

November 15, 2021

The Honorable Ron Wyden
Chairman
Senate Finance Committee
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Senate Finance Committee
United States Senate
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of the millions of Americans living with mental and substance use disorders, their families and communities, the Mental Health Liaison Group (MHLG) writes today in response to your September 21, 2021, open letter to behavioral health stakeholders requesting recommendations on policy options aimed at alleviating barriers to accessing evidence-based mental health and substance use disorder treatment for both adults and children. We greatly appreciate your leadership and share your goal of making vital, needed changes to improve care and access to coverage for people with mental health conditions and substance use disorders. We particularly thank the Committee for holding the May 12th Subcommittee on Health hearing entitled, *"The COVID-19 Pandemic and Beyond: Improving Mental Health and Addiction Services in Our Communities,"* followed by the full committee hearing on June 15th, entitled *"Mental Health Care in American: Addressing Root Causes and Identifying Policy Solutions."* These hearings and the Committee's current solicitation of stakeholder feedback are timely and urgently needed. We look forward to working with you to advance policies that will better the lives of millions of Americans who rely on Medicaid, Medicare, the Children's Health Insurance Program (CHIP), and the Affordable Care Act marketplaces for life-saving behavioral health services.

MHLG is a coalition of national organizations representing consumers, family members, mental health and addiction providers, advocates, payers, and other stakeholders committed to strengthening American's access to mental health and addiction care. As trusted leaders in the field, our nearly 80 member organizations are dedicated to advancing federal policies that support prevention, early intervention, treatment, recovery services and supports, and that address disparities in the social determinants of health in accordance with our recently developed [Principles](#).

The need for greater investment in mental health and addiction services has never been clearer as our nation's mental health system faces surging demand, preceded by the COVID-19 pandemic but certainly exacerbated by it. The Centers for Disease Control (CDC) and the National Center for Health Statistics reported that 81,230 people died of drug overdoses in the 12-month period ending in May 2020 – the largest number of drug overdoses ever recorded in a single year.¹ CDC data also indicates that the opioid crisis has continued to increase over the past 20 years.² A September 2020 report issued by the Well Being Trust estimated 150,000 “deaths of despair” during the pandemic were primarily attributable to drug and alcohol abuse, and the deaths of despair of suicides, drug and alcohol abuse already had been rising for many years.³

National data also clearly indicate that COVID-19 is worsening alarming trends among youth and adolescents with children's visits to the emergency room for mental health conditions increasing 31% for those 12-17 years old and 24% for children ages 5 to 11 from March to October 2020 compared to the same period in 2019.⁴ This alarming trend led three leading children's health organizations to recently [declare](#) a national emergency for children's mental health. Prior to the pandemic, the rates of youth depression doubled over ten years. In 2019, 16% of youth ages 12-17 reported experiencing a past-year major depressive episode compared to 8% in 2009. In 2019, roughly half or 50.3% of white youth with a past-year major depressive episode received mental health services, but only 35.6% of Black and 36.8% of Hispanic youth, with a past-year episode received treatment. Death by suicide is a leading cause of death for youth and young adults 10-34 nationwide.⁵ Our nation must do better to help improve access to and coverage for mental health and substance use treatment services for the millions of Americans in distress, and we must do our best to ensure that these services are high quality and effective.

Detailed below are MHLG consensus positions on legislation and policies in the areas the Senate Finance Committee identified as priorities, specifically: (a) strengthening the behavioral health workforce; (b) increasing integration, coordination, and access to care; (c) ensuring parity for behavioral health care with physical health care; (d) furthering the use of telehealth; and (e) improving access to behavioral health care for young people and

¹ Centers for Disease Control and Prevention (CDC), “Increase in Fatal Drug Overdoses Across the United States Driven by Synthetic Opioids Before and During the COVID-19 Pandemic,” [CDC Health Alert Network](#) (December 17, 2020).

² CDC, Data Analysis and Resources, [Opioids](#) (retrieved on October 11, 2021).

