

June 25, 2019

The Honorable Lamar Alexander, Chair, Senate
Committee on Health, Education, Labor and
Pensions
428 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patty Murray, Ranking Member
Senate Committee on Health, Education, Labor
and Pensions
428 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray,

The undersigned organizations are requesting your consideration to amend Title III Sec. 305 Timely Bills to Patients within the *Lower Health Care Costs Act of 2019* in order best serve patients seeking behavioral health care services. Access, coverage, and affordability all play significant roles for over 43 million Americans with a mental illness and the approximately 10 million who have a co-occurring mental health or addiction disorder.¹

The draft legislation sets a 45-day maximum for finalizing a claim between the provider and payer before sending a final bill to a patient. If the provider fails to send a bill to a patient within 45 days, the provider is subject to a \$10,000 per day fine. Although the legislation includes a clarification allowing for providers and payers to negotiate an alternative adjudication timeline, there is no provision which would allow the entities to go beyond the 45-day period. This makes the 45-day period a maximum allotment of time, not a minimum.

As stakeholders within the behavioral health care space, we are familiar with the high rates of claim denials for mental health and substance use disorder services. A survey [report](#) by the National Alliance for Mental Illness (NAMI)² revealed that 29% of respondents reported a denial of mental health care on the basis of medical necessity, more than twice the percentage who reported being denied general medical care. Further, 18% of respondents reported being denied substance use care. We are pleased to see the inclusion of parity compliance and enforcement provisions within Sec. 310 but remained concerned Sec. 305 undermines this integration.

The provision of a 45-day maximum to settle a claim negates any incentive for a group health plan or health insurance issuer to negotiate with facilities and practitioners on mental health and substance use disorder claims. As seen with mental health parity non-compliance, we are concerned that this limited payment timeframe could allow the health insurance issuer to deny or delay payment of the claim until the 45-day period concludes. In turn, the patient's duty to pay is relinquished past 45 days and the facility or practitioner has not only incurred the full cost of treating the patient, they are now subject to a \$10,000 daily fine. The provision places the onus solely on facilities and practitioners to properly adjudicate claims. The truncated timeline will result in facilities and practitioners negotiating less with group health plans or health insurance issuers and sending bills to patients in order to avoid denials by the payer or pay a hefty fine. Patient's will then be subject to higher out-of-pocket costs for their behavioral health care, countering the goals of this legislative package.

In an effort to protect behavioral health care providers who negotiate claims denials for several months to keep patient's from paying out-of-pocket, we recommend two options for addressing our concern:

¹ National Alliance for Mental Illness (n.d.) Mental Health Facts in America. Retrieved from <https://www.nami.org/NAMI/media/NAMI-Media/Infographics/GeneralMHFacts.pdf>

² National Alliance for Mental Illness (2015). A Long Road Ahead: Achieving True Parity in Mental Health and Substance Use Care. Retrieved from <https://www.nami.org/About-NAMI/Publications-Reports/Public-Policy-Reports/A-Long-Road-Ahead/2015-ALongRoadAhead.pdf>

- Option 1: Exclude behavioral health care providers from the timely billing provision;
- Option 2: Insert a safeguard to extend the timeline for timely billing for behavioral health care providers who are attempting to adjudicate final payment.

We are happy to answer any clarifying questions and appreciate your consideration to amend this provision.

Sincerely,

American Addiction Centers
American Association for Psychoanalysis in Clinical Social Work
Anxiety and Depression Association of America
Association for Ambulatory Behavioral Healthcare
Eating Disorders Coalition for Research, Policy & Action
Global Alliance for Behavioral Health and Social Justice
The Jewish Federations of North America
National Association for Children's Behavioral Health
National Association for Rural Mental Health
National Association of Social Workers
Residential Eating Disorders Consortium