



April 19, 2021

Dennis Schrader
Secretary of Health
Maryland Department of Health
201 West Preston Street
Baltimore, MD 21201

Re: **Administrative Simplification Rule Noncompliance Complaint**

Dear Secretary Schrader:

Please accept this letter as a formal complaint from the Community Behavioral Health Association of Maryland (CBH) and the Maryland Association for the Treatment of Opioid Dependence (MATOD). Optum's claims processing system is noncompliant with the HIPAA Administrative Simplification Rule (45 CFR Part 162). As a result, we respectfully request that the Maryland Department of Health take two steps: (1) require Optum to replace Incedo and adopt a claims processing system that complies with federal regulation, and (2) halt reconciliation pending a review of the system's limitations, and work with the provider community to reconfigure the reconciliation process.

The Administrative Simplification Rule mandates the use of current transaction standards, and the current required standards have been in place at least eight years. As you are aware, 45 CFR § 162.923 describes the requirements for covered entities, including state Medicaid programs and their contractors, in applying the standards.

Our complaint alleges that Optum's claims processing system is noncompliant with the following eight areas of the Administrative Simplification Rule:

- Batch upload verification (999 report): Optum launched its claims processing system without having 999 functionality in place. When it released the functionality ten months late, the 999 report functionality was inoperable because the subvendor (InfoMC) had coded them as assessments, not claims. The simple coding correction needed to create workable 999 reports has not occurred more than five months after providers reported the error.

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- Claim accepted for adjudication (277 report): Optum has been unable to release 277 report functionality despite more than eight months of work and has already indicated that the 277 will need to be supplemented with a non-standardized manual report.
- Non-standard denial coding, as required by § 162.1603(a)(4). Optum's claims processing system uses denial codes that were deleted from industry-standard claims coding in 2003, over 18 years ago. Denials cannot be automated in provider EMRs.
- Claims receipts (835s). Since Optum launched its claim processing system in January 2020, providers have complained about missing payments and 835s. We learned last week that Optum's system is inaccurately labelling claims as paid and 835s as sent.
- Receipts for all funding changes, as required by § 162.1603(a)(5). Optum's system retracts payments or issues duplicate payments without delivering simultaneous claims receipts in standardized transaction formats, as has occurred recently with retro eligibility reprocessing.
- Absence of a companion guide for Optum's system, as required by § 162.1603(b).
- Coordination of benefits transactions, as reflected in § 162.1802.
- Continuing data integrity problems, with providers receiving payments or portal access for patients not associated with their practice. While the scale of these problems may appear minor, the fact that they continue to occur on virtually a weekly basis suggests that Optum's corrective actions have been insufficient to ensure security and privacy compliance.

Over the past year, CBH and MATOD have worked collaboratively to bring the above issues to the Department's and Optum's attention. Resolution has not occurred despite extensive efforts of all parties.

Underpayments and significant additional costs are associated with the continuing use of this claims processing system, while its poor data quality calls into question the state's ability to reconcile estimated payments. For these reasons, we request immediate corrective action to secure a claims processing system that complies with Medicaid's federal obligations and a halt to reconciliation pending a review of the system's limitations.

Thank you for your attention to this complaint, and we look forward to your prompt response.

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Sincerely,



Shannon Hall
Executive Director
Community Behavioral Health Association of Maryland



Vickie Walters
President
Maryland Association for the Treatment
of Opioid Dependence

cc: Aliya Jones, Deputy Secretary of Behavioral Health
Tricia Roddy, Assistant Medicaid Director, Maryland Department of Health
Corey Carpenter, Performance Improvement Lead, Maryland Department of Health
Scott Greene, Chief Executive Officer, Optum Maryland
Adam Falcone, Feldesman Tucker Leifer Fidell LLP