³ Peterson, Steve et al., ["Projected Deaths of Despair During the Coronavirus Recession."](#) Well Being Trust (May 8, 2020).

⁴ Leeb RT, Bitsko RH, Radhakrishnan L, Martinez P, Njai R, Holland KM. [Mental Health–Related Emergency Department Visits Among Children Aged <18 Years During the COVID-19 Pandemic — United States, January 1–October 17, 2020](#). MMWR Morb Mortal Wkly Rep 2020; 69:1675–1680.

⁵ Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. [National Survey on Drug Use and Health, 2004-2019](#). 2004-2019 (retrieved on October 11, 2021).

children. We believe that passing these proposals into law will make a critical difference in the lives of those who live with mental and addictive conditions and disorders.

Strengthening the Behavioral Healthcare Workforce:

- We recommend increasing the federal reimbursement rate for mental health and substance use disorder care under Medicaid through passage of the *Medicaid Bump Act (S. 1727/H.R. 3450)*. As the Committee knows, Medicaid is the nation's largest insurer of mental health and substance use treatment for both adults and children. However, many beneficiaries remain on long waitlists for mental and behavioral health services or languish for long periods of time in emergency rooms awaiting treatment. The Medicaid Bump Act would incentivize states to expand their Medicaid coverage of mental health and substance use treatment services by providing a corresponding raise in the Federal Assistance Percentage (FMAP) matching rate to 90 percent for behavioral health services. Significantly, increasing Medicaid reimbursement rates also would flow to the mental health and substance use treatment workforce, greatly enhancing the behavioral health system's ability to recruit and retain needed providers.
- We recommend expanding Medicare beneficiaries' access to a broader range of mental health providers through: (i) the bipartisan *Mental Health Access Improvement Act of 2021 (S. 828/H.R. 432)* (which would require Medicare to cover medically necessary behavioral health services provided by licensed mental health counselors and marriage and family therapists, who comprise 40 percent of the mental health workforce); (ii) the bipartisan *Improving Access to Mental Health Act (S. 870/H.R. 2035)* (which would increase Medicare beneficiaries' access to mental health services in Skilled Nursing Facilities, improve Medicare beneficiaries' access to Health and Behavior Assessment and Intervention Services, and align Medicare reimbursement rates for Clinical Social Workers with other non-physician providers); and the bipartisan *PEERS Act of 2021 (S. 2144/H.R. 2767)* (which would require Medicare to cover certified peer support specialists in integrated settings to promote recovery for individuals with mental health and substance use conditions and to provide evidence-based services recognized by SAMHSA and covered by Medicaid.)

Care Integration, Coordination, and Access:

- To better promote care integration, coordination, and access, we recommend nationwide expansion of the pilot Certified Community Behavioral Health Clinic (CCBHC) Medicaid demonstration program through the bipartisan *Excellence in Mental Health and Addiction Treatment Expansion Act of 2021 (S. 2069/H.R. 4323)*. Created in 2014 thanks to prior federal investment, hundreds of CCBHCs now offer a comprehensive array of services needed to improve access, stabilize people in crisis, and provide essential treatment for those

with the most serious, complex mental illnesses and substance use disorders. CCBHCs integrate additional services to ensure a community-based, holistic, and innovative approach to behavioral health care that emphasizes recovery, wellness, trauma-informed care, and physical-behavioral health integration, as well as coordination with hospitals, emergency departments, and law enforcement.

