ABHW
Advancing Health Care Policy
for Mental Health and Addiction

April 12, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Request for Information Regarding Maternal and Infant Health Care in Rural Communities

Dear Administrator Verma,

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services' (CMS) Request for Information Regarding Maternal and Infant Health Care in Rural Communities (RFI). Though often perceived to be a problem of the inner city, substance abuse has long been prevalent in rural areas.[1] Furthermore, substance abuse can be especially hard to combat in rural communities due to limited resources for prevention, treatment, and recovery.[2] As such, our comments below are solely focused on improvements that can be made in the area of substance use disorders (SUDs), including opioid use disorders (OUDs).

ABHW is the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to over 200 million people in both the public and private sectors to treat mental health, substance use disorders (SUDs), and other behaviors that impact health and wellness.

[1] Substance Abuse in Rural Areas, https://www.ruralhealthinfo.org/topics/substance-abuse, last visited April 10. 2020.
[2] Id.

Continue momentum on 42 CRF Part 2 (Part 2).

Given the increase in SUDs in rural areas as well as the uncertainty during the current pandemic, it is more important than ever that the roadblocks to providing care are removed. We urge CMS to provide renewed focus on the issues surrounding 42 CFR Part 2 (Part 2). Part 2, which governs the confidentiality and disclosure parameters for SUD patient records, required the submission of a written consent prior to each disclosure of their SUD record for treatment, payment, and health care operations (TPO).

To address these issues, ABHW leads the Partnership to Amend 42 CFR Part 2 (Partnership). The Partnership is committed to aligning Part 2 with the disclosure requirements under the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of TPO.

We believe the recent changes to Part 2 in the Coronavirus Aid, Relief, and Economic Safety Act (CARES Act) will greatly help in coordinating care for patients with SUDs. We encourage CMS to work with HHS to ensure a regulation pursuant to the CARES Act is issued quickly so that patients with SUDs receive the best care possible.

Utilize telehealth to coordinate treatment for mental health (MH) and SUDs.

ABHW is supportive of expanding access to treatment of MH and SUDs through telehealth. Telehealth services have been proven to drive important advancements for patients, expand access to care, improve health outcomes, reduce inappropriate use of psychotropic medications, overcome the stigma barrier, and reduce costs. Given the growing shortage of behavioral health providers, , expanding telehealth is vital to help address the growing need for ready and timely access to necessary treatment.

In particular, telebehavioral health care has gained recognition over the past decade as a solution to enhance access to quality behavioral health care in the United States. Telehealth can create an equitable treatment option to those with limited or no access to behavioral health services, which would be particularly beneficial to women and infants in rural communities, where there are known barriers to access to care.

Recently, CMS has taken steps to remove barriers to telehealth during the coronavirus pandemic. ABHW urges CMS to evaluate which policy changes are

appropriate to be made permanent to ensure that mothers and infants in rural communities have greater access to healthcare.

Increase the size of the addiction service workforce and treatment and recovery infrastructure.

We recommend that CMS allocate resources to the very real problem of workforce shortages, which are prevalent in rural communities and also in the field of behavioral health. One option to consider that would help improve the quality of SUD care is to create a national standard for training as a SUD counselor (similar to what is the case for registered nurses, doctors, pharmacists, clinical psychologists, etc.). Many states show vast differences regarding their requirements to be certified as an alcohol/SUD counselor. Large portions of the training requirements are based on work experience (e.g., number of clinical hours in a drug treatment facility) versus adherence to defined best practices. Standardizing certification requirements would help to ensure that patients receive quality SUD treatment from an appropriately trained workforce.

Additionally, with respect to OUD, we recommend working with the Drug Enforcement Administration (DEA) to eliminate the practitioner waiver to prescribe buprenorphine. It is important to remove regulatory hurdles to help reduce unmet needs for addiction treatment. In many areas, ABHW members frequently find it hard to locate a provider willing to provide medication assisted treatment to the patients they serve. Addressing this barrier would encourage more providers to prescribe medication for OUD and help individuals overcome addiction.

