



March 27, 2023

Sent via email insurancereview.mia@maryland.gov

Lisa Larson
Director of Hearings
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Re: COMAR Proposed Regulations 31.10.44: Network Adequacy

Dear Ms. Larson:

On behalf of the undersigned organizations, we appreciate the opportunity to comment on the above-referenced proposed regulations. Overall, we believe that the changes proposed are positive and hope that they will have a meaningful impact on both consumers and health care practitioners in ensuring robust networks. This letter focuses on issues related to network adequacy for physicians employed or contracted to work in in-network hospitals.

In August, we requested that language be included to specifically require carriers to develop and maintain a network of providers, *including timely on-site access to emergency services, on-call physicians, and hospital-based physicians*. The italicized provision was not included in this proposal. We strongly encourage and request that the Maryland Insurance Administration (“MIA”) use the authority granted in Section .04C. (14) to require carriers to include in its annual access plan a report on the number of participating providers listed in Section .03A. (7) regarding provider and specialty codes as it relates to emergency services, on-call physicians, anesthesiologists, and hospital-based physicians.

With the implementation of the federal *No Surprises Act*, the requirement to fairly contract with emergency services, on-call physicians, and hospital-based physicians has become even more important for access. The listed associations continue to hear concerns that carriers are not fairly contracting, meaning that either mid-year or at contract renegotiations, carriers are presenting practices with contract terms that unfairly favor the carrier and/or do not adequately compensate the practice. We have even heard instances where carriers may be going so far as to terminate contracts and decline to renew, essentially forcing practices out of network. This is not good for consumers who may unknowingly experience an out of network physician encounter. The carriers are relying on the *No Surprises Act*, which protects patients from balance billing. However, it also shields carriers from exposure of their inadequate networks and erases years of success in Maryland through our assignment of benefits law. While being

held harmless is good for the consumer, it makes it even more important that the MIA require carriers to report the in-network status of hospital-based physicians.

Furthermore, it is no secret that Maryland continues to fall short in the area of commercial reimbursement as compared to other states. According to the Health Care Institute,¹ commercial carriers in Maryland pay on average 104% of Medicare whereas the average payment in the country is around 140%.² The only two states that pay less than Maryland are Delaware at 103% and Alabama at 98%. Maryland cannot ensure robust networks if it fails to ensure an adequate supply of physicians and providers who can afford to work in Maryland and participate in-network. Again, we strongly encourage the MIA and the State to closely examine this growing concern and the root causes of why physicians may not be in-network, not just for these physician designations but for the issue in its entirety.

We thank you for the opportunity to comment on these regulations and commend the Administration in its efforts to ensure adequate networks for Maryland consumers as the maintenance of adequate provider networks is critical to the implementation of an effective and equitable health care system. As always, we are more than willing to have additional discussions on the points raised in this letter.

Sincerely,

The Maryland State Medical Society (MedChi)

Maryland Chapter of American College of Emergency Physicians

Maryland Society of Anesthesiologists

US Acute Care Solutions

Maryland Radiological Society

¹ Health Care Institute, “*Comparing Commercial and Medicare Professional Services Prices*,” 2020.

² Even within Maryland, reimbursement rates fluctuate with reimbursement at 94% of Medicare in Salisbury, Maryland.