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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE**

FEBRUARY 17, 2021

SENATE BILL 557 - SUICIDE TREATMENT IMPROVEMENTS ACT

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding Senate Bill 557. Senate Bill 557 among other things, revises § 15-802 of the Insurance Article to specifically require carriers to waive cost-sharing for counseling and assessment for suicidal individuals and individuals who have attempted suicide.

Because Senate Bill 557 amends only § 15-802(d), the cost-sharing prohibition would apply only to large group grandfathered health benefit plans, large group non-grandfathered health benefit plans, and individual grandfathered health benefit plans. The proposed cost-sharing prohibition would not apply to small group non-grandfathered health benefit plans or to individual non-grandfathered health benefit plans.

While individual non-grandfathered health benefit plans and small group non-grandfathered health benefit plans are generally subject to § 15-802 of the Insurance Article, those plans are exempt from the mandated benefit portions of the law pursuant to § 31-116(a), (c), and (d) of the Insurance Article. Senate Bill 557 adds the cost-sharing prohibition to subsection (d)(2) of § 15-802, which applies specifically to “the benefits required under this section” (i.e., the mandated benefits in § 15-802). Nothing in subsection (d)(2) is applicable to individual non-grandfathered health benefit plans and small group non-grandfathered health benefit plans. Consequently, if the sponsor intended for the cost-sharing prohibition to apply to non-grandfathered individual and small group plans, language would need to be included in a new subsection indicating that if a health benefit plan includes benefits for counseling and assessment for suicidal individuals and individuals who have attempted suicide, the carrier may not apply any cost-sharing to those benefits.

Additionally, as drafted, Senate Bill 557 would effectively preclude carriers from selling HSA-compatible high deductible health plans (HDHPs) in Maryland for the markets subject to the new cost-sharing prohibition. Benefits for counseling and assessment of suicidal individuals would not appear to be considered “preventive care” under the IRS guidelines for HSAs and HDHPs. As such, these benefits would be required to be subject to the deductible of the HDHP, in order for the plan to be compatible with an HSA.

Since the Maryland Insurance Administration (MIA) does not believe it was the sponsor’s intent to eliminate HDHPs in Maryland, the bill should be revised to include an exception for HDHPs, similar to the exception that has been codified in several other laws, including §§ 15-812(g), 15-822(d), and 15-826.2(d). These sections of the law generally provide that specified services may not be subject to a deductible, copayment, or coinsurance, but the laws allow the services to be subject to the deductible of an HDHP.

While the MIA does not have a policy position on Senate Bill 557, the MIA believes that the bill should be reviewed by the Committee to clarify which health benefit plans apply and clarify the language to preserve HDHPs in Maryland.