Federal Policy Update

National Council for Behavioral Health

Recent News From Washington

- **FY 2019 appropriations** bills advance.
- **Various executive and legislative actions** repeal or undercut portions of the ACA.
- **Proposed rulemaking** affects future Medicaid Managed Care, Medicare provider pay and more…
- **CMS** moves to permit **work requirements**, other restrictions on Medicaid benefits. At the same time, feds expand **behavioral health wavier opportunities**
- Congress passes **opioid legislation.**

FY 2019 Appropriations

House and Senate Agree to a Labor-HHS and Defense "minibus" in September 2018

- **+$2.3 billion** for federal health spending
  - SAMHSA, NIH receive increases
  - $3.8 billion dedicated to addressing opioid crisis
- Key programs:
  - **Certified Community Behavioral Health Clinics** (+$150 million)
  - **Primary and Behavioral Health Care Integration (PIPBHC)** (level funding)
  - **Mental Health First Aid** (+$1 million)
  - **Opioid State Opioid Response(SOR) grants** ($1.5 billion or level funding; *part of the funding replaces the $500 million expiring from the Opioid State Targeted Response (STR) fund*)
  - **SAPT Block Grant** (level funding)
  - **Mental Health Block Grant** (level funding)

FY 19 Labor-HHS Bill

Agency/Program	FY 2019 Minibus	FY 19 vs FY 18
SAMHSA	**$5.7 billion**	***+$580 million***
Mental Health Block Grant	**$722.5 million**	***Level funding***
SAPT Block Grant	**$1.9 billion**	***Level funding***
Primary/BH Integration (PBHCI)	**$49.9 million**	***Level funding***
Mental Health First Aid	**$21 million**	***+$1 million***
State Opioid Response Grants	**$1.5 billion**	***Level Funding*** *($500 million replaces STR funds)*
CCBHCs Expansion Grants	**$150 million**	***+$50 million***
NIH	**$39.1 billion**	***+$2 billion***

A note about mental health & SUD appropriations…

- White House has proposed various cuts to SAMHSA programs over last 4-5 years to pay for new increases
- Congress has largely rejected program eliminations *(e.g. Mental Health First Aid, Primary-Behavioral Health Integration)*
- Major recent increase to mental health block grant
- Uncertainty about future years' funding

Don't forget…
…sequestration returns in 2020

Tax Cuts and Jobs Act of 2017

Impact on insurance markets

- Repealed the ACA's individual mandate
  - Substantial premium increases expected in future years as healthy enrollees drop coverage
    - CBO estimates a 10% increase in premiums nationwide; Center for American Progress estimates a 16.40% increase nationwide (taking into account the individual mandate repeal and short term health plan expansion)

Did you know: The tax bill also doubled the standard deduction, shifting incentives away from charitable giving, resulting in an projected $13.1 billion loss in giving.

Meanwhile, at the White House…

Action on EHBs, AHPs and STLD policies

New Essential Health Benefits Selection Process

Association Health Plans (AHPs)

Short Term Health Plans (STLD plans) Fact Sheet

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Less comprehensive health plans, including plans lacking strong MH/SUD coverage

Emphasis on “Flexibility”

“Today, we commit to ushering in **a new era** for the federal and state Medicaid partnership where **states have more freedom** to design programs that meet the spectrum of diverse needs of their Medicaid population…”

–Former Sec. Tom Price & Administrator Seema Verma

Medicaid Managed Care Proposal

- Proposed rule would rollback many of the managed care standards
- Relaxes requirements that support **network adequacy** and **provider pay**
- Comment period closed on January 14, 2019.

Medicaid Managed Care Proposal

Network Adequacy

- Replaces the **current time and distance standards** with a variety of quantitative network adequacy standards. **States would be free to use different standards** in combination and are encouraged, but not required, to do so.

- Allows states to create their own definition of what providers qualify as “specialists” and therefore are subject to network adequacy requirements.

Rate Setting

- 2016 rule required capitation payments received by managed care organizations (MCOs) to be **actuarily sound**

- New proposal does not remove this requirement, but **gives states flexibility in how they ensure actuarial soundness**

National Council Weighs In

In official comments, the National Council raised concerns that the proposed rule would **result in a loss of access to mental health and addiction treatment providers**.

National Council recommended that CMS:

1. **Establish two categories of network adequacy** which distinguish between those that are **static** (*e.g. time and distance, provider-to-enrollee ratios*) and those that permit **real-time assessment** of actual network performance (*e.g. length of wait time to appointment, percentage of providers accepting new patients, etc*.).

1. **Require, rather than encourage, states to implement a combination of standards** that includes one or more standards from the second category, measuring network performance.

