

February 22, 2022

The Honorable Delores G. Kelley
Chairwoman, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street Annapolis, MD 21401

RE: SB460 – Consumer Health Access Program for Mental Health and Addiction Care – Establishment

Position: FAVORABLE

Chair Kelly and Members of the Committee,

I am testifying in support of SB460 as a social worker trained in providing evidence-based behavioral healthcare, but also as a constituent who depends on psychiatric medication and weekly therapy to function. I share this knowing that it is a personal and professional risk to put on public record – however, it is no different than the fact that my father takes medication every day to manage his cholesterol and prevent another heart attack. This is what ongoing health maintenance looks like.

This idea would be reflected in practice if state and federal parity laws were consistently followed. However, **the idea that mental health is less important, less valid, and less real than physical health gets reinforced every day** by decisions to deny or restrict care to what is deemed necessary by insurance carriers.

For example, a 2019 class action lawsuit against United Behavioral Health (UBH)/Optum¹ resulted in the reprocessing of 67,000 claims after it was found that UBH had narrowly restricted access to behavioral healthcare to cover crisis stabilization, followed by a rapid step-down or the end of treatment. This would be similar in practice to covering my father's triple bypass surgery following a heart attack, only to deny him follow-up appointments with a cardiologist to monitor his heart function, blood pressure, and cholesterol.

If my insurance provider denied a claim for seeing my psychiatrist or therapist or they deemed an inpatient stay not "medically necessary," there are existing resources I can use – assuming that:

- I am **aware of my right to appeal**
- I am **aware of state and federal parity laws** that prohibit most insurance carriers from placing stricter limitations on behavioral health benefits than they would on medical or surgical benefits
- I am **familiar enough with these laws to know if they apply** to my situation and type of insurance
- I am **familiar enough with my insurance carrier's policies** on medical/surgical coverage to be able to detect a possible parity violation
- I **have the capacity to advocate for myself** while either paying out-of-pocket for the care that I need or going without treatment. In other words, I would have to either take on medical debt or risk the return of debilitating flashbacks, panic attacks, self-harm, and thoughts of suicide.

These are a lot of assumptions to make – but let's assume I am aware of my rights and can pay out-of-pocket long enough to keep me healthy, stable, and employed while I navigate the appeals process. There are a few different resources available in Maryland, grouped by insurance type: public or private

insurance.² Assuming that I already understand that my plan is considered private insurance, the steps outlined for me are:

- 1) Wait for a letter from my insurance company outlining the reason for their decision to deny care and the steps for appealing their decision.
- 2) Contact the Health Education Advocacy Unit (HEAU) within the Maryland Attorney General's Office for help filing an appeal.
- 3) If my appeal is denied or I need emergency care, I should contact a different agency entirely – the Maryland Insurance Administration – and a decision on my complaint will be made within 30 days.

Marylanders like me are 10x more likely to go out-of-network for behavioral health office visits and 9x more likely to go out-of-network for inpatient behavioral health treatment in comparison to medical/surgical care³. Despite these disparities, only 5% (16 of 305) of grievances received by HEAU in FY2021 were related to behavioral health⁴. **While this could reflect a lack of need for assistance, it is more likely a reflection of the barriers to seeking help outlined above.**

However, for the 1 in 3 Marylanders⁵ with public insurance, a different agency handles complaints – Optum. If that complaint is denied, consumers have 10 days to file a 'level 1 grievance' with a *separate* department in Optum. 'Level 2' grievances are handled by yet another agency – the Behavioral Health Administration.

Coordinating behavioral health care is even more complicated for those who are uninsured, as each county has their own behavioral health authority; out of these 24 agencies, only 20 offer assistance for both mental health and substance use services and only 7 use the same phone number for both.⁶

The Consumer Assistance Program outlined in SB460 would not only address insurance-related barriers for Marylanders in need of behavioral healthcare – it would **address barriers to seeking help in the first place with a centralized entry point to existing resources regardless of one's situation, personal resources, or type of insurance.** By having community-based partners in Maryland's 8 connector entity regions, we can ensure more equitable access to care. For these reasons, I ask for a favorable report.

Respectfully submitted,

Natalie Busath, LMSW

¹ Wit v. United Behavioral Health, Case No. 14-cv-02346-JCS (N.D. Cal. Feb. 28, 2019). <https://casetext.com/case/wit-v-united-behavioral-health-8>

² Mental Health Association of Maryland. Accessing Mental Health Care in Maryland: A Fact Sheet by the Mental Health Association of Maryland. 2019. Accessed 28 Dec 2021. Retrieved from <https://www.mhamd.org/wp-content/uploads/2019/10/Accessing-Mental-Health-Care-in-Maryland-1.pdf>

³ Milliman. Addiction and Mental Health vs. Physical Health: Widening Disparities in Network Use and Provider Reimbursement. Nov 2019. https://assets.milliman.com/ektron/Addiction_and_mental_health_vs_physical_health_Widening_disparities_in_network_use_and_provider_reimbursement.pdf

⁴ State of Maryland Office of the Attorney General. Annual Report on the Health Insurance Carrier Appeals and Grievances Process: Fiscal Year 2021. Retrieved from <https://www.marylandattorneygeneral.gov/CPD%20Documents/HEAU/Annual%20Reports/HEAUannrpt21.pdf>

⁵ US Census Bureau. 2019 American Community Survey. Retrieved from: https://planning.maryland.gov/MSDC/Documents/American_Community_Survey/2019/MD_24_ACS_2019.pdf

⁶ See note 2