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Behavioral Health Advisory Council and Commission on Behavioral Health Care Treatment and Access – Alterations (SB 212)
Finance Committee
January 30, 2024
FAVORABLE WITH AMENDMENTS

Thank you for the opportunity to submit testimony in favor of SB 212 with amendments. The bill would require the Behavioral Health Commission, in coordination with the Behavioral Health Advisory Council, to make recommendations no later than January 1, 2025 regarding the financing structure and quality oversight necessary to integrate somatic and mental health and substance use disorder services in Maryland's Medicaid program. This testimony is submitted by the Legal Action Center, a law and policy organization that has worked for 50 years to fight discrimination, build health equity and restore opportunities for individuals with substance use disorders, arrest and conviction records, and HIV or AIDs. In Maryland, we convene the Maryland Parity Coalition and work with our partners to ensure non-discriminatory access to mental health (MH) and substance use disorder (SUD) services through enforcement of the federal Mental Health Parity and Addiction Equity Act (Parity Act) in both public and private insurance.

We urge the Committee to amend the proposed provision, § 13-4805(15), to require the Commission's recommendations to ensure compliance with the Parity Act as it examines the financing structure and quality oversight measures required to achieve integration of services. In addition to federal law, Maryland law, Health-Gen. § 15-103.6, requires Maryland's Medicaid program to comply with the Parity Act, and any recommendations related to Medicaid financing and service delivery must account for these non-discrimination requirements. We recommend the adoption of the following amendment:

> Make, in coordination with the Behavioral Health Advisory Council, recommendations regarding the financing structure and quality oversight necessary to integrate somatic and behavioral health services and **ENSURE COMPLIANCE WITH THE MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT** in the Maryland Medical Assistance Program."

Compliance with the Parity Act is a foundational requirement for any financing and service delivery model. **The Maryland Department of Health (MDH) is required, under federal law, to ensure compliance with the Parity Act regardless of the financing and delivery model. 42 C.F.R. § 438.920(b).** Under state law, (MDH must ensure that the Medicaid program complies with the Parity Act and address treatment limitations related to scope of benefits, billing limitations and reimbursement rates. Health-Gen. §15-103.6. In examining the financing structure for integrated services, the Parity Act requires Maryland to design and apply reimbursement rate setting practices, reimbursement policies, and scope and duration of benefit coverage that are comparable to and no more restrictive than reimbursement practices and benefit coverage for medical (somatic) services.

Similarly, the Parity Act standards are at the heart of quality oversight. The law's non-discrimination requirements serve as a quality measure as they apply to plan design features that directly affect patient access to care, including provider network composition, utilization review and authorization requirements and benefit coverage.

Reinforcing the State's Parity Act obligation in SB 212's proposed study and recommendations is important. To date, MDH has never evaluated whether its rate setting practices for MH and SUD benefits comply with the Parity Act. In 2023, as a result of concerns raised by Legal Action Center and other stakeholders, MDH removed some service limitations on MH and SUD benefits that were more restrictive than limitations that were applied to somatic care. Additionally, Legal Action Center has raised significant and on-going questions about the accuracy and sufficiency of MDH's parity analysis.

The integration of somatic and mental health and substance use disorder financing and services must also examine the **actual integration of care** for beneficiaries, which can be achieved under either a managed care or a fee-for-service financing and delivery system. As KFF reported in 2023, most states cover "at least some behavioral health services under FFS" and, of those, many also include some behavioral health services in a managed care arrangement. At the same time, states have also adopted service delivery models to intentionally focus on the need to address a patient's whole health care needs.

Maryland has taken important steps to provide integrated MH, SUD and somatic care under the carve-out and can take advantage of a new federal opportunity to enhance integrated care. Maryland's Chronic Health Homes has successfully integrated somatic, MH and SUD care for individuals receiving care in opioid treatment programs, mobile treatment services and psychiatric rehabilitation programs through the carve-out. Maryland is launching a Certified Community Behavioral Health Clinics (CCBHCs) demonstration, which many states pursue to integrate somatic, MH and SUD care. Finally, the Centers for Medicare & Medicaid Services (CMS) has just announced the Innovation in Behavioral Health (IBH) model to allow state Medicaid programs to promote somatic, MH and SUD care integration. The eight-year innovation model would allow Maryland to deliver integrated care in outpatient behavioral health practices regardless of its financing and delivery system. The model calls for MH and SUD practices to conduct screenings and assessments of MH, SUD and physical health and health-related social needs, offer treatment, provide "closed loop" referrals to other primary care providers, specialists and community resources, and conduct on-going monitoring. We urge MDH to apply for the IBH model as it further examines Maryland financing and delivery system.

Access to comprehensive and equitable MH and SUD care is critically important for Medicaid beneficiaries who have higher rates of mental illness and substance use disorders than privately-insured or uninsured individuals. Ensuring compliance with the Parity Act in service delivery and financing and pursuing the IBH model will help Marylanders obtain the comprehensive health services they need and are entitled to receive.

Thank you for considering our views. We urge the Committee to issue a favorable report with amendments on SB 212.

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