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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

February 21, 2022

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: The Office of the Attorney General's Health Education and Advocacy Unit

Re: Senate Bill 460 (Consumer Health Access Program for Mental Health and
Addiction Care – Establishment): Information

The Health Education and Advocacy Unit in the Consumer Protection Division of the Office of the Attorney General of Maryland ("HEAU") was established by the Maryland General Assembly in 1986. The HEAU was designed to assist health care consumers in understanding health care bills and third-party coverage, to identify improper billing or coverage determinations, to report billing and/or coverage problems to appropriate agencies, to assist patients with health equipment warranty issues, and to make recommendations to the General Assembly about legislation that would affect the interests of health care consumers in the health marketplace.

Based upon HEAU's successful efforts in these areas, the General Assembly selected the HEAU to be the first line consumer assistance agency when it passed Maryland's Appeals and Grievances law in 1998. Every day the HEAU assists consumers with health care-related billing complaints (not quality of care issues), medical records and equipment disputes, and with the appeals and grievance process when they have been denied enrollment, access, or coverage by a private insurance carrier (state-regulated and non-state regulated plans). The HEAU operates a toll-free hotline to allow consumers to access HEAU services or to obtain appropriate referral information.

In Fiscal Year 2019, the HEAU assisted patients in saving or recovering nearly \$2.5 million; in Fiscal Year 2020, the HEAU assisted patients in saving or recovering over \$4.3

million; and in Fiscal Year 2021, the HEAU assisted patients in saving or recovering nearly \$2.8 million.¹

Other states have used the HEAU as a model when creating their own programs and Maryland's program was cited as a model in Congressional testimony in support of early federal efforts to promote programs that would assist health care consumers, such as the Health Care Consumers Assistance Fund Act of 2001, and ultimately as a model for Consumer Assistance Programs (CAPs) under the Affordable Care Act (42 USC 300gg-93). Following passage of the ACA and the implementation of Maryland's Health Benefit Exchange (the Exchange), the HEAU began assisting consumers with problems enrolling in QHPs on the Exchange and with problems obtaining premium tax credits and cost-sharing reductions. More recently, the HEAU has been tasked by the General Assembly to assist consumers with facility fee disputes (Md. Code Ann., Health Gen. § 19-349.2) and hospital financial assistance and billing/collection disputes (Md. Code Ann., Health Gen. § 19-214.1 and 214.3).

The HEAU has effectively assisted consumers since its inception with a comparatively small staff and modest \$1 million dollar budget (\$613,228 is funded by the Maryland Insurance Administration (MIA) through the Health Care Regulatory Fund, and \$388,444 is funded by the Consumer Protection Division.² The HEAU currently has 9 and ½ positions (2 are contractual), comprised of a Director and Deputy Director, who are also Assistant Attorneys General; four full-time and one part-time Ombudsmen who staff HEAU's hotline, assist consumers with health insurance appeals and grievances, mediate consumer complaints, and train and supervise volunteers who mediate consumer complaints; a case manager; and one administrative assistant. One of the five ombudsmen assists consumers who have problems enrolling in QHPs on the Exchange and with obtaining premium tax credits and cost-sharing reductions, despite loss of funding from the Exchange in FY 2021. Prior to the pandemic, the HEAU had approximately 12 part-time volunteers and 15 part-time interns who staffed our hotline in addition to mediating consumer complaints. Throughout the pandemic the HEAU has had virtually no volunteers (one part-time volunteer returned to the office several months ago) and varying numbers of remote student interns each semester, increasing the caseloads and hotline hours for each Ombudsman.

In fiscal year 2021, even without volunteers due to the pandemic, the HEAU handled more than 6,000 emails, fielded over 3,000 hotline calls, and closed over 1,600 complaints. The HEAU assists consumers, and providers who advocate on their behalf, in

¹ <https://www.marylandattorneygeneral.gov/Press/2019/110619.pdf> ; <https://www.marylandattorneygeneral.gov/Press/2020/110520.pdf> ; and <https://www.marylandattorneygeneral.gov/press/2021/110421.pdf>

² Over the years the HEAU received additional Consumer Assistance grant funding from HHS and funding from the Exchange, but eventually both funding sources were eliminated. The HEAU along with other ACA-identified CAPs have advocated for resumption of HHS CAP funding, which is being considered at the federal level.

resolving denials of coverage for *all* types of health care services, including mental health and substance use disorder services. Both state and federal law require private carriers to inform consumers that the HEAU is available to assist consumers with coverage denials. In fiscal year 2021, three percent of the HEAU's appeals and grievance cases were denials of mental health/substance use disorder services. The HEAU's success rate for those cases was 58%.

The pandemic has contributed to an unprecedented need for mental health and substance use disorder treatment, as noted in the Parity at 10 Informational Flyer in support of this bill. While well-intended, this bill would duplicate services that state agencies, including the HEAU, are already providing:

- The Maryland Department of Health (MDH) runs a health care crisis hotline, 24 hours a day, 7 days a week.
- The Exchange, through its successful network of navigator entities and enrollment assistors, enrolls consumers in health plans and has a robust outreach and education enrollment campaign.
- The Department of Aging's State Health Insurance Assistance Program (SHIP) meets the essential needs of Medicare beneficiaries, including enrollment, understanding their health insurance benefits, bills, and rights. Trained staff and volunteer counselors in all 23 counties and Baltimore City provide in-person and telephone assistance.
- The HEAU and the MIA assist consumers in filing complaints, and grievances and appeals daily. The MIA, as the agency designated to be the single point of entry for consumers to access information regarding health insurance and the delivery of health care as it relates to health insurance, conducts in-person and other outreach and education, including rights under the Mental Health Parity and Addiction Equity Act. Md. Code Ann., Ins. § 2-303.1.

There are some limitations on the services the HEAU currently provides. The HEAU does not represent consumers in any legal action challenging denials of enrollment or coverage, including legal actions relating to federal and State mental health parity laws. The HEAU does not assist consumers denied enrollment in Medicaid or consumers with Medicaid coverage appeals.

The Parity at 10 Informational Flyer compares the proposed Program to "other state models that are highly effective in resolving insurance-related barriers to treatment" and identifies the Office of Health Care Advocate (the Office) in both Connecticut and Vermont as examples. The HEAU has monthly collaborative meetings with both Offices to share

best practices and ideas for advancing consumer protections. Like the HEAU, the Connecticut and Vermont Offices aid consumers facing insurance coverage disputes of *all* service types, not just mental health and substance use disorder coverage issues. Notably, the Connecticut Office has 18 staff members, a \$2.84 million dollar budget and a 2020 census of 3.65 million. The Vermont Office has 14 staff members, a \$1.4 million dollar budget and a 2020 census of 645,570.³

The HEAU welcomes the possibility of additional funding to expand the services we provide to consumers experiencing trouble obtaining coverage through their health insurance for mental health and substance use disorder treatment or, should the General Assembly elect to establish the program contemplated by this bill, referring consumers to the program established by the bill. The HEAU is concerned that the bill contains ambiguous language that could be read to require state agencies charged with investigating carriers, providers, or others to share confidential investigative information. Such a mandatory disclosure requirement could undermine the agencies' ability to enter into multistate investigations as well as to conduct their own investigations. (Page 11, lines 1-4) The HEAU also suggests that page 7, lines 26-31 be amended to limit the program's services to mental health and substance use disorder disputes, which appears to be the intended goal.

cc: Sponsor

³ Maryland's 2020 census was 6,165,129.