



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Marc Elrich
County Executive

Raymond L. Crowel, Psy.D.
Director

February 19, 2020

SB334

Senator Malcolm Augustine
Senator Katie Fry-Hester
425 House Office Building
6 Bladen Street
Annapolis, MD 21401

Dear Senator Malcolm Augustine and Senator Katie Fry-Hester

The Mental Health Advisory Committee of Montgomery County (MHAC), as mandated by the State of Maryland, is dedicated to monitoring the delivery of mental health services to county residents. The Committee also collaborates with community partners to advise and advocate for an effective comprehensive mental health system of care for all. Achieving mental health parity is one of our main priorities. Enforcement is essential to achieving change.

As such we are writing to express our support for The Parity Transparency and Compliance bill (SB 334/ HB 455) which would improve access to life-saving mental health (MH) and substance use disorder (SUD) treatment by requires insurance carriers to:

- Submit an annual parity compliance report, modeled on the U.S. Department of Labor's Parity Act Self-Compliance Tool, and data related to benefit decisions.
- Pay penalties for parity violations and for filing incomplete reports.
- Make their compliance report available to plan members so they can enforce their parity rights.
- Inform consumers of their parity rights in benefit denial letters.

The bill would require the Maryland Insurance Administration (MIA) to review carrier reports, impose remedial measures to correct violations and reimburse consumers, and use penalties to improve parity enforcement and consumer information. The MHAC is especially interested in ensuring that citizens are able to access mental health and substance abuse services without discrimination, as is the law. Our committee is routinely addressing the concerns of Marylanders who are not able to access services that were prescribed by their treatment teams despite having health insurance. Others have only been able to receive services for themselves or their family members because of their continued diligence in advocating for services that should have immediately been authorized by their insurance carrier.

Although the Federal Mental Health Parity and Addictions Equity Act was passed in 2008 and Maryland has passed several laws to ensure parity in the management and treatment of mental and physical health conditions, we are concerned that health plans in Maryland are still not complying with these laws and the MIA is not adequately addressing these issues.

Despite the MIA identifying numerous parity violations through three market conduct surveys, carriers continue to implement illegal barriers to MH/SUD treatment. The MIA, however, has only issued nine (9) enforcement orders involving most Maryland carriers, and it has not imposed significant penalties for carrier violations.

The MIA currently cannot enforce the Parity Act in a timely and effective way unless carriers disclose their practices and are accountable for any standard that unfairly limits MH/SUD service and medication access. As an example, the MIA took 15-25 months to complete the first and second market conduct surveys, and the third is not yet complete after 26 months.

MIA's third survey report identified parity violations and other disparities that may result from discriminatory practices that prevent Marylanders from accessing the MH/SUD benefits they pay for.

- One carrier discriminatorily excluded 5 of 13 SUD treatment programs from its network but included all 122 medical facilities.
- One carrier denied inpatient MH/SUD services more frequently than inpatient medical services.
- One carrier imposed prior authorization requirements on all MH/SUD services but not all medical services.
- Carriers reported taking longer to credential MH/SUD facilities than medical facilities.
- All carriers reported that their members accessed MH/SUD services through out-of-network services more frequently than medical services.

Requiring carriers to submit parity compliance reports is the only way to ensure that health plans offer and deliver equal MH/SUD services. Since carriers are already barred under federal law from selling plans that do not comply with the Parity Act, carriers should already be conducting the analyses that SB 334/HB 455 would require.

We believe that this legislation will be effective because we have seen it work in seven other states who have adopted comparable carrier compliance reporting requirements to enforce MH/SUD parity.

Since 2018, six states – Colorado, Connecticut, Delaware, the District of Columbia, Illinois and New Jersey – have enacted laws requiring parity compliance reporting. In addition, California has required parity compliance reporting for all plan features since 2015. Massachusetts, Connecticut, and Vermont gather carrier data annually to identify disparities in MH/SUD benefit coverage, and New York implemented biennial data reporting standards in 2019.


The MHAC is mindful that there are limited state funds and resources available to address the mental health and substance abuse needs of our citizens. We want to ensure that those who currently pay for health insurance are able to use their insurance to access the services they need. When insurance companies prevent members from using their insurance to access these



treatments, citizens often become increasingly ill and end up in our jails, emergency rooms, and shelters.

We believe that SB334/HB455 could help address these ongoing issues.

Sincerely,



Jeannette C. Bjorklund, LCSW-C

MHAC Co-Chair



Garrett Ford Mannchen

MHAC Co-Chair

CC: Chair Senate Finance Committee Delores G. Kelly
Vice-Chair Senate Finance Committee Brian J. Feldman

