



National Alliance on Mental Illness

January 27, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Blvd
Baltimore, MD 212441

RE: [CMS-9911-P](#): Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2023

Dear Administrator Brooks-LaSure:

On behalf of the National Alliance on Mental Illness (NAMI), I want to express my enthusiasm at your work expand access to affordable, accessible, comprehensive and inclusive health insurance. We appreciate the opportunity to provide comments to the Centers for Medicare & Medicaid Services' (CMS) proposed rule entitled "HHS Notice of Benefit and Payment Parameters for 2023."

NAMI is the nation's largest grassroots mental health organization dedicated to building better lives for the millions of Americans affected by mental illness. The communities we serve and advocate for are as diverse as our nation. NAMI is a voice for youth and adolescents, veterans and service members, individuals involved with the criminal justice system, those experiencing homelessness, family caregivers and all Americans who are impacted by mental illness. We are all connected by the shared hope of new and innovative treatments, improved health care coverage and support through recovery.

Finalize These Proposals

We appreciate that many policy proposals within the Notice of Benefit and Payment Parameters (NBPP) consider the needs of people with mental health conditions, for whom meaningful and affordable health insurance is essential. We strongly encourage you to finalize many aspects of the NBPP. Specifically, NAMI encourages you to move forward with each of these proposals:

- **Guaranteed Availability**: Finalize the proposal to restore full guaranteed availability rights as provided under the Affordable Care Act (ACA) so that individuals cannot be denied coverage if they owe a past-due premium.



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- Non-discrimination: Finalize the proposal to amend six nondiscrimination provisions to prohibit explicit discrimination based on sexual orientation or gender identity.
- Web-brokers: Finalize the proposals to help mitigate the incentive to steer people to health insurance plans that might not meet their needs. Specifically:
 - Require web-broker websites to display additional comparative information for all qualified health plans (QHPs), consistent with what is displayed on HealthCare.gov;
 - Clarify that web-broker websites are prohibited from displaying QHP advertising; and
 - Require web-broker websites to prominently display a clear explanation of the rationale for how they recommend plans and the methodology for their default display of QHPs.
- Essential Health Benefits (EHB), Prohibiting Benefit Substitution Across Categories: Finalize the proposal to prohibit insurers from gaming the EHB standards by allowing substitution of benefits between EHB categories.
- Essential Health Benefits, Nondiscrimination in Health Plan Designs: Finalize the proposal to specify that a nondiscriminatory benefit design is one that is based on clinical evidence rather than based solely (or primarily) on economic factors.
- Standardized Options for Marketplace Coverage and Meaningful Difference: Finalize the proposal to create standardized plan options, including options that include copays instead of coinsurance to reduce consumer confusion and make it easier to draw meaningful comparisons between plans.
- Health Equity: Finalize the proposal to collect data relevant to social determinants of health and underserved populations, including the proposal to collect and extract five new data elements (zip code, race, ethnicity, individual coverage health reimbursement arrangement (ICHA) indicator, and a subsidy indicator) in states where the U.S. Department of Health and Human Services (HHS) is operating the risk adjustment program.
- Network Adequacy: Finalize the proposal to reinstate federal network adequacy standards and federal oversight of marketplace plan networks. Specifically, we applaud you and encourage you to finalize the proposals to:
 - Add “outpatient clinical behavioral health” to the provider specialty list for time and distance standards;



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- Add “inpatient or residential behavioral health facility services” to facility specialty lists for time and distance standards;
- Include appointment wait time standards for “behavioral health services” when evaluating network adequacy;
- Increase the essential community provider threshold from 20 to 35 percent; and
- Annually review plans’ network adequacy submissions.

Note, for a more detailed discussion around possible network adequacy protections to better protect individuals with mental health conditions, we have submitted detailed suggestions in coalition with other mental health advocacy groups. We encourage you to review those comments here: <https://www.nami.org/getattachment/cd2b27fb-8b1f-4814-a4de-54d5f9ff0914/Regulatory-Comments-to-CMS-Administrator-on-Health>.

Address Copay Assistance

The only issue of disappointment is that the proposed rule does not require issuers and pharmacy benefit managers (PBMs) to count copay assistance for prescription drugs towards beneficiary deductibles and out-of-pocket maximum obligations. Many people with mental illness rely on copay assistance to afford the drugs prescribed by their provider. Without a requirement to count copay assistance toward deductible/out-of-pocket obligations, the out-of-pocket costs for patients can significantly increase. We continue to urge CMS to address this critical issue that is increasing patient costs for prescription drugs, which runs counter to the goals of the Biden administration to increase patient affordability.

We appreciate the opportunity to provide input on the proposed changes impacting health coverage under the ACA. Amidst a time of increasing mental health needs, NAMI is thankful for your leadership and dedication to ensuring access to critical mental health services. If you have any questions or would like to discuss this issue, please do not hesitate to contact Jennifer Snow, Director of Public Policy, at jsnow@nami.org.

Sincerely,

Hannah Wesolowski
Chief Advocacy Officer

cc: Ellen Montz, CCIIO Director