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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

March 15, 2023

Ms. Gabriella Gold
Director, Network Innovation and Strategy
CareFirst BlueCross BlueShield
10455 Mill Run Circle
Owings Mills, MD 21117

Re: MIA v. CareFirst of Maryland, Inc.
Case No.: MIA-2021-05-015
2019 Network Adequacy Access Plan Filing

Dear Ms. Gold:

The Maryland Insurance Administration (“Administration”) and CareFirst of Maryland, Inc. (“CFMI”) entered into a Consent Order on May 12, 2021 (the “Consent Order”) to resolve matters related to the CFMI 2019 Network Adequacy access plan.

In the Consent Order, the Administration concluded that CFMI 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; and
- failed to measure and report a required provider-to-enrollee ratio in both the access plan and the executive summary.

The Administration imposed an administrative penalty on CFMI of \$100,000 for the violations, but suspended the penalty pending the Administration’s (i) review of the access plan submitted by CFMI in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by CFMI 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based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.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 CFMI 2021 access plan filed on July 1, 2021, supplemented with additional information and documentation on March 31, 2022, May 16, 2022, July 7, 2022, and September 20, 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 CFMI entered into a Consent Order on March 15, 2023 (the “2021 Access Plan Consent Order”) to resolve matters related to the CFMI 2021 access plan.

The CFMI 2021 access plan failed to demonstrate that all of the deficiencies reported in the CFMI 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 CFMI in the 2021 access plan disclosed several deficiencies in the travel distance standards, including certain metrics that declined between 2019 and 2021.

In 2019, Gynecology Only providers met the required standard for 99.7% of suburban enrollees and 100% of rural enrollees, while in 2021 the standards were met for only 99.6% of suburban enrollees and 99.2% of rural enrollees. Compliance with the standards also regressed for Gynecology, OB/GYN providers; from the standard being met for -99.8% of urban enrollees and 99.4% of suburban enrollees in 2019 to 99.7% of urban enrollees and 99.3% of suburban enrollees in 2021. All other licensed or certified facilities under contract with a carrier not listed met the required standard for 100% of rural enrollees in 2019, while in 2021 the standard was met for only 99.6% of rural enrollees. Allergy and Immunology providers met the required standard for 99.8% suburban enrollees in 2019, with the standard being met for only 99.6% of suburban enrollees in 2021.

The above noted regression in compliance with the travel distance standards impacted a considerable number of enrollees, as self-reported by CFMI in 2021:

- For gynecology only providers, 581 suburban enrollees and 1,800 rural enrollees were outside the required distance standards;
- For gynecology, OB/GYN providers, 409 urban enrollees and 1,119 suburban enrollees were outside the required distance standards;
- For all other licensed or certified facilities under contract with a carrier not listed, 849 rural enrollees were outside the required distance standards; and
- For allergy and immunology providers, 644 suburban enrollees were outside the required distance standards.

CFMI filed a waiver request for the deficiencies in travel distance standards, but good cause does not exist to grant the waiver request as it failed to demonstrate that the providers and facilities necessary for an adequate network in the impacted geographic regions (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 travel distance waiver request failed to demonstrate:

- performance of an adequate search for available providers for the specific provider types and locations for which CFMI failed the applicable travel distance standard; and
- efforts since 2019 to recruit additional providers in deficient areas, or to follow up with providers who previously declined to be in-network.

The CFMI 2021 access plan did not report any deficiencies in meeting the provider-to-enrollee ratio standards, but the access plan failed to report the provider-to-enrollee ratio for behavioral health separate and distinct from substance use disorders, instead reporting the same exact ratio for both categories; this was identified as a deficiency in the Consent Order. CFMI attested that every licensed behavioral health provider in its network can appropriately treat substance use disorders within the scope of their licensure. CFMI also contended that there is no reliable method for CFMI to identify which providers in its network specialize in substance use disorder services based on current licensing structure. In response to a specific request from the Administration, CFMI queried the CMS NPPES National Provider Identifier (NPI) Registry, and reported the number of providers in the CFMI network with a primary or secondary taxonomy related to substance use disorder on May 16, 2022. Although CFMI insists that the self-reported taxonomies are not reliable, and CFMI does not use these taxonomies in its internal categorization of providers for this reason, the Administration determined it was appropriate to consider the supplemental information reported by CFMI as additional substantiation that the 2021 access plan complies with the provider-to-enrollee ratio standard for substance use disorders.

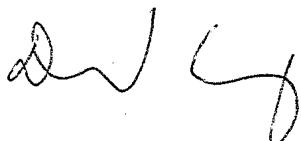
The CFMI 2021 access plan demonstrated to the satisfaction of the Administration that CFMI has complied with the terms of the Consent Order in addressing the other deficiencies reported in the CFMI 2019 access plan. The Administration has determined that the CFMI 2021 access plan substantiates representations made by CFMI related to its intent to:

- improve its compliance with the required appointment waiting time standards;
- adjust its record keeping methodologies to report an accurate provider-to-enrollee ratio for substance use disorders; and
- except as described above, improve its compliance with the required travel distance standards.

The \$100,000 penalty, therefore, is hereby reduced to \$10,000, in accordance with the terms of the Consent Order. Within 30 days of the date of this determination letter, CFMI 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 CFMI 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 CFMI.

Very truly yours,



Ms. Gabriella Gold
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David Cooney
Associate Commissioner
Life and Health