



Testimony on HB 1074
Health Insurance – Mental Health and Substance Use Disorder Benefits –
Sunset Repeal and Modification of Reporting Requirements

Testimony on HB 1085
Maryland Insurance Administration – Mental Health Parity and Addiction
Equity Reporting Requirements – Revisions and Sunset Repeal

Health & Government Operations Committee
February 22, 2024

POSITION: SUPPORT HB 1074 AS THE STRONGER PARITY COMPLIANCE LEGISLATION

The Community Behavioral Health Association of Maryland (CBH) is the leading voice for community-based organizations serving the mental health and addiction needs of vulnerable Marylanders. Our 89 members serve the majority of those accessing care through the public behavioral health system. CBH members provide outpatient and residential treatment for mental health and addiction-related disorders, day programs, case management, Assertive Community Treatment (ACT), employment supports, and crisis intervention.

Our member organizations serve the great majority of the almost 300,000 children and adults who access services through the Public Behavioral Health System. Yet, despite their behavioral health expertise and desire to serve those with commercial insurance, our members report great difficulty in getting their clinicians credentialed on carrier panels. They also cite low reimbursement – below that of Medicaid – as a barrier to serving the commercial market. While neither of these barriers taken on their face prove a parity violation, the lack of carrier compliance with parity reporting precludes the Maryland Insurance Administration from making parity violation determinations when complaints have been filed by providers.

The Mental Health Parity and Addiction Equity Act passed over fifteen years ago yet it seems that carriers are still unable to demonstrate their compliance with the law. Given the serious impact of untreated or under-treated behavioral health disorders, carriers must provide complete compliance reports on all nonquantitative treatment limitations (NQTLs) and be subject to greater penalties for noncompliance. HB 1074 requires carriers to conduct an analysis of all NQTLs and then allows the MIA to choose a subset for review. This is preferable to HB 1085 which requires the MIA to identify no less than 4 NQTLs for review. Unscrupulous carriers could choose to game the system by focusing only on those NQTLs identified in advance by the MIA.

Penalties for failure to comply with parity reporting must be severe enough to discourage carriers from viewing them as simply the cost of doing business. HB 1074 would impose a penalty of not less than \$1,000 for each day the carrier fails to submit the required information and places the burden of persuasion on the carrier in any matter filed with the MIA that involves the Parity Act. This is an important addition since carriers have been able to fend off violation determinations simply by failing to comply with reporting requirements. And while HB 1085 does allow the MIA to charge carriers for any additional expenses incurred by the MIA after the Commissioner determines that the initial report was incomplete, this is insufficient to change carriers' behavior and make compliance with the Parity Act the default rather than the exception.

For these reasons we urge a favorable report on HB 1074.

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