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The Honorable Brendan P. Crighton
Chair, Joint Committee on Financial Services
Massachusetts State House, Room 520
Boston, MA 02133

The Honorable James M. Murphy
Chair, Joint Committee on Financial Services
Massachusetts State House, Room 254
Boston, MA 02133

Submitted to mary.roy@mahouse.gov

Dear Chair Crighton, Chair Murphy, and Honorable Members of the Committee:

RE: In Support of H.1092, *An Act to provide early and periodic screening, diagnosis and treatment to privately insured children under the age of 21*

On behalf of the Massachusetts Association for Mental Health (MAMH), thank you for the opportunity to submit testimony in support of H. 1092, *An Act to provide early and periodic screening, diagnosis and treatment to privately insured children under the age of 21*. This bill would increase the set of benefits available to children under commercial insurance by adding currently-excluded benefits, removing limits on benefits, and changing the extent to which insurers may deny services as medically unnecessary.

Formed over a century ago, MAMH is dedicated to promoting mental health and well being, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies.

MAMH is extremely grateful for Representative Garballey for filing this important legislation, which requires the Group Insurance Commission and commercial insurers to cover early and periodic screening, diagnosis and treatment (EPSDT) services for children and adolescents

under age 21 in a manner equal to the amount, duration and scope of those services provided to Medicaid children and adolescents. EPSDT is a federally-defined, comprehensive program of health care benefits for youth under age 21, currently provided for those enrolled in Medicaid.¹ The program defines a rich set of benefits for children, including preventive, diagnostic, and treatment services for medical, vision, dental, hearing, behavioral, developmental, and other care for all types of acute and chronic conditions.

The ACA in 2010 put in place requirements for some commercial health insurers to provide coverage for certain benefits known as “Essential Health Benefits,” which include mental health, preventative care and pediatric care. These provisions do provide a similar scope of preventative services as EPSDT under Medicaid. Additionally, the Mental Health Parity and Addiction Equity Act of 2008 and the ACA added special protection of mental health benefits to both commercial plans and Medicaid managed care and expand the scope of required services for children. As a result, almost all children have a right to EPSDT or other coverage for mental health and preventative care under their Medicaid fee for service, Medicaid managed care or commercial plans. However, the requirements for treatment services may not be as sweeping where EPSDT services are not available. And, coverage may not be adequate – children require access to providers who offer the particular services they need.²

By requiring commercial insurers to provide EPSDT-defined coverage to children, this bill would significantly expand certain categories of covered services for children. As noted above, the most dramatic expansion of coverage would be seen with respect to coverage for treatment services. For example, the bill would

- require coverage to age 21, rather than the typical cutoff at age 18,
- require coverage for all services that could be approved under the Medicaid State Plan including coverage for categories of treatment services and significantly expanded coverage for services for chronic or long-term physical, behavioral and developmental health issues,
- remove policy limitations and exclusions,
- affect utilization review and determinations of medical necessity.

The impact of this legislation on health care that is currently accessed upon a finding of medical necessity is significant. Currently, medical necessity is defined as services and supplied provided by health care entities that are appropriate to the evaluation and treatment of a disease,

¹ EPSDT was established through the Social Security Amendments to the Medicaid statute in 1967. In 1997, the Balanced Budget Act created the Children’s Health Insurance Program, which funded states to create programs that extended coverage to children in many families that didn’t qualify for Medicaid, and which also extended the EPSDT entitlement in many of these state-designed programs, depending on the specific state program design. In 2010, the ACA expanded Medicaid eligibility for families up to 138% of the federal poverty level, further extending Medicaid enrollment and the right to EPSDT. Counts, N.Z., Walker-Harding, L.R., Miller, B.F. “Coverage of Services to Promote Children’s Mental Health: Analysis of State and Insurer Non-Compliance with Current Federal Law,” Well Being Trust (2020), <https://wellbeingtrust.org/wp-content/uploads/2020/12/Coverage-of-Services-to-Promote-Childrens-Mental-Health.pdf> at 7.

² *Id.* at 7.

condition, illness or injury and consistent with the applicable standard of care. By contrast, for EPSDT services, medical need is triggered when services will help a child avoid functional deterioration or promote development.³ This bill would apply this standard to commercial insurance coverage of allow for early detection and identification to reduce a condition's potential impact, rather than simply responses upon the development of an illness or disorder.

A March 2015 review of the proposed legislation by the Center for Health Information and Analysis (CHIA), an independent state agency that provides objective analysis of the quality, affordability, utilization, and access to the Massachusetts health care system, concluded that it is likely expanded coverage through this legislation⁴ will result in increased service utilization” by the general child population and that commercially insured children with special health care needs “will have expanded access to services currently absent from, or limited in, commercial plans.”⁵

This legislation is meritorious not only because it will expand coverage for those served by commercial carriers. In addition, it will shift coverage responsibility for some from the public to the private sphere. In 2015, CHIA cited data that almost 40% of children with special health care needs were covered at least in part by public insurance.⁶ Currently, children with such needs continue to seek coverage under Medicaid for needs that are not being met by their commercial insurers.

As we have highlighted above, failing to cover EPSDT services lets insurers off the hook for needed coverage and forces families to cross over to MassHealth benefits. We urge you to take swift action to favorably report H.1092 out of committee.

Thank you for your consideration.

Sincerely,



Danna Mauch, PhD
President and CEO

c: Representative Sean Garballey

³ See The Commonwealth Fund, Comparing EPSDT and Commercial Insurance Benefits, <https://www.commonwealthfund.org/publications/other-publication/2005/sep/comparing-epsdt-and-commercial-insurance-benefits>

⁴ H.916 (2013-2014), the subject of the 2015 CHIA review, is essentially the same as H.1092 (2021-2022).

⁵ Center for Health Information and Analysis, Benefit Mandate Review: H.B. 916: An Act to Provide Early and Periodic Screening, Diagnosis and Treatment to Privately Insured Children under the Age of 21 (2015), <https://www.chiamass.gov/assets/Uploads/mandated-benefits-epsdt.pdf> at 2.

⁶ Id. at 6.