



September 10, 2018

The Honorable Seema Verma, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1693-P
P.O. Box 8016
Baltimore, MD 21244-8016

Dear Administrator Verma,

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to comment on the Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2019; Medicare Shared Savings Program Requirements; Quality Payment Program; and Medicaid Promoting Interoperability Program (proposed rule). Our comments focus on telehealth, bundled episode of care for management and counseling treatment for substance use disorders (SUDs), 42 CFR Part 2, and eligible Medicare professionals.

ABHW is the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to approximately 175 million people in both the public and private sectors to treat mental health, substance use disorders, and other behaviors that impact health and wellness.

Telehealth

ABHW is supportive of efforts to continue expanding telehealth services in order to make health care more accessible. We have specifically advocated for the elimination of restrictions in 1834(m), including geographic and originating site limits. ABHW members would also like to see the Ryan Haight Act amended and licensure issues addressed. The initial intent of the Ryan Haight Act has become a real barrier to administering telehealth services, as oftentimes

patients are unable to have an initial visit with a provider in person because of a behavioral health provider shortage or physical difficulty traveling. Additionally, harmonizing state licensure requirements to enable providers to more easily deliver care across state lines would optimize the availability and reach of telehealth services.

We appreciate your proposal to provide payment for brief communication technology-based services, or “virtual check-ins”, but look for clarification around your intent. A stronger definition of “virtual check-in” is necessary to fully understand the goal and use of this tool. For example, the proposed rule specifically notes that this service could be used as part of a treatment regimen for opioid use disorders (OUDs) and other SUDs; however, from a behavioral health perspective, it would be difficult to effectively address patient concerns in a brief 5-10 minute check-in call. Unless the time is used for a medication check (which is usually scheduled for about 15 minutes), it is unlikely that this type of quick check-in could replace a behavioral health appointment. As such, this conversation should not be separately billable.

Bundled Episode of Care for Management and Counseling Treatment for SUDs

ABHW is supportive of the concept of a bundled episode of care for management and counseling treatment for SUDs. We also support a continuum of evidence based, person-centered care to treat individuals with an OUD, including medication assisted treatment (MAT) along with counseling. Use of this combination as part of a treatment plan dramatically improves the chances of recovery and decreases the relapse rate.

When the concept of a bundled payment in this area is developed further the points below will need clarification.

- The proposed rule mentions both SUDs and OUDs, would the bundled episode only be for opioids? If it applies more broadly to SUDs it would be helpful to identify the particular SUDs and the applicable treatments.
- Not all providers, or provider groups, deliver all treatment services so fee-for-service payment may still be necessary for individuals who receive counseling in a place different from the place where they are treated, for example, with methadone.

- The bundle will need to specify whether or not the entire component of MAT is included in the payment. Right now the proposed rule mentions “components” and it is unclear what specifically falls under that category.
- If the bundle does include the actual provision of the medication it will be important for it to account for the fact that there are several types of medication that treat OUD and the delivery models for these different types of MAT may require their own bundled payment model to appropriately address these differences.

42 CFR Part 2

The proposed rule also seeks comments on suggestions for regulatory and subregulatory changes to help prevent OUD and improve access to treatment under the Medicare program. We recommend alignment of 42 CFR Part 2 (Part 2) with the Health Insurance Portability and Accountability Act (HIPAA). 42 CFR Part 2 is an outdated 1970s regulation that limits the use and disclosure of patients’ substance use records from certain substance use treatment programs. This can prohibit payers from sharing this information with the health care providers on the front line caring for patients suffering from opioid and other SUDs. The outdated regulation severely constrains the health care community’s efforts to coordinate care for persons with SUDs and ABHW members say Part 2 is one of the biggest – if not the biggest – barrier to fighting the opioid crisis. Without the ability to share SUD records, insurers, doctors, hospitals, pharmacists, electronic health record vendors, pharmaceutical companies, and others are limited in what they can do to assist in the nation’s efforts to prevent OUD and deaths from OUD overdoses.

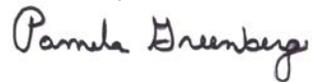
Eligible Medicare Providers

Many Medicare beneficiaries do not have access to a mental health professional because of their remote locations and the shortage of mental health providers. Medicare currently recognizes psychiatrists, psychologists, clinical social workers, and psychiatric nurses to provide covered mental health services. In order to increase the array of providers available to Medicare beneficiaries and decrease the workforce shortage, ABHW recommends recognizing mental health counselors and marriage and family therapists (MFTs) as eligible

professionals. This would increase the pool of Medicare mental health providers by over 165,000 licensed providers.

Thank you for the opportunity to comment on these important issues. Please feel free to contact me at greenberg@abhw.org or (202) 449-7660 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Pamela Greenberg". The signature is written in a cursive style with a loop at the end of the last name.

Pamela Greenberg, MPP
President and CEO
Association for Behavioral Health and Wellness