



January 31, 2023

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–9898–NC, P.O. Box 8016,
Baltimore, MD 21244–8016

Submitted electronically via <http://regulations.gov>

Re: Request for Information; Essential Health Benefits

Dear Administrator Brooks-LaSure:

On behalf of over 110,000 members of the National Association of Social Workers (NASW), I appreciate the opportunity to submit comments on the Request for Information on Essential Health Benefits (CMS–9898–NC). NASW is the largest membership organization of professional social workers in the United States. The association works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies.

Social workers are the largest provider of mental, behavioral, and social care services in the nation at 700,000+ according to the Bureau of Labor Statistics.¹ Social workers serve a critical role in connecting individuals and families to health insurance coverage and health care services. NASW has long supported the Affordable Care Act (ACA) and efforts to enhance the health and well-being of people and underserved communities.

Barriers of Accessing Services Due to Coverage or Cost

Barriers to mental health and substance use disorder services; telehealth utilization

Prior to the COVID-19 pandemic mental health and substance use services were limited. With an already strained system, services for mental health and substance use have been impacted

¹ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Social Workers, at <https://www.bls.gov/ooh/community-and-social-service/social-workers.htm> (visited January 18, 2023).

by increased demands due to COVID-19 coupled with the shortage within the behavioral health workforce. Data from March-August 2021 showed 39% of telehealth outpatient visits were primarily for a mental health or substance use diagnosis compared to 24% a year earlier and 11% two years earlier.² Limited staffing, appointment availability and limited levels of care to address the continuum of substance use treatment impact individuals in rural and urban settings. Because of these limitations individuals are not receiving the care they need.

The [ASAM Criteria and Levels of Care In Addiction Treatment](#) is one of many tools utilized by insurance plans along with medical necessity criteria to determine the level of care recommended for treatment. For substance use disorders some health plans have used [medical necessity criteria](#) to restrict care and control cost. With the use of these tools and medical necessity criteria, insurance plans review processes can restrict care by recommending a less intensive setting versus long-term care such as residential substance use services. Of note, insufficient documentation provided by providers can impact insurance approval rates and can become a significant barrier to mental health and substance use treatment.

The Essential Health Benefits (EHB) package does not mandate or provide guidance around insurance reimbursement rates. As mentioned in [Behavioral Health Business](#), this problem of insufficient payment is not only for Medicaid plans but it also extends into the commercial sector, too. Due to low reimbursement rates some providers have opted out of the insurance market and are only providing services to individuals who can afford to pay for services out of pocket. Out of pocket services may range from \$100 to \$200 a session and can present as a financial hardship, meaning higher costs for patients and therefore an inability to seek care.

The demand for treatment continues to increase and with the workforce shortage there is a decreased supply of trained social workers in the workforce which impacts consumer equity and diversity within the behavioral health workforce. The current workforce according to the [Bureau of Labor Statistics](#) reports 84.6% of psychologists, 65.4% of social workers, and 76.3% of mental health counselors are white. This lack of diversity does not align with many of the communities in need of service. Mental health services that are [culturally sensitive](#) and consider the needs of individuals from racial-ethnic minority groups may increase service utilization.

With the use of telehealth services, providers have been able to reach individuals they might not have serviced in the past due to stigmas in receiving care, lack of transportation and time

² Lo, J., Rae, M., Panchal, N., Cox, C., & Amin, K. (2022, March 22). *Telehealth has played an outsized role meeting mental health needs during the COVID-19 pandemic*. Kaiser Family Foundation. Retrieved December 19, 2022, from <https://www.kff.org/coronavirus-covid-19/issue-brief/telehealth-has-played-an-outsized-role-meeting-mental-health-needs-during-the-covid-19-pandemic/>

commitment for persons who may be faced with balancing work, childcare and have limited support systems. [64% of counties](#) in US have a shortage of mental health providers. [Tele-mental health](#) makes possible the virtual connections of mental health specialists and PCPs, especially in rural areas and for unemployed and uninsured individuals who often have limited access to specialty care. With the use of telehealth, access to treatment increases by making care available in areas with limited or no professional mental health or substance use resources, it helps with efficiency by supporting team collaboration, and the potential for improved quality of care increases by assisting with compliance and medication adherence.

