



Maryland
Hospital Association

MedChi
The Maryland State Medical Society

February 1, 2008

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Alexis E. Gibson
Regulations Coordinator
Maryland Insurance Administration
525 St. Paul Place
Baltimore, Maryland 21202

Dear Ms. Gibson:

On behalf of the organizations listed below*, this letter is written to provide comments on the Maryland Insurance Administration's proposed regulations—COMAR 31.10.34 Carrier Provider Panels.

In General

The intent of the legislation enacted during the 2006 session of the General Assembly was to ensure that commercial carriers have an adequate number of physicians and other providers in their networks to actually deliver care to their enrollees in a timely manner.

When enrollees do not have adequate access to in-network providers, they are subject to additional out-of-pocket costs for receiving care from out-of-network providers, traveling long distances to obtain care, and/or left to seek care in hospital emergency departments for non-emergency conditions. The legislation was intended to protect consumers from these scenarios and ensure that enrollees get what they are promised in return for their premium dollars.

Unfortunately, the proposed regulations fall significantly short of that intent.

Insufficient Standards and Accountability

The regulations do not establish any objective standard by which the Maryland Insurance Administration can measure reasonable enrollee access to carrier provider networks. The regulations simply require a carrier to have an internal availability plan that would be accessible to the Commissioner. There is no guidance, benchmark, or other measure for determining if this internal availability plan is adequate. Further, it is left to the carrier to determine how to assess their performance and monitor the sufficiency of the provider panel.

Insufficient Enforcement Mechanism

The availability plan is not required to be submitted to, or approved by the Commissioner; is not required to be updated on a regularly scheduled basis to reflect changes in enrollee demographics; and, is not required to be independently verified to assure compliance.

The only remedy provided is for the Commissioner to take “reasonable appropriate corrective action for any consumer harmed by the carrier’s violation of this regulation.” There are no specific penalties for violating even the carrier’s own internally adopted availability plan.

Moreover, the regulations specify that an enrollee must be actually harmed (an undefined term) by a violation before action is taken. The regulatory approach should be proactive on the front end to ensure harm does not occur. The adequacy of a carrier’s network is at the center of what is being sold to the consumer. It is the very essence of the transaction.

Implementation Time Frame

As mentioned above, the underlying legislation for these regulations was enacted during the 2006 session. Regulations were to be adopted by January 1, 2007, and implemented by the carrier on or before July 1, 2007. While we understand issues associated with a transition in Administrations, it is now disheartening to find these regulations would not even become effective until November 1, 2008.

Conclusion

The concerns we have outlined are significant. We believe withdrawal of the proposed regulations is warranted and the interested parties should be immediately convened to revisit and strengthen the regulatory approach utilized to ensure these are meaningful consumer protection regulations.

Thank you for the opportunity to comment. If you have questions or would like to further discuss our comments, please do not hesitate to contact me.

Sincerely,



Calvin M. Pierson
President
MHA: Maryland Hospital Association



Martin P. Wasserman, M.D., J.D.
Executive Director
MedChi, The Maryland State Medical Society

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American College of Emergency Physicians –
Maryland Chapter
Community Behavioral Health Association of
Maryland
First Colonies Anesthesia Associates
Maryland Academy of Family Physicians
Maryland Chapter of the American Academy
of Pediatrics

Mental Health Association of Maryland
Maryland Hospital Association
Maryland OB/GYN Society
Maryland Psychiatric Society
Maryland Psychological Association
Maryland Society of Anesthesiologists,
Maryland Chapter
MedChi, The Maryland State Medical Society

cc: The Honorable Ralph S. Tyler