National Association
for Behavioral Healthcare

Access. Care. Recovery.

Removing Barriers to Care

Background

Inpatient and residential behavioral healthcare services are grounded in evidence-based treatment that have helped millions of Americans reach recovery. These services help patients in times of crisis move through the behavioral healthcare continuum, either in a community setting or in a residential facility for long-term care.

There are two outdated federal laws that limit access to these life-saving services for individuals with low income, persons with disabilities, and senior citizens:

- Medicaid's Institutions for Mental Diseases (IMD) exclusion prevents Medicaid beneficiaries ages 21 through 64 from accessing short-term behavioral healthcare in psychiatric hospitals or residential treatment facilities that have more than 16 beds.
- Medicare's 190-day lifetime limit prohibits beneficiaries from receiving more than 190 days of inpatient psychiatric care in their lifetime.

No other Medicare or Medicaid specialty inpatient service has these types of arbitrary caps, which violate the intention behind mental health and substance use disorder parity. In addition, the IMD exclusion and the 190-day lifetime limit have contributed to: the shortage of inpatient behavioral healthcare treatment beds, the increased number of suicides, and the expansion of the "patient-to-prison pipeline."

- According to the *Journal of the American Medical Association*, "...limited access to inpatient care is likely a contributing factor for the increasing U.S. suicide rate." The journal also reports the IMD exclusion is a contributing factor to this trend.
- A study in the *American Journal of Law & Medicine* found "...the IMD Exclusion creates an access gap for the poorest Americans who suffer from mental illness, and prisons and jails fill that gap to the detriment of those individuals. What results can only be described as a 'patient-to-prisoner pipeline' — the expulsion and preclusion of vulnerable, mentally ill people from treatment facilities and their subsequent funneling into the criminal justice system."

Given the rising number of suicide and drug overdose deaths in America, it is crucial that Congress and the White House work together to repeal these antiquated laws.

Medicare's 190-day Lifetime Limit

In 2008 Congress passed the landmark *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act* to place coverage for mental health and substance use disorders on par with other medical disorders. That same year Congress enacted legislation to equalize the Medicare outpatient co-payments for mental and physical health. But a decade later, Congress still has not provided parity for inpatient behavioral healthcare services in Medicare.

The 190-day limit discriminates against people with mental illness. Therefore, Congress should repeal the 190-day lifetime limit on inpatient psychiatric services. Eliminating this restriction would expand beneficiary choice; increase access for the most seriously ill; improve continuity of care; and make the Medicare program more cost-effective.

Congressional Request: House members should co-sponsor Rep. Paul Tonko's (D-N.Y.) *Medicare Mental Health Inpatient Equity Act* to repeal the 190-day lifetime limit.

The Medicaid Institutions for Mental Diseases (IMD) Exclusion

In May 2016, the Centers for Medicare & Medicaid Services (CMS) issued a long-anticipated final rule that updated managed care regulations in Medicaid and the Children's Health Insurance Program. Included in the final rule is a provision that provides states with some flexibility to address the IMD exclusion.

Specifically, the final rule permits managed care organizations (MCOs) to receive a capitation payment from a state for an enrollee aged 21 to 64 in an IMD as long as the beneficiary did not stay in the IMD for more than 15 days in that month. NABH supports the final rule; however, the 15-day cap excludes patients with conditions that require care beyond the 15 days permitted in the arbitrary cap. These beneficiaries tend to be patients with opioid use disorder and other substance use disorders because the treatment model for these conditions typically requires a longer length of stay.

The cap also affects patients with mental health conditions, particularly patients who are not clinically stable for discharge; are waiting for a state hospital bed; are waiting to be placed in a residential treatment facility; are waiting to be placed in an outpatient treatment facility; are lacking appropriate placement options; or are lacking appropriate housing or other social supports.

Eliminating the 15-day cap would expand parity, help lower Medicaid spending, expand access, and provide patients with critical behavioral healthcare services.

Congressional Request: Congress should eliminate the 15-day cap and allow patients to receive inpatient mental health and substance use disorder treatment as they do for all other medical conditions in Medicaid.

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