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January 7, 2022

Steve Schuh
Deputy Secretary for Health Care Finance
Maryland Dept. of Health

Linda Rittelmann
Senior Program Manager
Maryland Dept. of Health

Re: Re-Issue Notice with Accurate Description & Claims Itemization

Dear Mr. Schuh and Ms. Rittelmann:

Please accept this letter as a formal request from the Community Behavioral Health Association of Maryland (CBH) on behalf of our 90 member organizations. We request that the Maryland Department of Health (MDH) take three actions related to Phase 1 recoupment.¹ We ask that you: (1) void the response of any provider indicating that they agreed with the amount in the Phase 1 recoupment demand letter; (2) re-issue the demand letter with the clarifications described below; (3) deliver the revised demand letter with an itemization of the exact claims comprising the demand as described further below; and (4) halt recoupment of Phase 1 recoupment until providers have had adequate and accurate notice of the recoupment with sufficient advance notice to validate the data and make financial plans.

MDH committed to ensure that Optum performs accurately and transparently.² We believe that the Phase 1 recoupment notice falls short of those standards. Evolving information about the scope of claims included in the Phase 1 repayment demand letter makes it impossible for providers to evaluate whether the dollar amount is accurate, and the absence of a claim itemization makes it impossible for providers to validate Optum's math.

Although the Department may recover known overpayments from providers,³ the Department must still deliver advance notice to the provider before recouping an overpayment.⁴ The scope of claims included in the Phase 1 demand letters has changed several times and was neither adequately or accurately described in the Department's notice.

Adequate notice is particularly warranted for the Phase 1 recoupment because Optum suppressed claim receipts and payments to providers when it

¹ This letter refers to three phases of recoupment as described in Optum, "[Provider Alert: Update on Recoupment Sequence for Providers](#)" (Nov. 17, 2021).

² MD Dept. of Health, "2021 Joint Chairmen's Report (p. 90-91) Report on BHASO Reconciliation Process," p. 4 (Oct 1, 2021).

³ COMAR 10.09.36.07; Maryland Medical Assistance, [Provider Agreement](#), Section T.

⁴ COMAR 10.09.36.09(C). See also Maryland State Government § 10-207.

launched retroactive eligibility functionality.⁵ At the same time that Optum suppressed receipts and payments, other functionality limitations in its system – including limited 999 reporting, missing 277 report capability, erroneous and poorly labelled claim denials – prevented provider insight into the status of submitted claims. CBH members continue to report missing 835s, even after Optum reported that all claim receipts delivered in early November. CBH members also report claims inappropriately denied due to continuing Optum errors, including claims within the scope of the Phase 1 recoupment demand. The missing functions prevent providers from tracking Optum’s claims processing and Optum’s continued dysfunctions – particularly in processing multiple insurances – requires time and detail to ensure an accurate accounting.

Due to the notice deficiencies described below, we ask that you treat as void any provider response agreeing with the Phase 1 recoupment amount. We also ask that the Phase 1 recoupment demand letter be re-issued with the corrections and clarifications described below, and that any recoupment begin no earlier than 30 days following the delivery of adequate notice. Specifically, adequate notice in these circumstances includes at a minimum the following four items:

Notice Clarification 1: What Is the Start Date for Phase 1 Recoupment?

Optum’s original alert notifying providers about retroactive eligibility functionality indicated that claims with dates of services back to July 1, 2019 would be reprocessed.⁶ In November and December 2020, Optum’s provider alerts indicated that the Phase 1 recoupment for retro eligibility claims would encompass claims beginning on from January 1, 2020, a start date six months later.⁷ However, based on their analysis of the claim receipts delivered on or after October 24, 2021, some providers report that the Phase 1 recoupment demand may include claims with dates of service in July 1 to December 31, 2019 timeframe. It is thus unclear whether the recoupment takes place beginning with claims with dates of service from July 1, 2019 or January 1, 2020. We therefore request that MDH re-issue its Phase 1 recoupment demand notice with a correct start date for claims included in the Phase 1 recoupment.

Notice Clarification 2: What Is the End Date for Phase 1 Recoupment?

On November 17, 2021, Optum’s provider alert indicated that the Phase 1 recoupment for retro eligibility claims would run through March 31, 2021.⁸ This date was also communicated to providers by Optum staff throughout weekly meetings in November and December, and it was the date that many providers used to base their overpayment calculations.

When providers received the demand letters on or after December 22, 2021, Optum listed a new end date: December 21, 2021. Providers wouldn’t have even received receipts for claims processed on December 21 until December 24, eroding the time available to them to validate Optum’s math. Moreover, the late addition of an additional nine months of included claims increases the administrative burden, confusion, and time required to validate Optum’s assumptions over the holiday period.

