

February 24, 2021

The Honorable Michael Conway  
Insurance Commissioner  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

Comments sent via email to: [DORA\\_Ins\\_RulesandRecords@state.co.us](mailto:DORA_Ins_RulesandRecords@state.co.us)

Re: American Medical Association support for Amended New Regulation 4-2-64,  
“Concerning Mental Health Parity in Health Benefit Plans”

Dear Commissioner Conway:

On behalf of the American Medical Association (AMA) and our physician and medical student members, I am writing in support of Amended New Regulation 4-2-64, “Concerning Mental Health Parity in Health Benefit Plans.” The AMA strongly supports the proposed amendments in the amended new regulation because they will further enhance efforts by the Colorado Division of Insurance (CDI) to meaningfully enforce state parity laws and help ensure access to evidence-based care for those with a mental illness or substance use disorder (SUD). These amendments also will strengthen the CDI’s existing tools and provide a model for other states on policies necessary to oversee and enforce parity laws.

First, the AMA supports amendments in the amended new regulation that strengthen rules requiring health plans to attest that any quantitative treatment limitations (QTL) and non-quantitative treatment limitations (NQTL) meet all applicable parity requirements. This requirement is important because it will require health plans to perform the required parity analysis prospectively. Doing the analysis before problems occur will help the health plan proactively identify any problematic areas that need to be addressed before there are parity violations and reduced access to care. This also will help streamline CDI efforts to conduct its oversight activities because if the CDI receives a complaint, the CDI can ask the health plan for the analysis that it already attested to having completed. This will save considerable time and resources for the CDI and health plan.

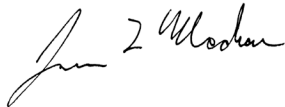
Second, the AMA also supports amendments in the amended new regulation that require reporting and parity requirements associated with co-pays, co-insurance, and NQTLs and ensuring parity with respect to the use of specialty tiers for in- and out-patient care. The AMA further supports the proposed amendments that provide that, “carriers shall not impose any financial requirement or quantitative treatment limitation to behavioral, mental health, or substance use disorders benefit in any classification that is more restrictive than the predominant financial requirement or treatment limitation of that applied to substantially all medical/surgical benefits in the same classification.” These amendments will further strengthen CDI’s efforts to meaningfully enforce the state’s parity laws.

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In addition, the AMA supports proposed amendments in the amended new regulation to better understand how health plans use the American Society of Addiction Medicine (ASAM) placement criteria. The landmark legal decision *Wit v. UnitedHealthcare* made clear that it is not enough for a health plan to *say* that it uses the ASAM criteria. In *Wit*, the court was clear that even though United *said* it used ASAM criteria, the criteria United used was inappropriately based on financial considerations and did not bear meaningful resemblance to ASAM criteria. That is why the proposed amendments to require the most recent edition of the ASAM criteria—as well as whether the health plan has modified those criteria—are essential components to help verify compliance. We further support CDI's proposed amendments to require health plans to disclose how they apply the ASAM criteria, along with how they train those who are responsible for applying the ASAM criteria on behalf of the health plan. This comprehensive approach is a model for other states.

The AMA greatly appreciates your work to meaningfully enforce mental health and substance use disorder parity requirements in Colorado, and we support the proposed amendments in the amended new regulation as described above. If you have any questions, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at [daniel.blaney-koen@ama-assn.org](mailto:daniel.blaney-koen@ama-assn.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Madara". The signature is written in a cursive, flowing style.

James L. Madara, MD

cc: Colorado Medical Society