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December 9, 2021

Mr. Jeffrey G. Young, FLMI, AIRC, HIA
Kaiser Permanente Insurance Company
Senior Regulatory Manager
KPIC Regulatory Strategy and Contracts
3100 Thornton Avenue, 4th Floor
Burbank, CA 91504

Re: Kaiser Permanente Insurance Company (“KPIC”)
2020 Network Adequacy Access Plan Filing

Dear Mr. Young:

The Maryland Insurance Administration (“Administration”) has completed its review of the KPIC 2020 Network Adequacy Access Plan (the “KPIC 2020 Access Plan”) filed on July 1, 2020, supplemented with additional information and documentation on March 1, 2021, April 12, 2021, April 16, 2021, June 29, 2021, August 25, 2021 and October 26, 2021. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44. KPIC has a network access agreement with MultiPlan, Inc. (“MultiPlan”) to allow its members to access MultiPlan’s network of health care providers and facilities. KPIC contracts with MedImpact for pharmacy services.

KPIC 2020 Access Plan

The Administration’s review of the KPIC 2020 Access Plan has found that the access standards in COMAR 31.10.44.04 and .05 were not met for the following, based on the data self-reported by KPIC. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. Acute inpatient hospital facilities met the required standard for 99.7% of urban enrollees, leaving 6 members outside the travel distance standard of ten miles in two zip codes.

2. Allergy and immunology providers met the required standard for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of thirty miles in one zip code.
3. Cardiovascular disease providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
4. Chiropractic providers met the required standard for 99.9% for urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code. The standard was met for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of thirty miles in one zip code.
5. Critical care services - intensive care unit facilities met the required standard for 99.7% of urban enrollees, leaving 6 members outside the travel distance standard of ten miles in two zip codes.
6. Dermatology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
7. Diagnostic radiology facilities met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
8. Endocrinology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.
9. ENT/Otolaryngology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code. The standard was met for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of thirty miles in one zip code.
10. Gastroenterology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
11. General Surgery providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
12. Gynecology, OB/GYN providers met the required standard for 99.1% of urban enrollees, leaving 19 members outside the travel distance standard of five miles in four zip codes. The standard was met for 99.9% of suburban enrollees, leaving 2 members outside the travel distance standard of ten miles in two zip codes.
13. Inpatient psychiatric facilities met the required standard for 90.1% of urban enrollees, leaving 215 members outside the travel distance standard of fifteen miles in twelve zip codes.

14. Licensed clinical social worker providers met the required standard for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of twenty-five miles in one zip code.
15. Nephrology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.
16. Neurology providers met the required standard for 99.2% of urban enrollees, leaving 17 members outside the travel distance standard of ten miles in two zip codes.
17. Oncology - medical and surgical providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
18. Oncology - radiation/radiation oncology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.
19. Ophthalmology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
20. Other behavioral health/substance abuse facilities met the required standard for 80.3% of urban enrollees, leaving 429 members outside the travel distance standard of ten miles in twenty-five zip codes. The standard was met for 98.5% of suburban enrollees, leaving 26 members outside the travel distance standard of twenty-five miles in four zip codes. The standard was met for 99.6% of rural enrollees, leaving 3 members outside the travel distance standard of sixty miles in one zip code.
21. Outpatient dialysis facilities met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
22. Outpatient infusion/chemotherapy facilities met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
23. Pediatrics - routine/primary care providers met the required standard for 99% of urban enrollees, leaving 22 members outside the travel distance standard of five miles in three zip codes. The standard was met for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
24. Physiatry, rehabilitative medicine met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.
25. Plastic surgery providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.

26. Podiatry providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
27. Psychiatry providers met the required standard for 99.2% of urban enrollees, leaving 18 members outside the travel distance of ten miles in two zip codes. The standard was met for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of twenty-five miles in one zip code.
28. Pulmonology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
29. Rheumatology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of fifteen miles in one zip code.
30. Skilled nursing facilities met the required standard for 98.3% of urban enrollees, leaving 26 members outside the travel distance of ten miles in three zip codes. The standard was met for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard of thirty miles in one zip code.
31. Surgical services (outpatient or ambulatory surgical center) facility providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code.
32. Urology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard of ten miles in one zip code. The standard was met for 99.6% of rural enrollees, leaving 3 members outside the travel distance standard of sixty miles in one zip code.

