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December 29, 2022

Ms. Christina Stecki  
MHA National Regulatory Affairs  
UnitedHealthcare Employer & Individual  
5701 Katella Ave, Mailstop CA120-0353  
Cypress, California 90630

Re: MAMSI Life and Health Insurance Company ("MLH")  
2021 Network Adequacy Access Plan

Dear Ms. Stecki:

The Maryland Insurance Administration ("Administration") has completed its review of the MAMSI Life and Health Insurance Company 2021 Network Adequacy Access Plan (the "MLH 2021 Access Plan") filed on July 1, 2021, supplemented with additional information and documentation on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

The access standards in COMAR 31.10.44.04 were not met by the MLH 2021 Access Plan for the following, based on the data self-reported by MLH. All other access standards in COMAR 31.10.44 were met.

#### Travel Distance Standards

1. In suburban areas, applied behavioral analyst providers must be within 30 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.7% of suburban enrollees, leaving six members outside the travel distance standard in two zip codes.

#### Suburban zip codes

- (i) Zip code 20634 has 5 members outside the standard.

(ii) Zip code 20688 has 1 member outside the standard.

2. In urban areas, Gynecology, OB/GYN providers must be within 5 miles of enrollee residence. Gynecology, OB/GYN providers met the required standard for 99.8% of urban enrollees, leaving 5 members outside the travel distance standard in zip code 21403.
3. In urban areas, acute inpatient hospitals must be within 10 miles of enrollee residence. Acute inpatient hospitals met the standard for 99.6% of urban enrollees, leaving 11 members outside the travel distance standard in two zip codes.

Urban zip codes

- (i) Zip code 21040 has 6 members outside the standard.
- (ii) Zip code 21114 has 5 members outside the standard.

4. In urban areas, critical care services / intensive care units must be within 10 miles of enrollee residence. Critical care services / intensive care units met the standard for 99.6% of urban enrollees, leaving 11 members outside the travel distance standard in two zip codes.

Urban zip codes

- (i) Zip code 21040 has 6 members outside the standard.
- (ii) Zip code 21114 has 5 members outside the standard.

5. In urban areas, inpatient psychiatric facilities must be within 15 miles of enrollee residence. Inpatient psychiatric facilities met the standard for 96.9% of urban enrollees, leaving 136 members outside the travel distance standard in three zip codes:

Urban zip codes:

- (i) Zip code 21402 has 60 members outside the standard.
- (ii) Zip code 21403 has 60 members outside the standard.
- (iii) Zip code 21040 has 16 members outside the standard.

6. In urban areas, outpatient infusion /chemotherapy facilities must be within 10 miles of enrollee residence. Outpatient infusion /chemotherapy facilities met the standard for 99.6% of urban enrollees, leaving 11 members outside the travel distance standard in two zip codes.

Urban zip codes

- (i) Zip code 21040 has 6 members outside the standard.
- (ii) Zip code 21114 has 5 members outside the standard.

7. In urban areas, other behavioral health/substance abuse facilities must be within 10 miles of enrollee residence. Other behavioral health/substance abuse facilities met the standard for 99.9% of urban enrollees, leaving 2 members outside the travel distance standard in zip code 20745.

With respect to access to applied behavioral analyst providers in zip code 20688, MLH stated in its March 14, 2022 *“UnitedHealthcare Companies Waiver Request for MAMSI Life and Health Insurance Company”* that it had resolved the travel distance deficiency. MLH is currently contracted with an applied behavioral analyst provider within the travel distance standard that was suppressed from the reporting at the time of the initial filing of the MLH 2021 Access Plan because the provider was not accepting new patients. The contracted applied behavioral analyst provider has become open and available to new patients.

#### Travel Distance Waiver Requests

The criteria that must be met in order to qualify for a waiver of a standard are set forth in COMAR 31.10.44.07. The Administration “may find good cause to grant the network adequacy waiver request if the carrier demonstrates that the physicians, other providers, or health care facilities necessary for an adequate network: (1) Are not available to contract with the carrier; (2) Are not available in sufficient numbers; (3) Have refused to contract with the carrier; or (4) Are unable to reach agreement with the carrier.”

The Administration has considered MLH’s requests for waivers for the travel distance standard for Applied Behavioral Analyst and Gynecology OB/GYN providers, as well as Acute Inpatient Hospital, Critical Care Services / Intensive Care Units, Inpatient Psychiatric Facility, Outpatient Infusion /Chemotherapy, and Other Behavioral Health / Substance Abuse Facilities. The waiver requests were made on July 1, 2021 with additional information to support these requests filed on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022.

