HB 800 - Health Insurance – Payments to Noncontracting Specialists and Noncontracting Non-Physician Specialists
Health and Government Operations Committee
February 25, 2016

The Drug Policy and Public Health Strategies Clinic of the University of Maryland Carey School of Law is pleased to support HB 800, Health Insurance Payments to Noncontracting Specialists and Noncontracting Non-Physician Specialists, with the Maryland Insurance Administration's amendments. The Drug Policy Clinic seeks to expand access to substance use treatment in public and private insurance and has worked to remedy insurance carrier practices that have resulted in a dearth of substance use disorder providers on private insurance carrier network panels. HB 800 will help ensure that individuals with substance use disorders will be more likely to access treatment services when a carrier does not have an adequate network of substance use disorder providers. By requiring carriers to pay a noncontracting provider a uniform and enhanced reimbursement rate, HB 800 would ensure that consumers do not shoulder the burden of high out-of-network costs when they cannot access a network provider promptly. The bill should also incentivize carriers to create more robust networks of substance use disorder and mental health providers and pay providers a reasonable reimbursement rate, which is one essential step to increasing network participation.

HB 800 responds, in part, to the dearth of substance use disorder providers that are included in provider networks and the deadly consequences of delayed treatment for persons with opioid and other substance use disorders. The Lt. Governor's Heroin & Opioid Emergency Task Force highlighted the "strong recurring theme" in its 2015 statewide summits of the lack of sufficient resources to address Maryland's heroin and opioid epidemic and the serious barriers families face when seeking treatment. The Task Force's Interim Report noted:

> At each summit, there was compelling testimony that addressed the overwhelming inability to access treatment immediately. Families consistently reported experiencing multiple and repeated barriers, such as excessively long waiting periods, high deductibles and co-pays, delayed insurance authorization challenges, lack of appropriate levels of care in their respective county or region….

Interim Report, Heroin & Opioid Emergency Task Force (Aug. 24, 2015) at 5. To address the network adequacy problem, the Final Task Force Report recommended that Ins. Article § 15-830 be amended to require carriers to pay an allowed amount for benefits provided by non-contracting providers of no less than 140% of the Medicare rate. Final Report, Heroin & Opioid Emergency Task Force (Dec. 1, 2015) at 6, pt. 3. According to the Task Force, this proposal "would give carriers more incentive to contract with providers and will assure members that they get a reasonable benefit when a network provider is not readily available." *Id.* HB 800 would effectuate the Task Force's recommendation for consumers who cannot access a network substance use disorder provider and require private carriers to fulfill their role in meeting the public's need for substance use treatment.

The Drug Policy Clinic's review of 2014 carrier networks confirms that HB 800 is needed to help families, who pay substantial premiums for health care coverage, but cannot find a

substance use provider in their carrier's network. Major carriers are required to report annually on their health plan's quality and performance results, including provider network data. **The Maryland Health Care Commission (MHCC) has documented the virtual absence of specialized substance use disorder practitioners in 2014 commercial plan networks.**

HMO	**Physicians Certified in Addiction Medicine**	**Alcohol and Drug Counselors**
Aetna	3	31
CareFirst BlueChoice	2	0
Coventry	0	0
Kaiser Permanente	1	4
MD-IPA	4	0
Optimum Choice	4	0
UnitedHealthcare	4	0
PPO	**Physicians Certified in Addiction Medicine**	**Alcohol and Drug Counselors**
Aetna	2	32
CFMI	0	1
GHMSI	0	1
Cigna	11	12
Coventry	0	0
KPIC	1	7
MAMSI	4	0
UnitedHealthcare	4	0

Source: Maryland Health Care Commission, CONSUMER EDITION QUALITY REPORT: COMPARING THE PERFORMANCE OF MARYLAND'S COMMERCIAL HEALTH BENEFIT PLANS (2015) at 3, 6, 9, 11, 14, and 17.

The gaps are most troubling for carriers offering qualified health plans (QHPs), because, as of 2014, they were under a statutory obligation to ensure that their plan networks have a sufficient number of "providers that specialize in mental health and substance abuse services, to assure that all services will be accessible without unreasonable delay." 45 C.F.R. § 156.230(a)(2). The State's own data confirms that every major QHP carrier has failed to meet this standard with regard to specialized providers of substance use services. While other behavioral health specialists provide substance use disorder services, the number of discrete alcohol and drug counselors and physicians certified in addiction medicine is a strong indication of the carrier's commitment to meeting the needs of enrollees with substance use problems. In addition, physicians who are certified in addiction medicine are more likely to have the necessary certification to prescribe buprenorphine – an effective treatment for opioid use disorder – than other physicians.

Shining a light on network deficiencies – one goal of HB 800 – can have an ameliorative effect. In October 2015, the MIA issued an order against CareFirst BlueChoice, Inc. for (1) having no in-network methadone treatment clinics in its QHPs and (2) using different standards for setting reimbursement rates for mental health and substance use disorder providers and for medical care providers, in violation of state and federal standards. The MIA ordered remedial actions and imposed a $30,000 penalty on CareFirst. *See* Maryland Insurance Administration v. CareFirst BlueChoice, Inc. Case No.: MIA-2015-10-036 (Oct. 30, 2015). Although CareFirst has appealed that order, it has also taken steps to address its inadequate network of methadone treatment providers. In December 2015, CareFirst implemented a policy for its BlueChoice and BlueCross

Blue Shield plans that would allow enrollees to obtain methadone maintenance treatment as an in-network medical benefit from **any** licensed provider of methadone treatment services. Although questions remain about the implementation of this policy, it demonstrates that carriers will respond to documented network deficiencies. We believe that carriers are more likely to take proactive steps to improve networks if they are required, under HB 800, to pay for out-of-network services at an enhanced rate.

Finally, we support the MIA's amendments to HB 800, which would provide a comparable Medicaid rate for purposes of establishing a benchmark reimbursement rate for non-contracting providers, to the extent a provider or service is not covered under Medicare. Medicare does not cover, and has no reimbursement rate, for a number of important substance use treatment services, including methadone treatment, community-based partial hospitalization, and residential services. It also does not cover specific practitioners who deliver substance use disorder care in Maryland, including licensed professional counselors and certified addiction counselors. This amendment is necessary to provide a benchmark reimbursement rate for services and practitioners not covered under Medicare.

Thank you for considering our views. We urge a favorable report on HB 800 with amendments.

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