2. Cross-reference the network adequacy standards codified in the **parity regulations**, and **stipulate that both regulations be satisfied.**

Medicare Payment Rule

- Finalized 2019 Medicare Physician Fee Schedule (MPFS) and Quality Payment Program (QPP)
  - Key Provisions:
    - Reduced documentation requirements for traditional outpatient, office-based visits
    - Expanded telehealth options
    - Increased electronic health record (EHR) interoperability
    - CMS reviewing comments and considering a bundled payment for the care and management of substance use disorders (SUD)

Restrictive Medicaid Waiver Proposals

- Work requirements
- Drug testing
- Higher cost sharing
- Use of HSAs
- Special enrollment & lockout periods
- Time limit on coverage
  - CMS rejected KS lifetime limit on coverage

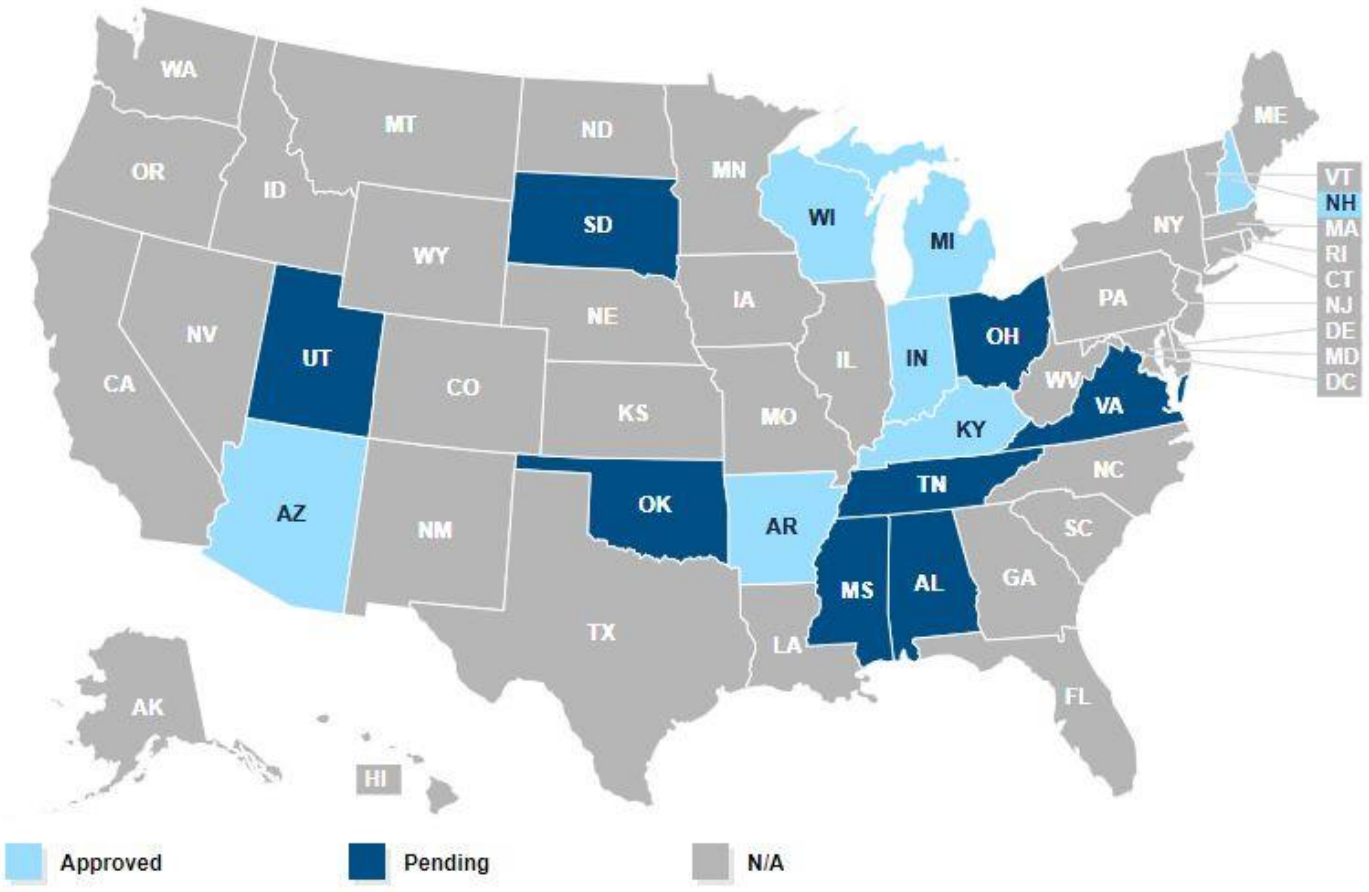
Exemptions?

"Disability" is often touted as a category of exemption from new waiver requirements.

