MARYLAND
INSURANCE ADMINISTRATION

MARYLAND'S OPIOID CRISIS AND HOW THE MARYLAND INSURANCE ADMINISTRATION CAN HELP

Background

- In 2015, Governor Larry Hogan appointed Lieutenant Governor Boyd Rutherford to lead the Heroin and Opioid Emergency Task Force. The Task Force is made up of State and local officials, as well as experts in the treatment of addiction, law enforcement, education and prevention.
- In December 2015, the Task Force issued its Final Report with 33 recommendations.

Background

- Governor Hogan declared a State of Emergency in response to the heroin, opioid and fentanyl crisis in 2017, which allowed the State and local emergency management officials and agencies to provide a coordinated response to this epidemic.
- The Governor authorized a supplemental budget of $50 million over five years to support the prevention, recovery and enforcement efforts.

Background

- An Opioid Command Center has been established to coordinate this effort.
- The State agencies involved include:
  - Department of Health and Mental Hygiene (Chair);
  - Maryland State Police;
  - Department of Public Safety and Correctional Services;
  - Department of Juvenile Services;
  - Maryland Institute for Emergency Medical Services Systems;
  - State Department of Education;
  - Governor's Office of Crime Control and Prevention;
  - Maryland Emergency Management Agency;
  - Department of Human Resources;
  - Maryland Insurance Administration; and
  - Office of the Attorney General.

Background

- A website has been established as a “one-stop shop” for all information.

BeforeItsTooLateMD.org is the one-stop shop for individuals, families, educators, and health care professionals to get the educational resources they need to prevent this epidemic from spreading.

Facebook:
facebook.com/BeforeItsTooLateMD

Twitter: @BeforeIts2Late

What is the MIA's Role in the Opioid Crisis?

The Maryland Insurance Administration (MIA) is the state agency that regulates insurance in Maryland. The MIA:

- licenses insurance companies and producers;
- examines the business practices of licensees to ensure compliance;
- monitors solvency of insurance companies;
- reviews/approves insurance policies and rates; and
- investigates consumer and provider complaints and allegations of fraud.

What is the MIA's Role in the Opioid Crisis?

The MIA can review complaints involving health benefit plans issued in Maryland, including:

- claim denials based on medical necessity;
- denials of all or part of a claim for other reasons; or
- other possible violations of Maryland insurance law.

What is the MIA's Role in the Opioid Crisis?

The MIA cannot handle complaints about:

- health benefit plans that were issued in another state;
- federal programs, including Medicare, Medicaid, or the Federal Employees Health Benefits Program; or
- employee health benefit plans self-funded by an employer, even if an insurer is used to administer claims.

What is the MIA's Role in the Opioid Crisis?

Outline of General Claim Denial and Complaint Process

- Preauthorization may be requested unless it is for a prescription drug:
  - (1) to treat an opioid use disorder; and
  - (2) which contains methadone, buprenorphine, or naltrexone.
- A claim is filed;
- A denial is issued;
- An appeal is filed with the carrier, unless it is related to an "urgent medical condition". If it is related to an urgent medical condition, the complaint gets filed with the MIA directly;
- A denial of the appeal is issued;
- A complaint may be filed with the MIA.

What is the MIA's Role in the Opioid Crisis?

What should you do when a request for pre-authorization is denied?

- if the service has not been provided, AND
- it is for an "urgent medical condition"
  - An urgent medical condition is one where the absence of medical attention within 72 hours could result in loss of life, seriously jeopardizing the member's life or health, serious impairment to a bodily function, serious dysfunction of a bodily organ, the member remaining seriously mentally ill with symptoms that cause the member to be a danger to self or others, or would subject the member to severe pain that cannot be managed without the care or treatment that is the subject of the claim or preauthorization request

  THEN
- call the MIA. The MIA can review an urgent medical necessity denial within 24 hours and you do not need to exhaust the appeals process.

What is the MIA's Role in the Opioid Crisis?

What should you do when a request for preauthorization is denied?

- If the service has already been provided, or
- If the service has not been provided, but it is not an emergency, then:
- Follow the health benefit plan's instructions to file an appeal. The instructions are normally on the notice of denial.

What is the MIA's Role in the Opioid Crisis?

What should you do if a claim is denied?