Telehealth may improve access to mental health and substance use disorder care, particularly for people living in areas with limited providers. However, differences in digital literacy and lack of internet or internet capable devices at home can interfere with access to telehealth. Continued efforts should also be made to reach underserved patients and ensure equal access to necessary telehealth care, particularly as it relates to:

- Older adults
- Beneficiaries with disabilities
- Children/adolescents.
- Beneficiaries with limited English proficiency
- Beneficiaries with low digital literacy
- Beneficiaries with limited access to the internet and devices.

Research has found inequities in telehealth access and use during the COVID-19 pandemic, especially for people with limited English proficiency,^{3,4} Black people,^{5,6,7} people living in rural areas,⁸ and women, individuals with low incomes, older adults, and people who are Asian or Latino.⁹ Living with a disability can also affect one's access to and use of telehealth.¹⁰ Regardless of demographic characteristics, access to technology plays a primary role in

³ Eberly, L. A., Kallan, M. J., Julien, H. M., Haynes, N., Khatana, S. A. M., Nathan, A. S., Snider, C., Chokshi, N. P., Eneanya, N. D., Takvorian, S. U., Anastos-Wallen, R., Chaiyachati, K., Ambrose, M., O'Quinn, R., Seigerman, M., Goldberg, L. R., Leri, D., Choi, K., Gitelman, Y., ... & Adusumalli, S. (2020). Patient characteristics associated with telemedicine access for primary and specialty ambulatory care during the COVID-19 pandemic. *JAMA Network Open*, 3, e2031640. <https://doi.org/10.1001/jamanetworkopen.2020.31640>

⁴ Rodriguez, J. A., Saadi, A., Schwamm, L. H., Bates, D. W., & Samal, L. (2021). Disparities In telehealth use among California patients with limited English proficiency. *Health Affairs*, 40, 487–495. <https://doi.org/10.1377/hlthaff.2020.00823>

⁵ Please refer to the previously cited article by Eberly et al.

⁶ Wong Samson, L., Tarazi, W., Turrini, G., & Sheingold, S. (2021). *Medicare beneficiaries' use of telehealth in 2020: Trends by beneficiary characteristics and location* (Research Report HP-2021-27). U.S. Department of Health and Services, Assistant Secretary for Planning and Evaluation, Office of Health Policy. <https://aspe.hhs.gov/sites/default/files/documents/a1d5d810fe3433e18b192be42dbf2351/medicare-telehealth-report.pdf>

⁷ Jacobs, M., & Ellis, C. (2021). Telemedicine disparities during COVID-19: Provider offering and individual technology availability. *Journal of the American Geriatrics Society*, 69, 2432–2434. <https://doi.org/10.1111/jgs.17280>

⁸ Please refer to the previously cited article report by Wong Samson et al.

⁹ Please refer to the previously cited article by Eberly et al.

¹⁰ Valdez, R. S., Rogers, C. C., Claypool, H., Triesmann, L., Frye, O., Wellbeloved-Stone, C., & Kushalnagar, P. (2020). Ensuring full participation of people with disabilities in an era of telehealth. *Journal of the American Medical Informatics Association*, 28, 389–392. <https://doi.org/10.1093/jamia/ocaa297>

telehealth disparities: One study showed a cross-community association between lack of internet access and death from COVID-19.¹¹

Given these considerations, the country's ongoing struggles with COVID-19, and the emergence over time of other health crises (such as mpox¹² and RSV), NASW believes that telehealth use is appropriate when it fits within a client's plan of care and does not supplant needed in-person care. We urge CMS to require states to collect and analyze robust data monitoring telehealth use. Such data collection and analysis should include client characteristics and utilization patterns, including identification of clients who cannot use telecommunications because of technological limitations or other factors.

Broaden access to telehealth services

States have expanded Medicaid coverage with many states covering and paying parity for audio-visual and audio-only for mental health and substance use disorder services in their fee-for-service Medicaid programs. However, some states have reinstated certain rules that limit telehealth use.

According to [McKinsey](#) there has been an increase in telehealth depending on specialty, with the highest penetration in psychiatry (50 percent) and substance use treatment (30 percent). With the use of remote patient monitoring and self-diagnostics and hybrid (virtual vs in person) care access to telehealth utilization proves to be a continued need.

Changes in Medical Evidence and Scientific Advancement

Advancing health equity; address underserved populations

Over the past decade, the important influence of the social determinants of health and health-related social needs (HRSN) has come to the forefront of health policy and health service delivery.¹³ With the recognition that progress to improve health cannot be made through medical services alone, addressing HRSN has been a focus of innovative demonstration projects and recent state initiatives.

