



January 30, 2023

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

**RE: [CMS-9899-P](#): Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2024**

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 2024" (NBPP).

NAMI, the National Alliance on Mental Illness, 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 everyday people who are impacted by mental illness. We believe that all people with mental health conditions deserve accessible, affordable, and comprehensive health care.

The proposed 2024 NBPP includes significant reforms to that help advance health equity by addressing the health disparities that underlie our health system. We appreciate that many policy proposals within the NPBB consider the needs of people with mental health conditions, for whom meaningful and affordable health insurance is essential. Here, we focus our comments on §§ 156.230 and 156.235, the proposals to revise network adequacy and essential community provider (ECP) standards.

**Network Adequacy (§ 156.230) and Essential Community Providers (§ 156.235)**

Federal law requires all marketplace health plans to maintain an adequate network of providers and an accurate and up-to-date online provider directory. These protections are designed to

ensure that marketplace enrollees have timely, meaningful access to the care and services they need, as well as accurate information sufficient to enable them to understand plans' networks and identify the plans and providers most likely to meet their needs. These protections are vital to help people with mental illness be able to locate a provider and gain access to necessary mental health services. NAMI is grateful for the proposal at §§ 156.230 to require all individual market qualified health plans (QHPs) and all Small Business Health Options Program (SHOP) across all Exchanges to use a network of providers that complies with the network adequacy and ECP standards and to remove the exception that these sections do not apply to plans that do not use a provider network. While marketplace plans that do not use provider networks are still subject to the ACA's statutory requirements regarding access to providers and ECPs, being exempt from network adequacy and ECP rules invites no-network plans to ignore their statutory obligations. Therefore, **NAMI encourages CMS to finalize the proposal to remove the exception § 156.230(f)**. This proposal will ensure a more robust and strongly needed network of providers for people with mental illness in their health plan, regardless of type.

NAMI is also grateful for the changes CMS is proposing to §§ 156.230 to strengthen the standards for ECPs. The proposed § 156.235(a)(2)(ii)(B), would establish two additional stand-alone ECP categories for Plan Year 2024 and beyond: Mental Health Facilities and Substance Use Disorder (SUD) Treatment Centers. Currently, ECPs consist of six categories: (1) Federally Qualified Health Centers (2) Ryan White Program Providers (3) Family Planning Providers (4) Indian Health Care Providers and (5) Inpatient Hospitals. The sixth category, "Other ECP Providers", has long served as a catch-all for many ECPs, including SUD Treatment Centers and Community Mental Health Centers. We are pleased that HHS recognizes the importance of Mental Health Centers and SUD Treatment Centers as an essential standalone category. We agree with your assessment that this would strengthen the ECP standard because it would require that QHP issuers offer a contract in good faith to at least one SUD Treatment Center and at least one Mental Health Facility that qualify as ECPs in each county in the plan's service area, as opposed to being blended with other provider types in the existing "Other ECP Provider" category. **NAMI encourages CMS to finalize the changes to §§ 156.230.**

### **Protections in Federal vs State-Based Marketplaces**

Thank for you recognizing the need to increase standards related to network adequacy and essential community providers. However, we believe federal baseline quantitative standards should be extended to all marketplaces, and not be limited to federally facilitated marketplaces. We believe that people's ability to access an adequate network of providers should not be dependent on what state they live in. Just as with many other ACA consumer protections, states could retain flexibility to apply and enforce standards that are more stringent than the federal minimum. However, we strongly believe that marketplace issuers in all states should be accountable for ensuring their enrollees have an adequate network as promised by federal law.

Prior to the ACA, comprehensive health insurance was inaccessible for millions of people in the U.S. with mental illness. While the ACA and Mental Health Parity and Addiction Equity Act (MHPAEA) have greatly improved access and coverage to mental health care, many people with mental illness still struggle to access the care that they need and deserve. Consequently, NAMI is grateful for the proposals in the NBPP that in will help strengthen coverage and access to critical mental health providers and services, particularly low-income, medically underserved individuals. We appreciate the opportunity to provide input on the proposed changes impacting health coverage under the ACA. If you have any questions or would like to discuss this issue, please do not hesitate to contact Jodi Kwarciany, Senior Manager of Mental Health Policy at [jkwarciany@nami.org](mailto:jkwarciany@nami.org).

Sincerely,

/s/

Jennifer Snow  
National Director, Government Relations & Policy  
NAMI, National Alliance on Mental Illness

cc: Ellen Montz, CCIIO Director