

January 5, 2024

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

Re: [Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Programs, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications](#); CMS-4205-P

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) Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications (MAPD) Notice of Proposed Rulemaking (NPRM or Proposed Rule).

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 structural and systemic disparities in 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 those access and quality of care issues.

ABHW successfully advocated for Mental Health Counselors (MHC) and Marriage and Family Therapists (MFT) to be eligible to enroll in and bill to the Medicare program as providers under the Consolidated Appropriations Act of 2023 (CAA23). Our members are

committed to expanding access through these new behavioral health provider types eligible for Medicare payment. This will provide a meaningful expansion of access for Medicare beneficiaries by adding coverage for intensive outpatient mental health programs and care provided by MFTs and MHCs. We have detailed our comments below on CMS's proposed changes to Medicare Advantage Organizations (MAOs) network adequacy requirements to account for these new provider types.

I. Network Adequacy Requirements for Behavioral Health

1. Adding the New Facility-Specialty Type - Outpatient Behavioral Health

CMS proposes to amend the Medicare Advantage (MA) network adequacy requirements to address SUD provider types and the new provider types included in the CAA23 by creating a combined behavioral health specialty type. The Proposed Rule adds "Outpatient Behavioral Health" as a new type of facility specialty and allows the term to include MFT, MHC, Outpatient Treatment Program (OTP) providers, Community Mental Health Centers (CMHCs), and other behavioral health and addiction medicine specialists and facilities. CMS suggests that the new Outpatient Behavioral Health facility specialty will be subject to the specific time and distance standards and minimum provider requirements used in CMS's network adequacy evaluation.

The dramatic increase in MH/SUD needs and the provider workforce shortages have been exacerbated in recent years and are projected to continue. A significant challenge for all stakeholders is the insufficient number of MH/SUD providers nationwide. For example, the Health Resources and Services Administration (HRSA) projects that from 2021-2036, the supply of MHCs will decrease by 1%, while the demand for these providers will increase by 60%.¹

As a result of these workforce shortages, ABHW appreciates that the goal of creating the Outpatient Behavioral Health category is to ensure access to a level of outpatient therapists to meet enrollees' needs. We recognize that the development of this category is meant to give health plan and plan sponsors the flexibility necessary to meet network adequacy requirements effectively. **However, our members request that CMS consolidate and expand the Outpatient Behavioral Health facility specialty to create one outpatient category that includes all additional provider types. This all-encompassing outpatient category should capture access for the outpatient services delivered by all outpatient providers –including professionals and facility providers. Specifically, in addition to those provider types included in the 2025 proposed Outpatient Behavioral Health category, this category should be combined with Clinical Psychologists and Clinical Social Workers, which were added to MA network adequacy standards last year.** A single outpatient category should reflect the broad span of outpatient non-prescribing providers delivering similar outpatient therapy and

¹ <https://bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand/behavioral-health>

counseling services. CMS shouldn't dictate which licensure types must be used to meet clinical needs. CMS's proposal defines network access in narrow categories – psychologists, social workers, and other outpatient providers - and does not align with how consumers seek care. Our members have shared that consumers rarely search for specific provider types (e.g., social workers, licensed marriage and family therapists, licensed mental health counselors, etc.) for outpatient services, so creating overlapping outpatient categories that cover these services is inefficient and may confuse consumers.

Additionally, we urge CMS to ensure that this new Outpatient Behavioral Health category is applied broadly across government programs, including Medicare and Medicaid. This standardization will make implementation more effective and avoid differing standards for access to care that would vary by program and perpetuate disparities and inequities in healthcare access.

2. Timeline for Adding Providers into Health Service Delivery

In the Calendar Year (CY) 2025 Physician Fee Schedule (PFS) and the CY 2025 Hospital Outpatient Prospective Payment System (OPPS), CMS stated that health plans are required to have MFT, MHC, OTP providers, CMHCs, and certain other behavioral health and addiction medicine specialists and facilities in their Health Service Delivery (HSD) tables when they file their initial MA applications for CY 2025. However, while many MFT and MHC providers are certified for Medicaid, most are not certified for Medicare. In the 2024 OPPS and PFS rules, CMS said it would work to enroll these providers in Medicare, but there is uncertainty as to what will happen if enough of these providers are not enrolled in Medicare by the time health plans start the product filing process for 2025. Accordingly, **ABHW requests that CMS grant flexibility and postpone this requirement until CY 2026.**

3. 10% Credit for Telehealth

ABHW appreciates and supports CMS's proposal to add the Outpatient Behavioral Health facility-specialty type to the list of specialty types that receive a 10-percentage point credit towards the percentage of beneficiaries that reside within published time and distance standards for certain providers when the health plan includes one or more telehealth providers of that specialty type that provide additional telehealth benefits. **However, we recommend that CMS expand the telehealth credit beyond the current proposal to include all behavioral health provider types, given the healthcare workforce shortages impacting most specialties.** While building the pipeline of providers will take time, increasing the use of and access to telehealth in behavioral health is a more immediate solution that CMS could support by expanding the telehealth credit provider list.

Conclusion

Thank you for the opportunity to provide feedback on this critical initiative. 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,

A handwritten signature in cursive script that reads "Pamela Greenberg".

Pamela Greenberg, MPP
President and CEO