If the service has already been provided, or

- File a written appeal with the health benefit plan. The instructions are normally on the notice of denial.
- Make sure you use the address or fax number for appeals.
- Have the patient's authorization to file an appeal on their behalf.

What is the MIA's Role in the Opioid Crisis?

What should you avoid doing if a claim is denied?

- Don't allow multiple denied claims to pile up.
- Don't call your provider representative to file an appeal. They are not able to assist you with the appeals process.
- Don't wait until the time to file an appeal has expired.
- Don't bill an HMO member for services.

What is the MIA's Role in the Opioid Crisis?

How to File a Complaint with the MIA

- Have copies of the notice of the claim denial and the notice of appeal denial.
- Include the patient's authorization to release medical records. Do not sign your name to the authorization.
- Use our complaint form or write a letter explaining the problem.
- File within 4 months of the appeal denial.

What is the MIA's Role in the Opioid Crisis?

Medical Necessity Complaints

Medical necessity determinations include:

- a determination that a service is not medically necessary, efficient, or appropriate;
- a determination that a service is custodial;
- a determination that a service is cosmetic; or
- a determination that a service is investigational/experimental/unproven.

What is the MIA's Role in the Opioid Crisis?

Review of Medical Necessity Denials – Emergency Cases

- The MIA can review a medical necessity denial in an emergency case within 24 hours.
- You do not need to exhaust the appeals process to file a complaint in an emergency.
- The MIA is always available.

What is the MIA's Role in the Opioid Crisis?

Review of Medical Necessity Denials

- The MIA will send medical records and the other complaint documents to the health benefit plan.
  - The Health Benefit Plan has 5 working days to respond to the complaint.
  - Sometimes the health benefit plan will reverse its decision after receiving the documents.
- If the MIA does not have jurisdiction over the health benefit plan, the MIA will try to refer the complaint to the correct agency.
- The MIA will send the medical records and the health benefit plan's criteria to an independent review organization (IRO).
- The IRO will use a physician with the appropriate specialty to review the denial.
- If the IRO determines the service is medically necessary, the denial is overturned.

What is the MIA's Role in the Opioid Crisis?

Review of Medical Necessity Denials

- The IRO can also review the criteria used by the health benefit plan.
- The MIA can require that the criteria be changed if the criteria is not: objective, clinically valid, compatible with established principles of health care, or flexible enough to allow deviations from the norms when justified on a case by case basis.
- If the IRO finds that the services were medically necessary, typically the health benefit plan will just pay the claim. For people covered under the State employee plan, the IRO decision is binding.
- If the IRO finds that the services were not medically necessary, the MIA will usually issue a determination finding no violation.
- The MIA offers the right to a hearing when there is a finding of "no violation".

What is the MIA's Role in the Opioid Crisis?

Special Notes for Mental Health and Substance Use Disorder

- Health benefit plans subject to Maryland law are required to accept the Uniform Treatment Plan.
- In an emergency, a health benefit plan subject to Maryland law must make a preauthorization decision for an inpatient admission or admission for residential crisis services within 2 hours of receipt of all information.

What is the MIA's Role in the Opioid Crisis?

Review Process for Other Complaints

Most complaints do not involve medical necessity. For those complaints:

- The MIA assigns an investigator to the file.
- The investigator sends an acknowledgment letter to you, and a copy of the complaint to the health benefit plan.
- The health benefit plan has 15 working days to respond to the MIA.
- The investigator reviews the response and may ask for additional information from the health benefit plan or from you.
- When all information is collected, the investigator drafts a determination letter and it is reviewed by a supervisor.

What is the MIA's Role in the Opioid Crisis?

Review Process for Other Complaints

In cases that don't involve medical necessity, the MIA reviews the information to determine:

- Did the health benefit plan issue the correct notices on time?
- Did a claim denial follow the terms of the member's policy?
- Is there a mandated benefit or other requirement that applies?

What is the MIA's Role in the Opioid Crisis?

Review Process for Other Complaints

At the end of a complaint, the MIA may:

- find that the health benefit plan reversed its decision, and close the file;
- issue an order finding a violation, but not require payment of a claim;
- issue an order requiring payment of the claim; or
- find no violation and offer the right to a hearing.

What is the MIA's Role in the Opioid Crisis?