Appointment Waiting Time Standards

33. The 72-hour appointment waiting time standard for urgent care (including medical, behavioral health, and substance use disorder services) was met for 78.5% of enrollees. This represents a deficiency of 16.5 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
34. The 15 calendar day appointment waiting time standard for routine primary care was met for 78.1% of enrollees. This represents a deficiency of 16.9 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
35. The 30 calendar day appointment waiting time standard for preventive visit/well visit was met for 85.6% of enrollees. This represents a deficiency of 9.4 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).

36. The 30 calendar day appointment waiting time standard for non-urgent specialty care was met for 89.7% of enrollees. This represents a deficiency of 5.3 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
37. The 10 calendar day appointment waiting time standard for non-urgent behavioral health/substance use disorder services was met for 80.9% of enrollees. This represents a deficiency of 14.1 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).
38. The executive summary does not include the total percentage of telehealth appointments which were counted as part of the appointment waiting times standard results. KPIC states that MultiPlan is unable to report the total percentage of telehealth appointments. KPIC uses information provided by Multiplan because KPIC contracts with Multiplan for provider network services in Maryland. MultiPlan provides information about the appointment wait times reported by its network providers and what percentage of provider locations report wait times that comply with the timeframes required under the regulation. Providers do not indicate what percentage of their appointments are provided via telehealth.

Waiver Request

The Administration has considered KPIC's requests for waivers for the provider and facility types where the travel distance standards were not met and for the unmet appointment waiting time standards. The waiver requests were made on August 17, 2020, with additional information to support the requests filed on November 24, 2020. The waiver requests were revised and resubmitted to the Administration on June 29, 2021.

Travel Distance Standards

Please be advised that the Administration has found good cause to grant the waivers for the non-compliant travel distance standards for 1 year based on the following:

- Multiplan through its provider recruitment plan, worked on addressing deficiencies noted in the 2019 network adequacy filing that measured access based upon the KPIC membership at the time. Multiplan queried the NPPES Registry locating providers that do not participate in the Multiplan network in counties where additional providers were needed to comply with Maryland standards, and evaluated them to determine their eligibility for network participation.
- Multiplan identified three hundred forty providers and facilities in sixteen counties to target. While contract negotiation and finalization of the credentialing process averages one hundred eighty days, Multiplan's targeted recruitment efforts netted four providers. Two hundred thirty-nine providers are in initial discussions or negotiations. Eight

declined participation in the network. One was ineligible, and recruitment efforts for eighty-eight providers were suspended due to reasons such as, the provider target is a duplicate of another target, the provider has retired or moved, or some other situation that resulted in the need to discontinue targeting the provider. The detailed results of Multiplan's recruitment efforts and explanations on the status were provided as a part of the waiver request.

- KPIC points out that of the 32 specialties that failed to meet the travel distance standard, 21 of the specialties were measured at 99.5% or above. More than 65% of the failed specialties would have passed were the percentages measured based on the standard mathematical process of rounding to a whole number.
- As explained in more detail below, KPIC has voluntarily instituted a remediation plan to make whole those enrollees who were impacted by the non-compliant travel distance standards and received care from an out-of-network provider.

The waiver for the non-compliant travel distance standards is granted for one year. It is expected that MultiPlan on behalf of KPIC will recruit additional providers to join the network to bring the standard up to 100% for 2021. If KPIC is unable to meet the standards in 2021, before granting a waiver for an additional year, the Administration expects KPIC to provide more detail as to whether and how KPIC is analyzing the reasons providers rejected network participation in order to make future recruitments more successful.