⁵ Optum, “[Provider Alert: Update on Retroactive Eligibility](#)” (Apr. 13, 2021).

⁶ Optum, “[Provider Alert: Retroactive Eligibility Functionality](#)” (Mar. 5, 2021).

⁷ Optum, “[Provider Alert: Update on Recoupment Sequence for Providers](#)” (Nov. 17, 2021); Optum, “[Provider Alert: Further Details on Recoupment of Retro Eligibility and Overpayments](#)” (Dec. 13, 2021).

⁸ Optum, “[Provider Alert: Update on Recoupment Sequence for Providers](#)” (Nov. 17, 2021).

Notice Clarification 3: What is the Scope of Claims Included in Phase 1 Recoupment?

The scope of claims included in the Phase 1 recoupment has changed three times, and the last change was not described in any notice to providers. Adequate notice must include a clear and accurate description of the scope of claim included in the Phase 1 recoupment.

The Department's initial communication indicated that Phase 1 recoupment was limited to a funding swap related to retroactive eligibility.⁹ A month later, the description of impacted claims broadened significantly: "Since January 2020, many providers received duplicate payments from Optum Maryland (Optum) for participants who had been paid from State funds, who were later processed for Retro-Eligibility and again paid under Medicaid *or vice versa*" (emphasis added).¹⁰ This is also the language used in the demand letters to describe the scope of recoupment. The addition of "vice versa" has been interpreted by providers to include funding source corrections for non-Medicaid services that Optum paid incorrectly from the Medicaid account, but it is not clear exactly how Optum has applied the reprocessing. It is not clear whether providers have correctly assumed what "vice versa" means. Therefore, we believe that adequate notice should include describing impacted programs and codes, rather than the vague use of "vice versa."¹¹

Most distressingly, we have learned that the scope described in the demand letter is not accurate. Based on conversations with frontline Optum staff and confirmed in a meeting on January 4 with Optum and MDH leadership, the demand letter contains only a provider's negative balance for the state-funded account; it omits Medicaid-funded account overpayment. Providers may have been induced by MDH to mistakenly certify their demand letter amounts as correct because they had been led to believe that it included both state and Medicaid overpayments. This recent clarification requires that providers be given the opportunity to re-evaluate their position regarding agreement with the demand letter amounts. According to one provider's conversations with Optum, *the demand letter reflects only 25% of the provider's overpayment for claims understood to be included within the scope of Phase 1 recoupment. For this reason alone, we believe that Phase 1 recoupment must be halted until all parties have a clear and accurate understanding of what is being recouped, why, and when.*

Notice Clarification 4: Include an Itemization of Claims with Phase 1 Recoupment Demand

We believe that adequate notice of overpayment in Phase 1 recoupment must include an itemization of the exact claims that Optum used to formulate the total dollar value. And, because Optum assigns a new claim number to every reprocessed claim, the claim itemization must include a listing of *every reprocessing* of every included claim. Although Optum is working on a claims life-cycle report, the pilot version of the report does not include the information that the provider community has sought.¹²

⁹ Optum, "[Provider Alert: Update on Recoupment Sequence for Providers](#)" (Nov. 17, 2021).

¹⁰ Optum, "[Provider Alert: Further Details on Recoupment of Retro Eligibility and Overpayments](#)" (Dec. 13, 2021).

¹¹ This includes components of Supported Employment, Residential Crisis Services, and Residential Rehabilitation Programs.

¹² Our concerns with the pilot report were documented in more detail in a letter to MDH on December 28, 2022, to which we have not yet received a substantive response.

Optum did the math to calculate the overpayment demand. It is their obligation (to both MDH and providers) to show their math and, given the dysfunctions of their claims processing system, their obligation to demonstrate that the math is correct through an individualized claim itemization that re-connects every claim reprocessing to its original submission. Under the circumstances here, we believe that this detailed level of notice is required to establish the accuracy of Optum's demand.

For all of these reasons, we request that the Department immediately halt the recoupment process until it has provided corrected notice to providers that includes all of the clarifications above and allows sufficient time for providers to validate the claims within the scope of recoupment.

Finally, we again observe that the Department is taking these actions during a renewed state of emergency, as the pandemic reaches new heights. Addressing recoupment pulls staff and management bandwidth from addressing critical human needs at this time. A longer timeframe between the delivery of Optum's data and recoupment will also allow providers the bandwidth to address the myriad of issues arising from the pandemic.

Thank you for your consideration of these requests. Please don't hesitate to reach out if you have any questions.

Sincerely,



Shannon Hall
Executive Director

cc: Aliya Jones, Deputy Secretary for Behavioral Health
Kathy Ghiladi, Feldesman Tucker Leifer Fidell LLP
Monica McNeil (mdmcneil@uhc.com)