To address health conditions that disproportionately affect underserved populations, states may use flexibilities to enhance the EHB according to identified needs of the population.

¹¹ Lin, Q., Paykin, S., Halpern, D., Martinez-Cardoso, A., & Kolak, M. (2022). Assessment of structural barriers and racial group disparities of COVID-19 mortality with spatial analysis. *JAMA Network Open*, 5, e220984. <https://doi.org/10.1001/jamanetworkopen.2022.0984>

¹² U.S. Department of Health and Human Services. (2022, August 4). *Biden-Harris administration bolsters monkeypox response; HHS secretary Becerra declares public health emergency* [News release]. <https://www.hhs.gov/about/news/2022/08/04/biden-harris-administration-bolsters-monkeypox-response-hhs-secretary-becerra-declares-public-health-emergency.html>

¹³ Magnan, S. 2021. Social Determinants of Health 201 for Health Care: Plan, Do, Study, Act. NAM Perspectives. Discussion Paper, National Academy of Medicine, Washington, DC. <https://doi.org/10.31478/202106c>

NASW supports efforts to incentivize insurers and practices to collect demographic information, document HRSN, and increase use of Z-codes to document social needs. Standardizing the collection of social needs data can inform where gaps in services and coverage exist. It is important for social workers, and other providers with expertise in assessing and addressing social needs, to be included in health care teams to collect social needs information and develop related interventions.

States should have flexibility to expand EHB coverage in an effort to reduce health disparities. For example, racial health disparities for pregnant women in the United States are striking, with Black women three times more likely to experience adverse outcomes or pregnancy-related death than White women.¹⁴ More than half of states have opted to provide extended 12-month postpartum coverage through Medicaid to address health needs during this critical time. Similarly, through EHB, states can update their benchmark plans to expand access to services such as prenatal and postpartum services and access to ongoing support through social workers, caseworkers, and other supportive services.

Addressing Gaps in Coverage

Coverage of mental and behavioral health services

The passage of the FY 2023 omnibus appropriations package was a significant step towards increasing access to mental health and substance use care. The legislation will require state and local government plans to cover mental health treatment. This will prevent new opt outs from being filed by state or local government plans and allow existing opt outs to phase out.¹⁵ As a result, all public plans will ultimately be required to comply with the 2008 Mental Health Parity and Addiction Equity.

As legislative efforts move to improving access to care, more attention should be given towards addressing behavioral health disparities in marginalized communities. Maternal mental health conditions are common complications of pregnancy and childbirth that affects 1 in 5 women in the United States each year.¹⁶ Approximately 75% of those with maternal mental health conditions go undiagnosed and untreated.¹⁷ Women of color living in poverty are disproportionately impacted by maternal mental health conditions and the COVID pandemic

¹⁴ Hill, L., Artiga, S. and Ranji, U. (2022). *Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them*. Kaiser Family Foundation. (Nov 1, 2022). <https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/>

¹⁵ Forum, T.K. (2022) *Congress ends discrimination against Public Employees' Mental Health Coverage, Congress Ends Discrimination Against Public Employees' Mental Health Coverage*. Available at: https://www.prnewswire.com/news-releases/congress-ends-discrimination-against-public-employees-mental-health-coverage-301709333.html?tc=eml_cleartime (Accessed: December 23, 2022).

¹⁶ Luca, D., et al (2019). Societal Costs of Untreated Perinatal Mood and Anxiety Disorders in the United States. Mathematic Policy Research.

¹⁷ Center for Disease Control and Prevention website. www.cdc.gov/reproductivehealth/depression/index

with rates 2-3 times higher than white counterparts.¹⁸ Supports that are culturally and linguistically appropriate are also important. Maternal Depression and Related Behavioral Disorders Programs (MDRBD) are critical as they train health care providers to screen, assess, and treat maternal mental health conditions, as well as provide specialized psychiatric consultation support for providers.

Regarding integrative care, the interdisciplinary treatment of pain to include psychotherapeutic interventions, are seen as a way to deliver pain management beyond medication. The CDC continues to support several pain management therapies, including numerous evidence-based non-pharmacological approaches.¹⁹ Social workers are valued members of interprofessional care delivery teams that help patients with complex needs navigate medical and social supports. However, until these approaches are adequately covered by public and private payment structures, they will continue to be inaccessible due to barriers related to geographic and socioeconomic factors.