- We also recommend providing individuals who are involved with the criminal justice system the opportunity to enroll in Medicaid prior to their release and transition back to their communities through passage of the bipartisan *Medicaid Reentry Act of 2021* (S. 285/H.R. 955). More than half of the inmates in our nation's jails and prisons live with mental health conditions and substance use disorders. Connecting these individuals to affordable coverage and care prior to their release addresses their behavioral health needs and reduces recidivism.
- As the Committee already knows, responding to adults, young adults, adolescents, and even younger children in crisis is vital, and therefore MHLG recommends passage of the *Crisis Assistance Helping Out On The Streets (CAHOOTS) Act* (S. 764/H.R. 1914) that would provide enhanced Medicaid and state planning grants for mobile crisis services to increase access to crisis resources and support effective responses for individuals in acute distress. It is crucial that individuals experiencing a behavioral health crisis receive equitable and appropriate responses and care, separate from emergency medical and law enforcement interventions. We greatly appreciate the initial investment in mobile behavioral health crisis response that Congress provided as part of the American Rescue Plan Act and also recommend passage of the additional enhanced federal Medicaid funding to provide community-based mobile behavioral health response to individuals experiencing a mental health or substance use disorder crisis.
- We further recommend addressing crisis response in a comprehensive manner through the bipartisan *Behavioral Health Crisis Services Expansion Act* (S. 1902), which would provide comprehensive and critical support to develop and sustain crisis services across the country. This legislation would help transform the nation's crisis response systems by directing the Department of Health and Human Services to establish standards for a crisis continuum of care from crisis call centers and urgent walk-in care to short-term crisis residential care; providing coverage of mobile crisis teams and a range of crisis stabilization services through Medicare, Medicaid, Affordable Care Act health plans, employer-sponsored coverage, the Federal Employee Health Benefits Program, the Veterans Administration, and TRICARE; supporting funding in the Mental Health Block Grant to build capacity, promote best practices and provide technical assistance; and promote coordination with 911 emergency systems.
- MHLG requests that the Committee also consider policies that invest in comprehensive, community-based mental health services for children, adolescents, and adults, and modify

Medicaid's exclusion of care in "Institutions for Mental Disease" to lift some of the restrictions on short-term, acute psychiatric residential care for pediatric and adult populations.

Ensuring Parity Throughout Safety Net & Other Federal Health Programs

- We recommend extending mental health and substance use treatment parity – required for most of the commercial market and to Medicaid plans to some extent under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 -- to Medicare, Medicaid, and TRICARE. More than 60 million older adults and individuals with disabilities enrolled in Medicare have limited coverage for mental health and substance use disorder services, as do 20 million enrollees in traditional Medicaid and 10 million enrollees in TRICARE. Congress has not yet extended parity protections for Americans in health coverage administered directly by states and the federal government. Accordingly, we recommend extending the full rights and benefits of the federal Parity Act to Medicare, Medicaid, and TRICARE, including extending MHPAEA requirements to Medicare Advantage plans.
- MHLG also strongly recommends inclusion of the *Parity Implementation Assistance Act (S. 1962/H.R. 3753)*. Under the Consolidated Appropriations Act, 2021, health insurers are required to perform comparative analyses demonstrating that they are complying with the federal Parity Act. Recognizing that these analyses can be time consuming and labor intensive for state regulators, the *Parity Implementation Assistance Act* authorizes \$25 million in annual grant funding to states for five years. We also recommend extending these parity analysis and documentation requirements to Medicaid managed care plans.

Furthering the Use of Telehealth Beyond the Pandemic

- MHLG greatly appreciates Congress' enactment of the telemental health services provision in the December 2020 end of year COVID relief package (Consolidated Appropriations Act of 2021, Section 123). This provision authorizes telemental health coverage in Medicare after the expiration of the Public Health Emergency.⁶ We also applaud the Centers for Medicare and Medicaid Services (CMS) for promulgating the Calendar Year 2022 Physician Fee Schedule Final Rule (Final Rule) announced on November 2, 2021, that allows Medicare-coverage of telehealth from patients' homes and sustains the ability of patients to receive mental health and substance use treatment services utilizing the audio-only modality effective January 1, 2022. These are tremendous steps forward in ensuring the continuation of telehealth for both mental health and addiction treatment services on a permanent basis for millions of patients in need. As CMS itself acknowledged, the ability to provide services through audio-only telehealth has allowed providers to reach more patients and improve beneficiary access in areas experiencing

