



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Date: 2/25/2021

Testimony in SUPPORT of HB 919 -Maryland Insurance Commissioner – Specialty Mental Health Services and Payment of Claims – Enforcement

Our mental health service providers operate in a critical role in providing key mental and social support to people in need. Our providers work long hours to ensure that their clients get the best possible support and service they need. For many mental health providers money is not the driving desire of their practice, but this does not mean they can go months without reimbursement. Now is not the time to put more stressors on an already overburdened mental health support system.

As this committee is aware, Optum took over as the administrative services organization (ASO) for the public behavioral health system on Jan. 1, 2020. The main functions of the ASO are to authorize services and pay claims. It became quickly evident that Optum's system was not functional in these two critical areas – to the point that MDH had to authorize advances, or estimated payments, to providers.

Almost 8 months later – in August of 2020 – the estimated payments ended and Optum's system once again began to pay claims. Unfortunately, many of the bugs that plagued Optum's system earlier continued after the go-live period. You heard about many of these issues in a briefing held before this committee on Nov. 19 of last year.

These glitches in Optum's system have resulted in late payments and growing provider accounts receivable well over 30 days, a violation of existing statute. This is true of large community providers and hospital systems as well as smaller niche providers.

In addition, despite Optum's repeated promises and deadlines, providers are still not receiving reports within 30 days that let them know if claims submitted have been accepted or rejected – and if rejected, why. This lack of reporting hampers providers' ability to perform revenue cycle management, and is also a violation of current statute, which I will now address.

Health-General § 15-103 (b)(21)(vi) states that § 15-1005 of the Insurance Article applies to the delivery system for specialty mental health services administered by an administrative services organization (ASO).

§ 15-1005 of the Insurance article states that entities subject to this subsection must do one of three things within 30 days:

1. Mail or otherwise transmit payment for the claim;
2. Send a notice of receipt and status of the claim specifying that the ASO refuses to reimburse all or part of the claim, the reason for the refusal, and what additional information is necessary to determine if all or part of the claim will be reimbursed; or
3. State that the claim is not clean and the specific additional information necessary for the claim to be considered a clean claim.

The subsection includes the provision of interest penalties if the ASO violates these requirements and establishes fines and penalties for arbitrary and capricious violations as well as penalties for violators whose frequency rises to the level of a business practice.

According to a letter from the Maryland Insurance Administration (MIA), the MIA does not have statutory authority to enforce compliance by the ASO with these prompt pay provisions; that authority currently abides with the Maryland Department of Health (MDH). SB 638 / HB 919 gives MIA clear statutory authority to oversee Optum's compliance with § 15-1005. We believe the MIA is best positioned to perform this oversight function.

The providers impacted by Optum's system failures are safety net providers in our communities. They continue to serve those in need in good faith and have also worked with Optum and MDH to try to fix the system's shortcomings. Many are historic providers who have operated under three prior ASOs – and have experienced nothing to this magnitude.

In fact, this issue of prompt payment and adequate claims reports has never before been raised in the almost 25-year history of ASOs because prior ASOs tended to pay within 14 days of claims submission and routinely provided quick feedback on the acceptance or rejection of claims.

Our safety net providers simply cannot continue to be underpaid and to divert scarce human resources to cleaning up behind Optum.

Passage of SB 638 / HB 919 is an action this committee and the General Assembly can take to hold Optum accountable to our providers and the individuals they serve.

I urge a favorable report on SB 638/ HB 919.