**[SAMPLE Parity Complaint Letter ALLOWABLE AMOUNT]**

[date]

[address]

[member number if applicable]

Ms. Mary Kwei, Chief, Complaints, Appeals and Grievances Division

Maryland Insurance Administration

2700 St. Paul St., Suite 2700

Baltimore, MD 21202

Ms. Kwei,

I am writing regarding **[insert insurer/plan name]** reimbursement process for out of network behavioral health services (BHS). Because I was unable to find an in-network clinician to provide [insert service], I was forced to seek behavioral health care out of network, which resulted in **[insert total amount of out of pocket expenses].** This letter serves to raise concerns of whether the process **[insert insurer]** used to establish the allowable amountfor **[insert service]** is in compliance with the Final Regulations established pursuant to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008.

**[Insert paragraph describing the issue]**

The determination of provider reimbursement rates and allowable amounts that can be charged for a serviceis a nonquantitative treatment limitation (NQTL) as defined in the final regulations. If the process for establishing the allowable amounts for services are not applied to similar levels of medical/surgical care in the same manner,then the above-described process for BHS is a more stringent and non comparable application of an (NQTL) as defined by the Parity regulations (45 CFR 146.136c(4)) and is therefore noncompliant with MHPAEA. The rule governing NQTLs is as follows:

(4) *Nonquantitative treatment limitations –* (i) *General rule.* A group health plan (or health insurance coverage) may not impose a nonquantitative treatment limitation with respect to mental health or substance use disorder benefits in any classification unless, under the terms of the plan (or health insurance coverage) as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the nonquantitative treatment limitation to mental health or substance use disorder benefits in the classification are **comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards,** or other factors used in applying the limitation with respect to medical surgical/benefits in the classification, except to the extent that recognized clinically appropriate standards of care may permit a difference.

We are unable to determine how **[insert insurer]** establishes the allowable amount for similar levels of medical/surgical care, and what, if any processes, strategies, factors, or evidentiary standards were used to develop and apply this requirement as we do not have access to the allowable amounts nor the process for establishment of them for medical/surgical care. The use and application of this process may be in violation of the regulation’s “comparable and no more stringently” standard.

The regulations state clearly that any “processes, strategies, evidentiary standards, or other factors” used in applying a NQTL to BHS benefits in a classification must be “comparable to” and be applied “no more stringently” than the processes, evidentiary standards, or other factors used in applying the limitation with respect to medical/surgical benefits. Given the aforementioned concerns, we have a number of questions and requests regarding whether this policy comports with the parity requirements. We request that MIA require **[insert carrier]** to provide documentation and required analysis to respond to the following questions:

1. ***What are the processes, strategies and evidentiary factors used to establish the allowable amount for behavioral health services?***
2. ***What are the processes, strategies and evidentiary factors used to establish the allowable amount for comparable medical/surgical services?***
3. ***What analysis has been done to determine that the processes, strategies, and evidentiary factors used are comparable and no more stringent than those used to establish the allowable amounts for similar medical/surgical services?***

ERISA regulations 29 CFR 2520.104b-1 outlines the legal obligation regarding the disclosure of plan documents. The Department of Labor issued guidance in December 2010 stating plan documents include the medical necessity criteria for both medical/surgical benefits and mental health/substance use disorder benefits.

Finally, the Department of Labor has recently released a list of “red flags” or warning signs of nonquantitative treatment limitations that warrant further investigation to determine whether their application to a particular benefit is in compliance with the federal parity law. You will note that reimbursement rates are on the list, which can be obtained at this link. <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/mental-health-parity/warning-signs-plan-or-policy-nqtls-that-require-additional-analysis-to-determine-mhpaea-compliance.pdf>

Thank you for your time in investigating this matter.