



September 13, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: CY 2023 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Acquisition; Rural Emergency Hospitals: Payment Policies, Conditions of Participation, Provider Enrollment, Physician Self-Referral; New Service Category for Hospital Outpatient Department Prior Authorization Process; Overall Hospital Quality Star Rating (CMS-1772-P)

Dear Administrator Brooks-LaSure,

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments on the Centers for Medicare and Medicaid Services' (CMS) proposed CY 2023 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Acquisition; Rural Emergency Hospitals: Payment Policies, Conditions of Participation, Provider Enrollment, Physician Self-Referral; New Service Category for Hospital Outpatient Department Prior Authorization Process; Overall Hospital Quality Star Rating (OPPS). Our comments are outlined below.

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

Overarchingly, our organization's goals aim to increase access, drive integration, support prevention, raise awareness, reduce stigma, and advance evidence-based treatment and quality outcomes. Furthermore, through our policy work, we strive to promote equal access to quality treatment and address the stark inequities created by systemic racism. We are deeply concerned about health disparities in this country in the areas of MH and SUD services and are committed to promoting health equity in the health care system.

Section III(C)(3)(g): Supervised Visits for Esketamine Self-Administration

As you know, esketamine is an important medication used to treat patients with treatment-resistant depression. We have appreciated previous steps from CMS to issue G codes for the treatment and welcome continued efforts to make this treatment more available to beneficiaries.

Section X(A): Mental Health Services Furnished Remotely by Hospital Staff to Beneficiaries in their Homes

Telehealth services have been critical to ensuring care during the public health emergency (PHE). Individuals with mental health issues often cannot get treatment in-person due to a physical limitation that keeps them in their homes or a provider shortage in their area. To ensure those with mental health diagnoses can receive the care they need following the end of the PHE, we strongly support allowing services to continue remotely by hospital clinical staff. We recommend CMS urge Congress to remove the six-month in-person evaluation requirement.

ABHW supports patient access to services via audio-only technology for the duration of the PHE. We recommend that the appropriate regulatory agencies research how best to provide quality, evidence-based, and clinically appropriate telebehavioral health services as a long-term strategy. We support the continued use of the audio-only modifier so that utilization of audio-only services can be tracked and suggest conducting effectiveness research to differentiate between audio-only and audio-visual research.

Further, ABHW advocates that payment for audio-only services be evaluated in partial hospitalization programs, applied behavioral analyses, psychological

testing, and group therapy to ensure equitable and appropriate reimbursement. We recommend that regulatory agencies evaluate quality standards and protections against potential fraud, waste, and abuse in telehealth services.

Section X(B): Comment Solicitation on Intensive Outpatient Mental Health Treatment, including Substance Use Disorder (SUD) Treatment Furnished by Intensive Outpatient Programs (IOPs)

ABHW is committed to addressing the opioid epidemic, which continues to grow more widespread and devastating. In 2021, the CDC estimated there were over 108,000 deaths due to a drug overdose.¹

Nearly one million adults aged 65 and older live with a substance use disorder.² According to a study done during the PHE, nearly 20 percent of Medicare beneficiaries received care via telemedicine,³ including buprenorphine for opioid use disorder. Medicare patients who received treatment during the pandemic via telehealth were less likely to overdose and more likely to continue receiving care. With these statistics, ABHW believes there must be a multi-level strategy for handling the opioid epidemic. We urge you to consider:

- Expanding the use of Naloxone and strategies that increase access.
- Supporting the removal of the Drug Enforcement Administration's (DEA) x-waiver for providers prescribing buprenorphine.
- Eliminating the in-person evaluation requirement before a provider can prescribe medication-assisted treatment (MAT) via telehealth and supporting the issuance of the overdue rule outlining the Special Registration process for the use of telemedicine to prescribe controlled substances under the Ryan Haight Act.

While this is not all within CMS' authority, we urge you to work with other agencies and Congress to eliminate the x-waiver requirement. Removing the outdated x-waiver policy and issuing the Special Registration rule will increase access to evidence-based, effective treatment for opioid use disorder. We

¹ https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm

² <https://nida.nih.gov/publications/drugfacts/substance-use-in-older-adults-drugfacts>

³ <https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2795953>

strongly encourage you to collaborate with the DEA and other agencies to consider health care access and continuity of care.

Section XVI (B)(1)(d)(1): Request for Comment on Additional Measurement Topics and for Suggested Measures for REH Quality Reporting: Telehealth

Access to telehealth will continue to be critical to ensuring access to behavioral health services. ABHW supports making permanent Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs) as distant sites for the provision of telehealth services. As discussed above, we support the removal of the six-month in-person requirement, which is particularly burdensome in rural areas that may have a shortage of mental health and behavioral health professionals.

ABHW supports and encourages state and federal efforts that foster state licensure reciprocity to improve access to telehealth services. We recognize that CMS does not have authority over licensure issues but urge you to continue efforts that support reciprocity. We also urge CMS to work with other agencies to expand rural broadband. As broadband connectivity is increased, the utilization of telehealth services can continue more easily. Addressing these barriers to telehealth continues to be essential to address the increased need for behavioral health services.

Thank you for the opportunity to provide feedback to address crucial behavioral health policies. If you have any questions or would like to discuss ABHW's policy priorities, please contact Maeghan Gilmore at gilmore@abhw.org or at 202-449-2278.

Sincerely,



Pamela Greenberg, MPP
President and CEO