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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 12, 2022

Ms. Malika Evans
Senior Director of Member Service and Medical Records
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
2101 East Jefferson Street
Rockville, MD 20852

Re: Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
2021 Network Adequacy Access Plan Filing

Dear Ms. Evans:

The Maryland Insurance Administration (“Administration”) has completed its review of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. 2021 Network Adequacy Access Plan (the “KFHP 2021 Access Plan”) filed on July 1, 2021, supplemented with additional information and documentation on March 10, 2022 and March 14, 2022. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

The Administration’s review of the KFHP 2021 Access Plan has found that the access standards in COMAR 31.10.44.04 were not met for the following, based on the data self-reported by KFHP. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. In urban areas, gynecology only providers must be within 15 miles of enrollees; in suburban areas, gynecology only providers must be within 30 miles of enrollees. Gynecology only providers met the required standard for 98.2% of urban enrollees, leaving 1,211 members outside the travel distance standard in seven zip codes. The standard was met for 98.1% of suburban enrollees, leaving 877 members outside the travel distance standard in four zip codes.

2. In suburban areas, ophthalmology providers must be within 20 miles of enrollees. Ophthalmology providers met the required standard for 99.9% of suburban enrollees, leaving 17 members outside the travel distance standard in one zip code.
3. In urban areas, rheumatology providers must be within 15 miles of enrollees. Rheumatology providers met the required standard for 99.1% of urban enrollees, leaving 1238 members outside the travel distance standard in three zip codes.
4. In urban areas, neurological surgery providers must be within 20 miles of enrollees. Neurological surgery providers met the required standard for 99.9% of urban enrollees, leaving 168 members outside the travel distance standard in one zip code.
5. In urban areas, acute inpatient hospitals must be within 15 miles of enrollees. Acute inpatient facilities met the required standard for 99.8% of urban enrollees, leaving 266 members outside the travel distance standard in one zip code.
6. In urban areas, critical care services-intensive care unit facilities must be within 15 miles of enrollees. Critical care services-intensive care unit facilities met the required standard for 99.8% of urban enrollees, leaving 266 members outside the travel distance standard in one zip code.
7. In urban areas, inpatient psychiatric facilities must be within 15 miles of enrollees. Inpatient psychiatric facilities met the required standard for 99.8% of urban enrollees, leaving 266 members outside the travel distance standard in three zip codes.
8. In urban areas, outpatient infusion/chemotherapy facilities must be within 15 miles of enrollees. Outpatient infusion/chemotherapy facilities met the required standard for 99.8% of urban enrollees, leaving 266 members outside the travel distance standard in one zip code.
9. In urban areas, surgical services (outpatient or ambulatory surgical center) facilities must be within 10 miles of enrollees. Surgical services (outpatient or ambulatory surgical center) facilities met the required standard for 99.9% of urban enrollees, leaving 14 members outside the travel distance in one zip code.

With respect to access to Gynecology Only providers, KFHP contends that All Mid Atlantic Permanente Medical Group general obstetrics and gynecology providers serve both pregnant and non-pregnant members and have obstetrical and gynecologic members on their panels. By including these providers, all members had access to gynecologic care in the impacted zip codes.

In its March 10, 2022 “*Material Change to the 2021 Network Adequacy Access Plan*” submission, KFHP stated that five of the provider/facility deficiencies in travel distance standards cited above were resolved by newly contracted providers and facilities:

- The reported network adequacy for rheumatology was closed on 7/1/2021 with 100% of enrollees within standard as of March 10, 2022.
- The reported network adequacy shortage for acute inpatient hospital providers was closed on 1/1/2022 with 100% of enrollees within standard as of March 10, 2022.
- The reported network adequacy shortage for critical care / intensive care unit providers was closed on 1/1/2022 with 100% of enrollees within standard as of March 10, 2022.
- The reported network adequacy shortage for inpatient psychiatric facilities was closed on 1/1/2022 with 100% of enrollees within standard as of March 10, 2022.
- The reported network adequacy shortage for outpatient infusion / chemotherapy providers was closed on 1/1/2022 with 100% of enrollees within standard as of March 10, 2022.

Waiver Requests

The Administration has considered KFHP's requests for waivers for the travel distance standard for gynecology only, neurological surgery, ophthalmology, rheumatology, acute inpatient hospitals, critical care services, inpatient psychiatric facilities, outpatient infusion / chemotherapy, and ambulatory surgical services. The waiver requests were made on July 1, 2021 with additional information to support this request filed on March 10, 2022 and March 14, 2022.

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."

Please be advised that the Administration has found good cause to grant the requests for 1 year because additional providers are not available in sufficient numbers or have not yet been able to reach agreement with the carrier, as evidenced by the following information which was presented by KFHP:

- Efforts to locate any additional providers and provider types within the required distance standards in specific zip codes to meet the travel standards;
- Continued monitoring of deficient areas for available providers to recruit as well as contracting with additional providers and facilities for rheumatology, acute inpatient hospitals, critical care / intensive care units, inpatient psychiatric facilities, and outpatient infusion / chemotherapy services to cover members in areas previously outside of travel distance standards
- Confirmation of coverage by general obstetrics and gynecology providers within travel distance standards where there are deficiencies in gynecology only providers;

- Ongoing negotiation and continued good faith efforts to contract with providers previously identified for ophthalmology who, if contracted, would resolve the deficiencies for enrollees outside the travel distance standard.
- Ongoing negotiation and continued good faith efforts to contract with the only available neurological surgery provider who, if contracted, would resolve the deficiencies for enrollees outside of travel distance standard.
- With regard to the lack of surgical services (outpatient or ambulatory surgical center) facilities within the regulatory standard of 10 miles for members with zip code 21052, KFHP is contracted with the closest facility, which is 11.7 miles away. Additionally, the Administration determined that zip code 21052 is associated with Fort Howard Post Office boxes and this zip code was designated as urban under the original population density classifications due to the large number of Post Office Boxes within a small geographic area. Based on updated information provided to the Administration by the Maryland State Department of Planning and the U.S. Census Bureau, the population density classifications for certain zip codes were changed for the 2022 access plan filings, and zip code 21052 was reclassified as suburban to match the surrounding zip codes. While the 21052 zip code was not officially reclassified as suburban for the 2021 access plan filing, the Administration determined that it was appropriate to apply the suburban standard of 15 miles, rather than the urban standard of 10 miles, for this the zip code in 2021.

The Administration notes that, in accordance with COMAR 31.10.44.04B(1), *“The distances listed in §B(5) of this regulation shall be measured from the enrollee’s place of residence or place of employment from which the enrollee gains eligibility for participation in the group model HMO’s health benefit plan.”* Since Post Office boxes are unlikely to identify the physical location of an enrollee’s residence or place of employment, the Administration expects KFHP to demonstrate an effort to find a physical rather than post office address for enrollees in future access plan filings.

In granting the waiver requests for the only access plan standards in COMAR 31.10.44 where deficiencies were reported in the KFHP 2021 Access Plan, the Administration has determined that the KFHP 2021 Access Plan complies with § 15-112 of the Insurance Article and COMAR 31.10.44.03C.

This determination letter is limited to review of the KFHP 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 KFHP.

KFHP 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.

Ms. Malika Evans
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Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Cooney', with a stylized flourish at the end.

David Cooney
Associate Commissioner
Life and Health