⁶ Consolidated Appropriations Act of 2021, Pub. L. 116-260 §123 (Dec. 27, 2020).

behavioral health provider shortages or that lack sufficient broadband coverage (including in urban underserved areas), and has been a digital equalizer for individuals who cannot use or do not have access to smartphones due to low-income, disability, and for people of color.⁷

- However, we believe the current statutory restriction on telemental health access through in-person requirements undercuts the current and very well received flexibility and access afforded by telemental health, even under the relaxed timeline of 12 months included in the Final Rule. Notably, this in-person restriction on access to telehealth for mental health services is not required for telehealth substance use treatment services. We believe that access to care for older adults, individuals with disabilities and others with transportation, mobility and geographic challenges will be significantly compromised if this in-person requirement is retained. Accordingly, we recommend removing the statutory requirement that Medicare beneficiaries be seen in person within six months of being treated for a telemental health services through passage of the bipartisan *Telemental Health Care Access Act (S. 2061/H.R. 4058)*.
- We also recommend that telemental health services, whether they are provided through video-enabled telehealth or audio-only, be expanded beyond just the diagnosis, management, and treatment of mental health conditions to include health behavior services.
- We further recommend that telehealth for mental and behavioral health services, including audio-only telehealth services, be reimbursed at the same rate as in-person services, the non-facility rate. For mental and behavioral health providers, whose patients rely heavily on telehealth services, it would be a costly reduction if payment for these services returns to pre-pandemic reimbursement levels. Given the significant investments required of providers to offer and maintain telehealth services, this change could discourage many providers from continuing to offer telehealth services and thereby jeopardize access to mental and behavioral health services for many beneficiaries.
- We recommend including the bipartisan *Telehealth Improvement for Kids' Essential Services (TIKES) Act (S. 1798)*, which would promote access to telehealth services for children through Medicaid and CHIP and study children's utilization of telehealth to identify barriers, opportunities, and outcomes. Telehealth is essential for providing children access to behavioral health care, including children with disabilities and those from low-income families or who live in rural and underserved communities.
- It is also important to ensure that the commercial insurance market maintains telehealth coverage for mental and behavioral health conditions. We therefore recommend that the

⁷ 86 Fed. Reg. 39104, 39148 (July 23, 2012).

Committee consider codifying telehealth as a valid treatment modality for mental and behavioral health services within commercial plans under the Committee’s jurisdiction. At a minimum, we urge the Committee to request the HHS Secretary to report on how essential health benefits will be modified to address any such gaps in access or changes in the evidence as notated in 4 (G) (iii) of 42 U.S.C.A. § 18022. This report would document how the expansion of telehealth has increased access to care for individuals with mental and behavioral health diagnoses and further inform how these plans can better serve enrollees.

Improving Access to Coverage and Care for Young People, Children, and New Mothers

- We recommend improving access to care for children through the permanent authorization of CHIP and the bipartisan *Stabilize Medicaid and CHIP Coverage Act (S. 646/H.R. 1738)*, which will provide 12 months of continuous enrollment for Americans who are eligible for Medicaid and CHIP. Both measures would stabilize vital health coverage for millions of low-income children. Forty-five million children are currently enrolled in Medicaid and CHIP, the largest group of people covered by these critical safety net programs. CHIP has served as an essential source of children’s coverage for nearly 25 years, ensuring access to high-quality, affordable, and appropriate health care for children. Consistent access to health care improves children’s health and well-being, and results in more efficient health care spending over the long-term as we set children on a path to lifelong health.
- Similarly, we recommend the bipartisan *Helping MOMS Act (H.R. 3345)* to permanently ensure that all pregnant women on Medicaid and CHIP retain their health coverage during the critical first year postpartum. Stabilizing access to Medicaid and CHIP for new mothers addresses serious health inequities in maternal health and provides critical access to care and services, including services for mental health and substance use disorder treatment. Mental health conditions contribute significantly to maternal mortality rates with suicide as one of the leading causes of death in the first year following pregnancy.⁸ In addition, mental health conditions are the most common complications of pregnancy and childbirth, affecting 1 in 5 women.⁹ Untreated maternal mental health conditions can have long-term negative impacts on mother, child, and the entire family. Given Medicaid’s role in covering nearly half of all births in the nation and 65 percent of births to Black mothers, stabilizing affordable health coverage for new mothers would help ensure access to vital mental health and substance use disorder treatment services and address health disparities during this vulnerable time in new mothers’ lives.
- We also recommend that Congress direct CMS to review the early and periodic screening, diagnostic, and treatment (EPSDT) requirements and whether they are being implemented