Obesity can also have a significant impact on mental health. A longitudinal study on depression found that 55% of people with obesity had an increased risk of developing depression over time while those with depression had a 58% risk of developing obesity.²⁰ Clinical social workers provide clinical assessment and treatment for mental health conditions, and NASW recommends that social workers provide behavioral interventions for obesity.

Coverage of emergency behavioral health services

There is not sufficient coverage for emergency behavioral health services, including mobile crisis care and stabilization services. The American Rescue Plan of 2021 expanded Medicaid funding for mental health crisis intervention programs. Incentives were allocated to states to increase Medicaid coverage of mobile crisis teams.

Habilitation Services

The inclusion of rehabilitation and habilitation benefits in the ACA's EHB has had a positive effect on access to needed services, improving the quality of life of individuals, and reducing downstream medical costs. NASW encourages efforts to strengthen the covered benefits related to habilitation. Both rehabilitation and habilitation are essential for individuals facing injuries, disabilities, and chronic conditions. Rehabilitation services help individuals regain and maintain skills or function, while habilitation services help individuals attain and acquire skills

¹⁸ Society for Research in Women's Health website. <https://swhr.org/the-disproportionate-impact-of-covid-19-on-women-of-color/>

¹⁹ Academy of Integrative Health & Medicine Alliance to Advance Comprehensive Integrative Pain Management, et al (2022, April 11). Alliance to Advance Comprehensive Integrative Pain Management Letter to the Centers for Disease Control and Prevention's draft on Clinical Practice Guideline for Prescribing Opioids. <https://www.socialworkers.org/LinkClick.aspx?fileticket=47DVMxLOGrA%3D&portalid=0>.

²⁰ *Obesity and Mental Health: Is there a link?* Obesity Action Coalition. (2021, August 3). Retrieved December 22, 2022, from <https://www.obesityaction.org/resources/obesity-and-mental-health-is-there-a-link/>

they have not yet learned.²¹ Habilitation services are essential for children to support growth and development, and they include services such as occupational therapy, physical therapy, speech therapy, and assistive technology devices to support activities of daily living. Many state plans focus on rehabilitation services, and habilitation service coverage is not as generous. Any limits put on habilitation services should be considered independently of rehabilitation services.

Pediatric services

NASW supports access to comprehensive benefits for children and youth, including services to address medical, oral, vision, and mental and behavioral health. Medicaid's Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit is a model for comprehensive services that improves well-being and support the development of children and youth. EPSDT allows for identification and treatment of any issues and includes services for physical and mental and behavioral health conditions.²² Pediatric EHB services should strive to provide comprehensive coverage in parallel to EPSDT. NASW encourages further delineation of pediatric EHB services at the state level.

Substitution of EHB

NASW discourages states from substituting EHB. The ten EHB outlined in the ACA are critical benefits that facilitate access to services that improve health and limit consumer costs. State flexibilities should be used to enhance EHB coverage, but they should not be used to limit access to EHB services. For example, during the COVID-19 pandemic, CMS clarified that generally, coverage for the diagnosis and treatment of COVID-19 is covered under the EHB.²³ Any proposed substitution that would result in restricted access to services should be rejected by CMS. Instead, states should utilize flexibility to maximize consumer access to health services.

Thank you for your consideration of NASW's comments. If you have any questions, please do not hesitate to contact me at bbedney.nasw@socialworkers.org

Sincerely,
Barbara Bedney
Barbara Bedney, PhD, MSW
Chief of Programs

²¹ Habilitation Benefits Coalition. (2021, July 2). Letter to CMS, Introduction to the Habilitation Benefits Coalition.

https://habcoalition.files.wordpress.com/2022/02/hab-coalition-letter-to-brooks-lasure_2021.pdf

²² Centers for Medicare & Medicaid Services. (2022, August 18). *CMCS Informational Bulletin, Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth.*

<https://www.medicaid.gov/federal-policy-guidance/downloads/bhccib08182022.pdf>

²³ Centers for Medicare & Medicaid Services. (2020, March 12). *FAQs on Essential Health Benefit Coverage and the Coronavirus (COVID-19).* <https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/EHB-Benchmark-Coverage-of-COVID-19.pdf>