Address issues with fraud and abuse that exists in some SUD facilities.

ABHW members have witnessed firsthand the fraud in some SUD treatment facilities in areas of licensure, accreditation, administrative and billing practices, quality, and enrollment. Generally, these fraudulent activities usually occur in out-of-network SUD facilities and the inappropriate care they provide can have dire, and sometimes fatal outcomes.

<u>Recovery Homes</u>
Recovery housing should have a clear operational definition that accurately delineates the type of services offered. While recently released guidelines by the SAMHSA encourage this, we believe changes to the definition and added oversight needs to be identified to truly hold unethical treatment centers accountable.

First, it should be explicitly stated that recovery homes are not treatment programs and individuals do not receive treatment at a recovery home. Additionally, it should be made clear that recovery homes can be one component of an individual's treatment and recovery and that any necessary treatment will be accessed in other settings. Furthermore, it is necessary that all services be coordinated. This level of specificity is critical so that recovery homes can be uniformly evaluated by consumers, providers, accrediting bodies, government, and payers. A clear delineation will help everyone know what to expect.

Licensure and Accreditation

While licensing is a function under state and other local jurisdictions, efforts are needed to ensure that all facilities are licensed and fully accredited to provide SUD treatment. ABHW members have discovered that some facilities do not have a valid license, a license does not exist at the address provided, a license is not for the services being advertised, and/or the facility may be providing services for which they are not licensed. It is also critical that facilities adopt quality standards and be held accountable to those standards through accreditation. Standards should take into account that there are several levels of care within the recovery housing model, each with unique oversight needs.

Administration and Billing Practices

As more funding is directed toward treating SUDs, it has drawn the interest of private equity and other profit driven providers, which has led to several clinical and billing issues. Specifically, ABHW members have identified that fraudulent facilities may bill for the same diagnosis, same procedures, same units for every member, every day. Moreover, there is often misrepresentation of billed services such as an inpatient/hospital bill, but the facility is residential or intensive outpatient. These facilities are often unable to substantiate billed services and lack adherence to federal and state regulations, policies, and/or procedures.

Quality

ABHW members are committed to ensuring patients receive the care they need but also continue to grapple with fraudulent claims and identifying deceptive practices. While there are concerted efforts to roll back prior authorization, these and other utilization review tools are important to help ensure that patients are not being preyed upon by fraudulent providers. These managed care techniques help provide checks and balances to ensure quality treatment and patient protections. ABHW members have identified improper

practices such as: treatment not being rendered by a medical professional, inappropriate medical supervision of SUD treatment programs, clinical information provided during prior authorization is unclear or vague, excessive use of medically unnecessary services, unlicensed personnel rendering services, and facilities billing for levels of care that they are not licensed to perform.

Therefore, we urge CMS to focus on quality standards, best practices, and model policies, which need to be identified, widely disseminated, and adopted to ensure individuals have appropriate and accurate information to make treatment decisions. These actions will then give payers a full picture of the medically necessary services rendered by appropriately licensed medical professionals and ultimately lead to patients receiving appropriate care with positive health outcomes.

Enrollment

Patient brokering continues to be a part of fraudulent practices in pockets of the SUD treatment industry. This activity often results in kickback payments and targeting patients through deceptive marketing and advertising practices with paid travel and incentives to enroll in treatment, often outside of their state of residence and out–of–network. Once an individual is enrolled, facilities often bill for treatments, tests, and other services or procedures that may or may not be clinically appropriate and may not even be provided. We encourage efforts to identify this fraudulent behavior and procedures for law enforcement to address it in a timely manner.

Conclusion

Thank you for the opportunity to comment on this important RFI. Please feel free to contact Deepti Loharikar, Director of Regulatory Affairs, at loharikar@abhw.org or (202) 449-7659 with any questions.

Sincerely,

Pamela Greenberg

Pamela Greenberg, MPP
President and CEO