Medicaid Work Requirements

CMS released guidelines for states to create work requirements

- Proposals approved in **KY, IN, AR, NH, WI, MI, AZ; eight** other states have applications under review



Source: Kaiser Family Foundation

Work Requirements Temporarily Halted (June 2018)

Key Takeaways on KY Court Decision:

- Did not overturn work requirements outright

- Judge James Boasberg found that CMS had not properly considered whether the initiative would **violate Medicaid's central objective** of providing medical assistance to the state's citizens

- Set two important precedents:
  1. States must evaluate waiver's impact on coverage
  2. Medicaid provides equal treatment of all groups covered by its statute, including Medicaid expansion populations.

Kentucky and Wisconsin

- CMS re-approves KY waiver in Nov. 2018 requiring enrollees to work 80 hours each month or face a six-month lockout period
- District Court Judge James Boasberg will consider CMS's reapproval of the Kentucky waiver and Arkansas' program before KY program starts on April 1st 2019
- 95,000 Kentuckians projected to lose coverage over 5 years

- Requires certain adult beneficiaries to work 80 hours per month to maintain health coverage
- Institutes premiums
- Subjects applicants to **drug use screening questions**; CMS turned down state's request to drug test applicants
- First non-expansion state with work requirements

Good News for Medicaid

2018 Midterms show Medicaid expansion to be a winner at the ballot box

New Expansion States:

- Nebraska
- Utah
- Idaho

Potential Expansion States:

- Kansas
- Wisconsin

To date, **37 states (including DC)** have adopted the Medicaid expansion and **14 states** have not adopted the expansion.

New Section 1115 Opportunities

Expanding Mental Health Services

- November 2018 State Medicaid Directors (SMD) letter explains how states can use Section 1115 waivers to "**support innovative service delivery systems**" for adults with **serious mental illness** (SMI) and children with **serious emotional disturbance** (SED).

- Letter includes a **demonstration for mental health treatment in IMDs**.

Innovative Service Delivery Systems

CMS encourages states to:

- Bolster early identification services
- Better integrate mental health and primary care
- Increase access to crisis services

CMS highlighted **Certified Community Behavioral Health Clinics (CCBHCs)** as a model states could use to address these issues and other system improvements simultaneously.

IMD Demonstration

- Allows states to waive the IMD exclusion for short-term stays (around 30 days) **for mental health treatment in IMD settings**. Previously, Section 1115 waivers had been used to waive IMD restrictions for residential SUD treatment.

- Note: Waiver demonstrations must provide a **full continuum of care for individuals** with mental illness.
  - While residential treatment in IMDs may be included, states are also expected to **improve community-based mental health care** and must adhere to **strict budget neutrality requirements.**

Opioid Package

More than 70 unique bills were rolled into H.R. 6 aka the Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act" or the "**SUPPORT for Patients and Communities Act**"

Signed into law
October 2018

Highlights

What's In?	What's Not?
Telemedicine*	Funding
SUD Treatment Workforce*	CCBHC Expansion
Behavioral Health IT*	42 CFR Part 2 Overhaul
Recovery Housing Best Practices	
MAT Prescribing Expansions	
Parity for CHIP Plans	
Temporary IMD Rule Repeal	
Medicare OTP Access	
Health Homes for SUDs	
SUD Provider - Medicaid Capacity Demo	
New and Reauthorized Grants	

***Bills included as a direct result of National Council advocacy efforts.**

Opioid Package Concerns

- Few provisions spend any money
  - Most investment is made via short-term grants, not insurance coverage
- Not a comprehensive response to addiction crisis
  - Does not support the full continuum-of-care for SUDs
  - Very OUD focused

Excellence Act Expansion


Sens. Roy Blunt (MO) and Debbie Stabenow (MI)


Reps. Doris Matsui (CA) and Markwayne Mullin (OK)

Legislation set to be introduced later this month. The bill would:

- **Extend the original eight states for an additional two years.** MN, MO, NJ, NV, NY, OK, OR, PA
- **Expand for two years to include the other 11 states** that applied but were not originally chosen for participation. Including: CA, CO, IA, IN, KY, MA, MI, NC, NM, RI, TX

Mental Health Access Improvement Act
(S.286/H.R.945)

- Bill would allow marriage and family therapists (MFTs) and licensed mental health counselors to directly bill Medicare. If enacted, bill would:
  - **Immediately expand timely access** to care for seniors, people w/ disabilities
  - Help **alleviate the strain on Medicare MH/SUD workforce**

Bill introduce by Senators **John Barrasso** (R-WY) and **Debbie Stabenow** (D-MI) and Representatives **Mike Thompson** (D-CA) and **John Katko** (R-NY)

As former Senate Majority Leader Everett Dirksen (R-IL) said…

"When I feel the heat, I see the light."

Questions?