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Pennsylvania Insurance Department
Bridget Burke, Regulatory Coordinator
341 Strawberry Square
Harrisburg, PA 17120

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Dear Ms. Burke:

UPMC Western Psychiatric Hospital and the UPMC Western Behavioral Health network applaud the Pennsylvania Insurance Department (PID) to create specific reporting requirements that will facilitate the regulation of mental health and substance use disorder (MH/SUD) insurance coverage by requiring an insurer to attest that it has completed documented analyses of its efforts to comply with MH/SUD parity requirements while also demonstrating compliance with MH/SUD parity requirements set forth in Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA).

We recognize mental health parity implementation and oversight is complicated in that it cuts across multiple areas within an organization and duly acknowledge PID efforts with the legislature that would require insurers to proactively document the steps taken to complete mental health parity analyses and provide PID with additional mechanisms to collect information.¹

We appreciate the timing of the proposed rulemaking in the wake of a key finding in a December 2019 Government Accountability Office (GAO) report on government oversight of compliance with parity that underscored the need for federal lawmakers to proactively investigate the work of employer-sponsored group plans and ensure they are complying with the landmark 2008 parity law.²

In its review, GAO found that both Department of Health and Human Services (HHS) and the Department of Labor (DOL) conduct targeted reviews of certain employer-sponsored group plans when they receive information—such as consumer complaints—about possible noncompliance with MH/SUD parity requirements or other federal healthcare requirements.

Like other providers, we are concerned that HHS and DOL act only when they receive information, thereby taking a reactionary approach to a law that affects an estimated one million Pennsylvanians who have struggled with serious psychological distress at least

¹ <https://www.legis.state.pa.us/cfdocs/CteeInfo/index.cfm?Code=22&CteeBody=H>

² <https://www.gao.gov/assets/710/703239.pdf>

once in 2015.³ Of those adults, more than 27 percent had an unmet need for mental health care. That population includes 42 percent who did not receive mental health care because they could not afford it.⁴ We are familiar with National Institutes of Health (NIH) reports which indicate that 56.7 percent of adults with mental illness do not receive care due to stigma and accessibility issues,⁵ and that mental illness is rising faster among 18-25 year-olds faster than in the adult population.⁶

There have been improvements such as the Medicare Improvement Act of 2008 for Patients and Providers (Sec. 102) that attempted to eliminate the outpatient payment disparity which has historically created a tremendous lack of access to mental health care. We, like other mental health providers, continue to experience disparity in reimbursement rates when outpatient services in mental health are compared to those in primary care.

This persistent rate disparity, and the resulting limitation in network access, is evidenced in the study in a Milliman Research Report, "Addiction and Mental Health vs. Physical Health: Widening disparities in network use and provider reimbursement," released in November 2019, which was subsequently cited by the GAO in its December, 2019 report. Milliman research found widening disparities in network use and provider reimbursement when comparing mental health and addiction with physical health.⁷

To that end, we hope PID will be inclusive of the work that has been performed by reputable firms such as Milliman related to rate and network relationships. The state could include in the attestations, that the companies are making these comparisons and are adjusting their rates of payment for mental health services, including for time-based codes that are not necessarily comparable (e.g., there is a section of codes that are "psychotherapy" codes) for which there is no primary care equivalent. The same rates used to determine time for an Evaluation and Management (E&M) codes should apply to psychotherapy.

Highlights of Milliman report include:

1. The Milliman report (refer to Pg. 71) measures parity as a function of the likelihood that patients seek their care 'out of network', and as a direct assessment of rate reduction compared to primary care. A summary is illustrated below (e.g. outpatient office-based services were 5.9 times as likely to be received out of network. Due to reimbursement rates being low, providers will not accept assignment / join networks).

| Location | 2013 Multiple | 2019 Multiple |
|----------|---------------|---------------|
|----------|---------------|---------------|

³ <https://healthpolicy.usc.edu/wp-content/uploads/2018/07/PA-Facts-and-Figures.pdf>

⁴ <https://healthpolicy.usc.edu/wp-content/uploads/2018/07/PA-Facts-and-Figures.pdf>

⁵ <https://www.nihcm.org/categories/mental-health-in-america-trends-future-outlook>

⁶ <https://www.nihcm.org/categories/youth-mental-health-trends-and-outlook>

⁷ [http://assets.milliman.com/ektron/Addiction and mental health vs physical health Widening disparities in network use and provider reimbursement.pdf](http://assets.milliman.com/ektron/Addiction%20and%20mental%20health%20vs%20physical%20health%20Widening%20disparitie%20s%20in%20network%20use%20and%20provider%20reimbursement.pdf)

| | | |
|--------------|------|------|
| Inpatient | 2.8X | 5.2X |
| OP Facility | 3X | 6X |
| Office Based | 4.8X | 5.9X |

2. Pennsylvania ranks 16th (from worst-to best), at 5.73 times the likelihood of receiving out of network care. Nationally, the rate/network disparity worse for children, at 10.1 times more likely than for adults.
3. The rate disparity too, is getting worse over time (e.g. compared to primary care, behavioral health providers are paid 23.8% less for the same services. As providers, we notice that not all payers are the same in terms of managing these processes / rates.

| Rate Differential 2013 | 2019 |
|------------------------|------|
| 10.7 | 23.8 |

Following the reports from the GAO and Milliman, we thank the PID for convening stakeholder meetings and hearings to examine the work of the Commonwealth's insurers related to parity implementation.

As a provider, we stand ready to engage PID to provide a better understanding of the issues our patients encounter and sharing details not accessed through normal compliant channels or exam data elements.

Sincerely,

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