⁸ CDC, [Vital Signs: Pregnancy-Related Deaths, United States, 2011-2015, and Strategies for Prevention, 13 States, 2013-2017](#), (2019).

⁹ CDC, “Pregnancy Related Deaths”, [Data from 14 U.S. Maternal Health Mortality Review Committees, 2008-2017](#) (2019).

successfully at the state level to support access to prevention, early intervention services, and developmentally appropriate services across the continuum of care. Over the years, families have been forced to seek legal recourse to ensure their children receive necessary services, including behavioral health treatment. We believe that CMS guidance is needed to ensure consistent application as to what is required for children to receive the mental health services they need.

- Today, Medicaid is the third largest federal funding stream for school districts, providing much-needed funding to support school health services. Because this funding is critical to expanding the availability of mental health services to students, we encourage the Senate Finance committee to direct the Centers for Medicare & Medicaid Services (CMS) to coordinate with the U.S. Department of Education to help the Department, states, and other stakeholders remove barriers to full participation in school-based Medicaid programs. This includes addressing the administrative and documentation challenges associated with school-based Medicaid, particularly those faced by small and rural school districts, and supporting states' efforts to include school psychologists and other school-based providers who are credentialed by state education agencies in becoming Medicaid-eligible providers.

Again, we thank you for your strong leadership and recognition of the need to make vital changes to improve care and access to coverage for people with mental health conditions and substance use disorders. We look forward to working with you to advance these policies that we believe will significantly improve both adults' and children's access to life-saving mental and behavioral health services.

Sincerely,

2020 Mom

American Art Therapy Association

American Association of Child and Adolescent Psychiatry

American Association on Health and Disability

American Association for Marriage and Family Therapy

American Association for Psychoanalysis in Clinical Social Work

American Dance Therapy Association

American Foundation for Suicide Prevention

American Mental Health Counselors Association

American Nurses Association

American Psychiatric Association

American Psychoanalytic Association

American Psychological Association

Association for Ambulatory Health Care

Association for Behavioral and Cognitive Therapies
Anxiety and Depression Association of America
Centerstone
Center for Law and Social Policy (CLASP)
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Children's Hospital Association
Clinical Social Work Association
College of Psychiatric and Neurologic Pharmacists (CPNP)
Depression and Bipolar Support Alliance
Eating Disorders Coalition for Research, Policy & Action
Global Alliance for Behavioral Health & Social Justice
International Certification & Reciprocity Consortium (IC&RC)
International Society of Psychiatric Mental Health Nurses
International OCD Foundation
The Jewish Federations of North America
Maternal Mental Health Leadership Alliance
Mental Health America
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
National Association for Behavioral Healthcare
National Association for Children's Behavioral Health
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Peer Supporters
National Association of Rural Mental Health
National Association of State Mental Health Program Directors
National Association of Social Workers
National Board for Certified Counselors
National League for Nursing and the National Association of Pediatric Nurse Practitioners
National Register of Health Service Psychologists
Network of Jewish Human Service Agencies
Psychotherapy Action Network (PsiAN)
Postpartum Support International
REDC Consortium
RI International
The Jed Foundation
The Kennedy Forum
The Michael J. Fox Foundation for Parkinson's Research
The National Alliance to Advance Adolescent Health
The Trevor Project
Well Being Trust

