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

FEBRUARY 22, 2022

**SENATE BILL 460 – CONSUMER HEALTH ACCESS PROGRAM FOR MENTAL HEALTH AND ADDICTION
CARE – ESTABLISHMENT**

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding SB 460 (cross-filed with HB 517).

SB 460 would create a 3-year pilot program for a consumer health access program established to assist residents in accessing mental health and substance use disorder services, and to address insurance-related barriers to mental health and substance use disorder services through consumer outreach, client assistance and representation, data collection and analysis, and resolution of system-wide barriers. The program is charged with helping all consumers, including uninsured individuals and those with private or public health plans, navigate the issues related to accessing mental health and substance use disorder services. The bill also requires the program to work jointly with state agencies, including the Maryland Insurance Administration (MIA), to promote greater access to mental health and substance use disorder services and resolution of consumer complaints.

The goals of SB 460 are laudable, and the MIA appreciates that the bill seeks to support and enhance the efforts of state agencies in the realm of mental health parity by addressing certain circumstances where state agencies lack the authority and/or resources to intervene. We would like to highlight, however, that there are some provisions of the bill that imply the program may be assuming the role of a regulator in certain respects. Furthermore, the provisions of the bill that describe the interactions between the program and state agencies are unclear about the degree of cooperation that is expected from state agencies. It appears the bill could potentially result in some overlap in responsibilities between the program and existing state

agencies, thus creating ambiguity on the extent of program's authority vis-a-vis those state agencies and causing confusion from regulated entities about who their regulator is.

For example, on page 7, lines 3 through 9, the bill states that the program will help consumers and providers navigate and resolve issues related to health plan coverage and "enforcement" of rights under the Mental Health Parity and Addiction Equity Act (MHPAEA). It is unclear how the program will resolve issues related to enforcement of rights under MHPAEA, other than through advocacy. Additionally, on page 8, lines 27 and 28, the bill provides that the program will "identify trends in violations of the Mental Health Parity and Addiction Equity Act." However, the determination of whether there has been a violation of MHPAEA can only be made by the state or federal agency with regulatory oversight of the applicable markets and plans. Additional provisions of the bill that describe the program's relationship with state agencies can be found on page 7, lines 28 and 29; page 8, lines 10 through 20; page 9, lines 1 through 5 and lines 9 through 12; and page 11, lines 1 through 4.

One particular provision that may warrant closer examination is the text on page 11, lines 1 through 4, which states that the program shall request and promptly receive the cooperation, assistance, information, and records from state agencies as necessary to enable the program to investigate a consumer's complaint. The MIA is required to maintain the confidentiality of many of the documents it receives from carriers as a result of investigations or examinations that MIA undertakes, often concerning the health condition of many consumers. See Md. Code Ann. Ins. Art. § 2-209(h). The MIA is concerned that this bill may require the MIA to produce these documents to an entity that is not a regulator.

Another issue of note is that the bill appears to authorize the program to represent consumers in a legal capacity in various situations. For example, on pages 7 – 8, the bill states that the program will "assist and represent consumers" in filing complaints, grievances, and appeals, including complaints and appeals under Title 15, Subtitles 10A and 10D of the Insurance Article. It would be helpful to clarify the extent of the representation. Would the program be able to represent a client at a hearing?

The MIA thanks the committee for the opportunity to provide this information. The MIA is available to respond to questions and to assist the committee in determining the best possible outcome for Maryland consumers with respect to SB 460.