



15 School Street, Suite 200  
Annapolis, Maryland 21401  
410-269-1554

For information, contact:  
Matthew Celentano, Executive Director

May 26, 2021

Lisa Larson  
Regulations Manager  
Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, Maryland 21202

*Re: Mental Health Parity Regulations*

Dear Ms. Larson:

On behalf of the League of Life and Health Insurers of Maryland, Inc. (League), thank you for the opportunity to provide comments on the appropriateness of amending the NAIC Mental Health Parity and Addiction Equity Act (MHPAEA) Tool to add reimbursement rates to the 13 NQTL's currently identified. The League is the state trade association representing life and health insurance companies in Maryland.

The League appreciates the work the Maryland Insurance Administration (MIA) has done on this issue from the 2020 Session to date and the collaborative process throughout. The League would like to thank the MIA for its consideration of the comments made throughout the 2020 Session and corresponding workgroups including the industry. While the process has addressed some of the questions and concerns we raised, the discussion still leaves a number of concerns for League members.

The League suggest the MIA look to the Department of Labor (DOL) tool for any added reimbursement rate analysis. This would be a narrow addition to the reporting required the NAIC Tool, per the uncodified language in HB 455. While we appreciate the template offered by the advocates at last month's meeting, and the paired down nature of what information they are requesting, there is an efficiency in using the DOL tool and an opportunity to better understand compliance and trends across the country.

It is very likely that the DOL is going to release guidance after they receive the self-compliance reports as now required of carriers by Federal law, and if the MIA follows this lead on deviation from the compromise in HB 455, we believe making the compliance tool uniform will ease reporting requirements for carriers. Ultimately, a patchwork of reporting templates across states will have no benefit to

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regulators and will present undue challenges in compliance for carriers across the country. Carriers would rather the MIA choose the DOL tool as consistency is preferred, especially as other states are beginning to have similar conversations.

While carriers appreciate the proactive nature of the advocates offering a tool for discussion, we find the proposed template is very vague. These murky reflections of reimbursement rates could lead to inaccurate perceptions of carrier compliance and create misinformation. The Maryland carriers would rather avoid this ambiguity and use the tool that will be utilized nationally.

Reimbursement, particularly when rates are negotiated, are a very complex area and we hope, the MIA will take the time to understand this complexity and also appreciate that compliance with the parity law does not mean that all providers are paid the same rate. It is important to remember that MHPAEA requires that the underlying processes and strategies used to apply an NQTL to mental health and substance use disorder benefits, such as reimbursement rates, must be comparable to those used to apply the NQTL to medical/surgical benefits in the same benefit classification. MHPAEA does not require provider reimbursement rates be equal between behavioral health and medical/surgical providers and acknowledges that reimbursement levels for providers are determined based on multiple factors, including: market dynamics, supply and demand, education and training, geographic location, etc. Different rates are not by themselves determinative of non-compliance to MHPAEA.

We would also like to know if the MIA is going to survey providers who do not participate with any insurers to see what their rates, hourly or otherwise, are as part of the reimbursement discussion. Part of the value of networks is the negotiated rate so consumers can gain leverage on cost. Without this negotiation the only result is inflated prices. There is an increased impact of limited supply compared to the demand in this space, and League members believe this should be a part of the ongoing conversation to establish the universe of issues and potential solutions. League members are concerned that if the scales are tipped towards a reimbursement landscape where carriers are unable to achieve adequate networks because of inadequate numbers of providers in the state, we will not only be set up to fail compliance issues, but consumers will never benefit from regulatory changes. The state needs a sufficient understanding of the supply of providers or we are all destined to fall short.

Lastly, as indicated in the announcement to the April 26<sup>th</sup> meeting, if the MIA wishes to gather reimbursement levels from particular companies, this information must be kept proprietary and confidential under the regulations. It is critical that competitive business practices are kept between the individual companies and the MIA. This is an issue of paramount concern to the Maryland carriers.

Thank you, again, for the opportunity to provide this feedback on the mental health parity regulations. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Celentano  
Executive Director  
The League of Life and Health Insurers of Maryland, Inc.

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