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May 11, 2021

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

Re: Inclusion of reimbursement rates as an NQTL

Dear Commissioner Birrane:

Thank you for this opportunity to provide comments on the Maryland Insurance Administration's consideration of including commercial insurance reimbursement rates as a non-quantifiable treatment limitation (NQTL).

The Community Behavioral Health Association of Maryland (CBH) is the leading voice for community-based providers serving the mental health and addiction needs of vulnerable Marylanders. Our 95 members serve the majority of those accessing care through the public behavioral health system. CBH members provide outpatient and residential treatment for mental health and addiction-related disorders, day programs, case management, Assertive Community Treatment (ACT), employment supports, and crisis intervention.

As part of the outpatient treatment continuum, CBH members operate a total of 143 individually licensed outpatient mental health centers (OMHCs). These OMHCs serve tens of thousands of Marylanders with mental health and substance use disorders and employ thousands of licensed clinicians, including psychiatrists, psychiatric nurse practitioners, licensed social workers and professional counselors, psychologists, and registered nurses. Although our members' primary mission is to serve the Medicaid population, they also serve Medicare recipients and dual eligibles, and are highly motivated to serve those with commercial insurance.

Unfortunately, only a small subset of our OMHC providers serve the commercial population due to credentialing obstacles and low reimbursement rates. Since reimbursement rates are the focus of this comment period, our remarks are limited to that topic.

There are basically two "buckets" of reimbursement for OMHCs: one for evaluation and management codes (E&M), which is used primarily by prescribers, such as psychiatrists and nurse practitioners. For these codes, Medicare provides the highest reimbursement followed by Medicaid (at 93% of Medicare rates); commercial insurance reimbursement lags behind both.

The second reimbursement "bucket" in OMHC are the codes and rates for the services of social workers and therapists. For these services, Medicaid is by

far the most generous payer, with both Medicare and commercial insurance generally lagging behind. And while anti-trust laws prohibit our members from sharing specific information on commercial reimbursement rates, our members report that on average, commercial insurance falls below Medicare by at least 10%.

It is important to note that Medicare itself is not subject to the federal parity law and has long been criticized for its disparate coverage of behavioral health, in terms of the benefit package, the kinds of licensed clinicians allowed to participate, and reimbursement rates. CBH would therefore caution against using Medicare as a benchmark for determining commercial carriers' compliance with federal parity requirements.

It is instructive to note that while primary care practices offset the losses they incur by serving Medicaid patients with more generous commercial insurance rates, for behavioral health providers the experience is just the opposite. Those CBH members who do accept commercial insurance must have a robust Medicaid book of business to offset the losses incurred by serving the commercial population. It's not that Medicaid rates are so high; it's that commercial rates have fallen over time far below the actual cost of providing the services. This failure by commercial carriers to adequately reimburse behavioral health providers manifests in difficulties for clients and families to access care and the overuse of out-of-network providers and private pay arrangements, in which individuals seeking behavioral health treatment pay out of pocket for services and then try to collect whatever reimbursement they can from their carrier. Finally, our providers note that negotiation with carriers on reimbursement rates is almost non-existent, except in those case when a specialty service (such as neuropsychiatry) is required.

Thank you again for this opportunity to comment. For more information, please contact Shannon Hall at (202) 302-8397 or Lori Doyle at (410) 456-1127.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shannon Hall", is positioned below the "Sincerely," text. The signature is fluid and cursive.

Shannon Hall
Executive Director