpatient psychiatric care, or
- omitting psychiatrists from the directory and from counts reported to MIA (or providers generally to the extent this problem is widespread) if they only offer in-network care in the inpatient setting.

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A second concern relates to Section 9(b) on page 12 regarding the conditions under which MIA may grant a waiver for these network adequacy requirements. The proposed language allows a carrier to request a waiver if they find that the measurement methodologies are "flawed." However, because the carrier can claim that certain methodologies are confidential "proprietary information," they could claim that the measurement methodology is flawed but not be required to publicly state how they determined this.

Please consider deleting this item or perhaps the following alternative language for 9(b)(2):

The reported failure to meet a standard is a result of SPECIFIED limitations or constraints with the measurement methodology rather than an actual deficiency in the network, AS EVIDENCED BY SUBMITTED DOCUMENTATION THAT SHALL NOT BE CONFIDENTIAL OR PROPRIETARY.

Thank you very much for this opportunity to give feedback on this important change in regulations that we hope will expand access to care by holding carriers publicly accountable for having sufficient participating psychiatrists. We appreciate your consideration and would be glad to provide additional information. Please contact Heidi Bunes at heidi@mdpsych.org if you have questions.

Sincerely,

Jessica V. Merkel-Keller, M.D., M.Sc.

President