



March 19, 2021

Arizona Department of Insurance and Financial Institutions (DIFI)
100 North 15th Avenue, Suite 261
Phoenix, AZ 85007-2630

Attention: Mary Boatright, JD, CHC, Manager, Life & Health Oversight
public_comments@difi.az.gov

Re: Comments to Proposed MHPAEA Rulemaking

Dear Department of Insurance and Financial Institutions,

On behalf of Mental Health America of Arizona (MHA AZ), whose mission is to promote the mental health and well-being of all Arizonans through education, advocacy and the shaping of public policy, we want to thank you for considering our comments in response to the proposed administrative rulemaking package developed by the Department of Insurance and Financial Institutions (DIFI) pursuant to A.R.S. Title 20, Chapter 28 to ensure compliance with the federal Mental Health Parity and Addiction Equity Act (MHPAEA).

MHA AZ generally supports the overall approach to the proposed rules to effectuate the reporting requirements under A.R.S. § 20-3502 and appreciates DIFI's efforts to create robust and detailed reporting requirements and supporting forms. MHA AZ shares concerns with the broader Arizona Coalition for Insurance Parity regarding the adequacy and appropriateness of the 3-to-1 ratios found throughout the draft rule, particularly R20-6-1506((F)(2)(3)(4)) and (I)(2). Additionally, we share the same concern with the 2-to-1 ratio in R20-6-1506(H)(2). Pursuant to R20-6-1506(B), DIFI views the compliance indicators subject to these ratios as a means to evaluate compliance comprehensively but that "any report submitted pursuant to this Section that triggers submitting additional analysis and data to the Division does not establish a per se MHPAEA violation." As such, for these particular compliance indicators, there is no subsequent penalty or corrective action required. The rule, as currently drafted, simply triggers a more detailed analysis of disparities with a plan's medical management standards, network tier design, and provider admission standards. MHA AZ views any ratio above 1-to-1 as not in alignment with the true spirit of parity and therefore should be further evaluated. If true parity is ever to be achieved, regulators and insurers need to fully analyze and identify the deficiencies in health plans that lead to disparities. MHA AZ does not believe that the additional analysis and data can be construed as overly burdensome. Without it, we fear the draft rule would

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serve only to further the status quo rather than ultimate parity between mental and physical healthcare.

MHA AZ appreciates DIFI's effort to drive corrective action under the compliance indicators in R20-6-1506(I)(2)(3) and (4). However, we remain uncertain about whether the 3-to-1 ratio in (I)(2) and the "less than half of the percentage" metric in (I)(3) are the appropriate barometer. We aren't necessarily suggesting that the ratio and percentage be equal given that corrective action is required but perhaps there ought to be an additional reporting requirement for anything above 1-to-1 in addition to corrective action for anything above 2-to-1 and something similar for percentage in (I)(3).

MHA AZ resoundingly supports the metrics in R20-6-1506(I)(4) regarding no in-network claims for outpatient services and the metrics in R20-6-1506(J)(2) regarding credentialing timeframes. R20-6-1506(I)(4) requires corrective action and treats medical/surgical no more favorably than mental health. While there is no corrective action in R20-6-1506(J)(2), the metric treats medical/surgical at parity with mental health.

Thank you again for providing this opportunity to offer public comment regarding the draft rules under consideration. We are thrilled to see the momentum that made Jake's Law a reality continue through the hard work of DIFI and DHS to successfully implement Jake's Law.

Respectfully,

Matthew Moody
President, Mental Health America of Arizona

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