The Administration’s review of the MLH 2021 Access Plan has found that there was insufficient substantiation to justify granting a waiver for the travel distance standard for Inpatient Psychiatric Facilities in zip codes 21402 and 21403 and for Other Behavioral Health/Substance Abuse Facilities in zip code 20745 based on the following:

- Contradictory declarations within the waiver requests for Inpatient Psychiatric Facility in zip codes 21402 and 21403 which reported that there were no providers available to contract within 15 miles of the 120 enrollees outside the standard (Sections II and IV), followed by a description of negotiations with facilities that would close the coverage gap as of March 1, 2022 (Section IV of the same document). Supplementary information submitted by MLH on August 11, 2022 in response to the Administration’s questions regarding waivers did not demonstrate that the gaps were closed.

- Contradictory statements within the waiver request for “BH/All Other Facilities”<sup>1</sup> in zip code 20745 which reported that there were no providers available to contract within 15 miles of the two enrollees outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap (Section IV).

The Administration has found good cause to grant the travel distance waiver requests for 1 year for the following provider types: Applied Behavioral Analyst and Gynecology, OB/GYN; and for the following facility types: Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, Inpatient Psychiatric Facility in zip code 21040, and Outpatient Infusion /Chemotherapy facilities, because additional providers and facilities are not available, as evidenced by the following information which was presented by MLH:

- Efforts to locate any additional providers and provider types within the required travel distance standards in specific zip codes using both internal reporting, such as claims data and demographics, and external resources, including state-issued provider listings.
- A declaration by MLH that it is contracted with the nearest available inpatient psychiatric facility to the 16 enrollees outside of the regulatory standard of 15 miles in zip code 21040, which is located 17.2 miles from the furthest point in zip code 21040.
- A declaration by MLH that there are no acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities within the travel distance standard of 10 miles for the 11 enrollees in zip codes 21040 and 21114. MLH is contracted with the nearest available acute inpatient hospital, critical care services/intensive care units, and outpatient infusion / chemotherapy facilities for these 11 enrollees which are located:
  - less than 12 miles away from the furthest point in zip code 21040.
  - less than 12 miles away from the furthest point in zip code 21114.
- A declaration by MLH that it is contracted with applied behavioral analyst providers for the 5 members outside the regulatory standard of 30 miles in zip code 20634, with the nearest available provider located 42.9 miles away from the furthest point in zip code 20634.
- A declaration by MLH that it is contracted with Gynecology, OB/Gyn providers for the 5 members outside the regulatory standard of 5 miles in zip code 21403, with the nearest available provider located 7.5 miles away from the furthest point in zip code 21403.

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<sup>1</sup> The title of the waiver request is not accurate and should instead read: “Other Behavioral Health/Substance Abuse Facilities” (COMAR 31.10.44.04A(5)). There is no category in the Chart of Travel Distance Standards entitled “Behavioral Health/All Other Facilities.”

While the waiver requests for the travel distance standards for Inpatient Psychiatric Facilities in zip codes 21402 and 21403, and for Other Behavioral Health / Substance Abuse Facilities in zip code 20745 are denied, the Administration has determined, in its enforcement discretion and having considered the minimal number of enrollees impacted by the violation and potential resolutions that may apparently be available, a penalty will not be imposed for these deficiencies under the MLH 2021 Access Plan. In future filing years, the Administration expects each waiver request to:

- correctly list the name of the provider or facility type;
- clearly and unambiguously report on the availability of the provider or facility type in the geographic area for which the waiver is requested; and
- provide sufficient detail of the carrier's recent efforts to address the deficiency as described in COMAR 31.10.44.07C (1) – (7).

#### Appointment Waiting Time Standards

The data self-reported in the MLH 2021 Access Plan indicates that the required standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 94.66% of enrollees, representing a deficiency of .34 percentage points. In the cover letter of the July 1, 2021 filing and in the supplementary material of November 16, 2021, MLH states that the Covid-19 pandemic negatively impacted health care providers' appointment time availability. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that MLH provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if MLH intends to combine telehealth claims with provider survey results when measuring appointment waiting time in future access plan filings, MLH will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

The Administration has determined, in its exercise of enforcement discretion, not to impose a penalty in connection with its review of the MLH 2021 Access Plan, which contains only deficiencies that are marginal in nature.

This determination letter is limited to review of the MLH 2021 Access Plan and is independent of the Administration's review of any other Network Adequacy Access Plans and submissions in connection thereof which are filed by MLH.

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MLH has the right to request a hearing on this determination letter in accordance with § 2-210 of the Insurance Article. A request for a hearing must be made in writing and received by the Administration within thirty (30) days of the date of this letter. The rules for requesting a hearing are set forth in COMAR 31.02.01.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David Cooney', written over a faint circular stamp.

David Cooney  
Associate Commissioner  
Life and Health