

January 2, 2024

Ms. Chiquita Brooks-LaSure
Administrator
U.S. Department of Health & Human Services
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance
Oversight
200 Independence Avenue SW
Washington, DC 20201

Re: The [2025 Draft Letter to Issuers](#); Secret Shopper Surveys

Dear Administrator Brooks-LaSure:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments on the Centers for Medicare & Medicaid Services (CMS) 2025 Draft Letter to Issuers in the Federally-facilitated Exchanges (2025 Draft Letter).

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

Our organization aims 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 historic and systemic structural inequities that have directly impacted access and quality of care. We are deeply concerned about health disparities in MH and SUD services in this country and are committed to promoting health equity in the healthcare system that addresses these access and quality issues.

I. Network Adequacy for QHP Issuers in FFEs

1. Secret Shopper Surveys:

CMS will require Qualified Health Plan (QHP) issuers in the Federally-facilitated Exchanges (FFE) to contract with a third-party entity to administer secret shopper surveys to meet appointment wait time standards for behavioral health providers.

ABHW has significant concerns with this approach to assessing compliance. Independent secret shopper survey results can be helpful tools in improving the quality of care if the

survey methodology is standardized, transparent, and applied consistently. Surveys and results from such surveys can be skewed or inaccurate based on how questions are framed, how the sample is selected, and how rigorously answers are scored. Compliance assessments should not rely on subjective secret shopper programs with undefined methodologies that do not provide clear structure on the design, administration, and analysis of the survey results and do not consider factors outside the issuers' control (e.g., provider shortages, provider refusal to participate, patient preferences, etc.).

In this instance, the survey methodology and the survey administration protocol have not been defined. As a result, the surveys, administered by various third-party entities with no standard requirements established, will produce disparate methods, sample sizes, and results that do not reflect the realities of the directory information. **ABHW recommends a delay in adopting the secret shopper surveys until a methodology, guidelines for the survey administration, and a standardized tool for the administration and analysis of the survey results are developed. We also encourage regulators to pursue more objective measures, such as working with health plans and providers to produce a reporting system and interoperability standards that allow for sharing appointment data.**

When developing guidelines for the survey methodologies that secret shoppers will use and how health plans are scored, regulators should consider that there are factors outside of the health plan's control, including those listed above, such as the behavioral health workforce shortages, provider survey participation, and patient's personal healthcare choices. Additionally, the highest quality behavioral health providers tend to have the longest wait times, and issuers should not be penalized for building their networks around those providers.

Conclusion

Thank you for the opportunity to provide feedback on the 2025 Draft Letter. We are committed to engaging with CMS and other partners on opportunities to improve behavioral health access. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,



Pamela Greenberg, MPP
President and CEO