Appointment Waiting Time Standards

Please be advised that the Administration has not found good cause to grant the waivers for the non-compliant appointment standards based on the following:

- KPIC has advised that there have been no changes in the collection of appointment wait time data throughout 2019 or 2020. When asked for specific examples and descriptions of the efforts made between 2019 and 2020, KPIC reiterated their description of how appointment waiting time data is collected which includes: provider submission, telephone outreach, large group roster outreach, and third party verification. The Administration finds that KPIC failed to support how the metric significantly improved and failed to demonstrate that focused actions were taken since the 2019 filing to improve performance on the appointment waiting time standards specifically.
- Appointment waiting time data appears to be mainly obtained through provider reporting. KPIC acknowledge that approximately 16,000 providers have not reported data. Therefore, the percentages reported cannot be considered to be entirely accurate.
- KPIC has not provided a detailed description of efforts they will take to improve the reporting of appointment waiting times. While increasing the number of providers available within the network may help to improve waiting times, KPIC has not provided sufficient evidence to support the waiver requests and demonstrate that KPIC engaged in

adequate provider recruitment efforts to address the extent of the deficiencies in the waiting time standards.

The waiver requests for the appointment waiting time standards for all categories are, therefore, denied.

KPIC 2019 Access Plan Consent Order

On April 15, 2021, the Administration and KPIC entered into a Consent Order to resolve matters related to the KPIC 2019 Access Plan. The Administration had concluded in the Consent Order that that KPIC violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by submitting an access plan that failed to comply with certain required travel distance standards and certain appointment waiting time standards, by failing to measure and report the percentage of enrollees for which KPIC met the appointment waiting time standard for preventive visit/well visit services in both the access plan and the executive summary, and by failing 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 KPIC network.. The Administration imposed an administrative penalty on KPIC of \$100,000 for the violations, but suspended the penalty pending the Administration's (i) review of the access plan submitted by KPIC in 2021; (ii) determination as to whether the 2021 access plan and additional mitigation efforts substantiate representations made by KPIC related to its intent to adjust record keeping methodologies and to improve its compliance with the travel distance and appointment waiting time standards; and (iii) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

The KPIC 2020 Access Plan shows some improvement in compliance with the travel distance standards, with urban inpatient psychiatric facilities and urban other behavioral health/substance use disorder facilities showing the greatest improvement. The percentage met for urban inpatient psychiatric facilities increased from 83.2% to 90.1% and the percentage met for urban other behavioral health/substance use disorder facilities rose from 75.1% to 80.3%. As detailed above, the KPIC 2020 Access Plan illustrates that in all other categories where the travel distance standards were not met at 100%, all were within 99%, with urban skilled nursing facilities (98.3%) and suburban other behavioral health/substance use disorder facilities (98.5%) being the exceptions. In addition, the data reported in the KPIC 2020 Access Plan demonstrated that KPIC met 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 MultiPlan network.

In the KPIC 2020 Access Plan, improvement was shown for all 2019 non-compliant categories of appointment waiting times standards. The reported percentages met increased for urgent care (including medical, behavioral health, and substance use disorder services) from 42% to 78.5%, for routine primary care from 33% to 78.1%, for non-urgent specialty care from 36% to 89.7%, and for non-urgent behavioral health/substance use disorder services from 28% to 80.9%. KPIC reported the percentage of enrollees for which KPIC met the appointment waiting time standard

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for preventive visit/well visit services in both the access plan and the executive summary as 85.6%. Although improvement was shown, KPIC failed to meet the 95% standard for all categories.

KPIC has informed the Administration that it has voluntarily instituted a remediation plan for the non-compliant travel distance standards. In implementing this plan, KPIC will assume that members who received care from an out-of-network provider would have opted for an in-network provider if KPIC's network had met the travel distance standard. To make such members whole, the member's out-of-pocket costs for the out-of-network care will not be allowed to exceed the cost for the same service if it had been received on an in-network basis. This process will determine the member's appropriate in-network liability and any amounts that exceed that liability will be paid at 100% of billed charges for covered services. As of July 1, 2021, KPIC reports that the claims associated with KPIC's 2018 and 2019 travel distance standards deficiencies have been remediated with a total member cost share adjustment of \$2,679.30. As of July 20, 2021, KPIC states that the claims associated with KPIC's 2020 travel distance standards deficiencies have been remediated with a total member cost share adjustment of \$3,865.90.

The KPIC 2020 Access Plan shows some improvement in compliance with the access standards, but there continue to be areas where the access standards are not met, as noted above. The KPIC 2021 Access Plan, submitted on June 30, 2021, is currently under review by the Administration. Upon completion of the review, a determination will be made on whether the administrative penalty should be paid, reduced, or rescinded.

Very truly yours,



David Cooney
Associate Commissioner
Life and Health