What if You don't Participate with a Health Benefit Plan?

- If the patient is enrolled in a health maintenance organization (HMO), and the services are covered by the HMO, you cannot balance bill the patient. This situation may arise if, for example, a patient is referred to you by a participating provider, or you are providing emergency services or services where the patient has no choice of providers.
- If the patient is in a PPO, and you accept assignment of benefits, then for regular office visits, the patient should be given a disclosure that:
  - the physician is not in-network;
  - the patient may be billed for non-covered services and balance billed; and
  - an estimate of the cost of services and terms of payment, including interest.

What is the MIA's Role in the Opioid Crisis?

Example 1- Coverage Decision

- A claim is partially paid; one CPT code is denied as included in the primary code.
- First, file an appeal with the carrier. The health benefit plan has 60 working days to respond.
- If the carrier upholds the denial, you can file a complaint with the MIA.
- The MIA will enter the complaint into the tracking system and assign an investigator.
- The investigator will send an acknowledgment letter to you and an initial letter to the health benefit plan.
- You may send additional information.

What is the MIA's Role in the Opioid Crisis?

Example 1 - Continued

When the investigator receives a response, they look to see:

- whether the notices (EOB or Notice of Payment, Appeal Decision) were timely and included all required information;
- whether the coding guidelines were published in advance and give notice that the code would be considered included.

The MIA looks for compliance with the Insurance Article. The Insurance Article requires health plans to provide their coding guidelines, not to follow specific practices. If the health plan doesn't have a specific guideline published, it may rely on another common source such as Medicare.

Possible outcomes:

- The health benefit plan decides to pay the claim based on the complaint;
- The health benefit plan shows that they have published guidelines and the notices are correct;
- There is a violation; or
- The MIA lacks jurisdiction.

What is the MIA's Role in the Opioid Crisis?

Example 1 - Continued

The MIA may find:

- There was no violation; you will have the right to a hearing.
- The claim denial cannot be overturned, but a notice was incomplete or late. An order with an administrative penalty may be issued, but the claim will not be paid.
- The guidelines weren't published, or weren't followed. An order may be issued requiring payment of the claim.

What is the MIA's Role in the Opioid Crisis?

Example 2- Coverage Decision

You receive authorization for a procedure code. When you submit the claim for the procedure code with the authorization number, the claim is denied.

You appeal to the carrier, and the denial is upheld on appeal.

When you file a complaint with the MIA, it will be entered and assigned to an investigator.

- You will be sent an acknowledgment letter and an inquiry will be sent to the health benefit plan.
- The health benefit plan has 15 working days to respond to the MIA.

What is the MIA's Role in the Opioid Crisis?

Example 2 - Continued

When a response is received, the investigator will review:

- whether the health benefit plan complied with §15-1009 of the Insurance Article, which requires payment for pre-authorized services unless a specific exception applies.
- whether the notices are timely and complete.

Possible outcomes:

- The health benefit plan pays the claim;
- The health benefit plan is found in violation and the MIA issues an order requiring them to pay it;
- The health benefit plan justifies the denial based on an exception; or
- The MIA lacks jurisdiction.

What is the MIA's Role in the Opioid Crisis?

Hearings

If you disagree with the MIA's determination, you may have the right to a hearing. Your request must be received within 30 days of the date of the MIA's letter to you. A form is included with a determination letter that finds no violation.

- Hearings may be held at the MIA's offices or at the Office of Administrative Hearings;
- A corporation must be represented by an attorney;
- The complaint file is sent to the hearing officer and becomes part of the record that the hearing officer considers.

What is the MIA's Role in the Opioid Crisis?

Contact Information

- For assistance in preparing an appeal or complaint: Health Education and Advocacy Unit, Office of the Attorney General, 1-877-261-8807 or 410-528-1840
- Maryland Insurance Administration:

  1-800-492-6116 or 410-468-2244

  www.insurance.maryland.gov

What is the MIA's Role in the Opioid Crisis?

Additional Information on MIA's Website

- The MIA publishes an annual report on Appeals and Grievance (medical necessity) complaints.
- Orders issued against companies can be viewed.
- A Public Information Act request can be filed.
- Consumer publications and complaint forms can be printed.

What is the MIA's Role in the Opioid Crisis?

Questions?