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KATHLEEN A. BIRrane
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

DAVID COONEY
Associate Commissioner
Life and Health

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2170 Fax: 410-468-2204
Email: david.cooney@maryland.gov
410-468-2000 1-800-492-6116
TTY: 1-800-735-2258
www.insurance.maryland.gov

December 20, 2022

Rachel Clark
Market Compliance Director
Aetna Life Insurance Company
151 Farmington Avenue
Hartford, CT 06156-3124

Re: MIA v. Aetna Life Insurance Company
Case No.: MIA-2021-03-027
2019 Network Adequacy Access Plan Filing

Dear Ms. Clark:

The Maryland Insurance Administration (“Administration”) and Aetna Life Insurance Company (“ALIC”) entered into a Consent Order on March 26, 2021 (the “Consent Order”) to resolve matters related to the ALIC 2019 Network Adequacy access plan.

In the Consent Order, the Administration concluded that ALIC violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by filing an access plan that:

- failed to comply with certain required travel distance standards and appointment waiting time standards;
- failed to include in the executive summary plan form the required information regarding certified registered nurse practitioners; and
- failed to demonstrate that at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas are included in the network.

The Consent Order also specified that the 2019 ALIC access plan measured appointment waiting times for urgent care behavioral health/substance use disorder services using a 48-hour standard, instead of the regulatory standard of 72 hours.

The Administration imposed an administrative penalty on ALIC of \$75,000 for the violations, but suspended the penalty pending the Administration’s (i) review of the access plan submitted

by ALIC in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by ALIC related to its intent to adjust record keeping methodologies and to improve its compliance with the access standards; and (iii) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

The Administration has completed its review of the ALIC 2021 access plan filed on July 1, 2021, supplemented with additional information and documentation on November 24, 2021, January 21, 2022, March 1, 2022, April 13, 2022, July 29, 2022, and October 5, 2022. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44, and the Administration and ALIC entered into a Consent Order on December 20, 2022 (the “2021 Access Plan Consent Order”) to resolve matters related to the ALIC 2021 access plan.

The ALIC 2021 access plan failed to demonstrate that all of the deficiencies reported in the ALIC 2019 access plan were either resolved, or were the result of circumstances that merited the granting of a waiver by the Administration of the otherwise applicable standard, as detailed in the 2021 Access Plan Consent Order. Specifically, the data self-reported by ALIC in the 2021 access plan disclosed that compliance with the appointment waiting time standards for urgent care and for non-urgent behavioral health/substance use disorder services continued to be deficient, with the standard for non-urgent behavioral health/substance use disorder appointments being met for only 72% of enrollees in 2021, as compared to 89% of enrollees in 2019, a decline in compliance of seventeen percentage points.

For urgent care, although COMAR 31.10.44.05C includes one waiting time standard for the combined category of urgent care (including medical, behavioral health, and substance use disorder services), ALIC reported separate metrics for urgent medical care and for urgent behavioral health/substance use disorder services in 2019. The data self-reported by ALIC in the 2019 access plan disclosed that compliance with the appointment waiting time standard for urgent care was met for 100% of enrollees for medical care, but was met for only 80% of enrollees for behavioral health/substance use disorder services. The ALIC 2021 access plan reported that compliance with the appointment waiting time standard was met for 82% of enrollees for the combined urgent care category, was met for 100% of enrollees for urgent medical care, and was met for only 64% of enrollees for urgent behavioral health/substance use disorder services.

ALIC filed a waiver request for the deficiencies in appointment wait time for behavioral health / substance use appointments, but good cause does not exist to grant the waiver request as it failed to demonstrate that the providers and facilities necessary to improve waiting time results (1) were not available to contract with the carrier; (2) were not available in sufficient numbers; (3) refused to contract with the carrier; or (4) were unable to reach agreement with the carrier (COMAR 31.10.44.07B). The wait time waiver request demonstrated ALIC’s efforts to contract behavioral health providers who offered virtual-only services to increase access to care, but did not describe efforts to identify or recruit providers offering in-person or hybrid (in-person / telehealth services).

The ALIC 2021 access plan demonstrated to the satisfaction of the Administration that other deficiencies reported in the ALIC 2019 access plan were either resolved, or were the result of circumstances that merited the granting of a waiver by the Administration of the otherwise applicable standard, as detailed in the 2021 Access Plan Consent Order. The Administration has determined that the ALIC 2021 access plan substantiates representations made by ALIC related to its intent to:

- improve its compliance with the required travel distance standards,
- adjust its record keeping methodology to use the correct urgent care appointment waiting time standard of 72 hours,
- include in the executive summary plan form the required information regarding certified registered nurse practitioners, and
- comply with the requirement that at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas are included in the network.

The \$75,000 penalty, therefore, is hereby reduced to \$25,000, in accordance with the terms of the Consent Order. Within 30 days of the date of this determination letter, ALIC shall send the administrative penalty to the attention of: David Cooney, Associate Commissioner, Life and Health, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

This determination letter is limited to the ALIC 2019 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 ALIC.

Very truly yours,



David Cooney
Associate Commissioner
Life and Health