

**BRIAN E. FROSH**  
*Attorney General*

**WILLIAM D. GRUHN**  
*Chief*  
Consumer Protection Division

**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

Writer's Direct Fax No.  
(410) 576-6571

Writer's Direct Email:  
pocconnor@oag.state.md.us



**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

Writer's Direct Dial No.  
(410) 576-6515

February 20, 2020

To: The Honorable Shane Pendergrass  
Chair, Health and Government Operations Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit (HEAU)

Re: House Bill 1165 (Health Insurance - Provider Panels - Coverage for Nonparticipating Providers): Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports House Bill 1165 because carriers would no longer be able to shift the costs of inadequate provider networks for mental health and substance use disorder (MH/SUD) benefits to their insureds.

Currently, if an insured must go out of network because a carrier's network has an insufficient number or type of participating providers with the expertise to provide covered MH/SUD services to the insured within the appointment waiting time or travel distance standards established in regulations, the carrier does not accept responsibility for the balance bill. The balance bill is sent to the insured, who never bargained for that risk. The insured's deductible, copayment amount, or coinsurance is calculated as if the provider was in-network.

This bill would expressly require the carrier to cover the services provided by an out of network provider at no greater cost to the insured than if the services had been provided by an in network provider.<sup>1</sup> In other words, consumers would get the benefit of the bargain they assume they are making when they purchase health insurance or receive it as an employment benefit, i.e., carriers are paid premiums in exchange for paying out MH/SUD claims when services are needed. An insured expects to pay only what he would have paid in an adequate network, and this bill would fulfill that expectation.

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<sup>1</sup> The 2000 and 2006 legislative history of Section 15-830 reflects intent for carriers whose plans in fact prove inadequate, to "bring" specialists into network for mandated referred care, at the carrier's expense, with the consumer in the same place he bargained to be – paying only what he would have paid in an adequate network.

While HEAU believes that all consumers should be protected from balance billing in these situations, we support this incremental step to address Maryland’s current behavioral health crisis.

For these reasons, we ask that this Committee return a favorable report, assuming, as reported by the proponent, that changing the provision on page 2, in line 4, stating that HMOs “shall not” hold consumers liable for covered services to “may not” hold consumers liable, is a technical amendment with no loss in protections for consumers.

cc: Delegate Sample-Hughes, Sponsor  
Members of the Health and Government Operations Committee