

# Federal Policy Update

National Council for Behavioral Health



# Building Strong and Safe Communities



# Recent News From Washington

- **FY 2019 appropriations** bills advance.
- **Various executive and legislative actions** repeal or undercut portions of the ACA.
- **Proposed rulemaking** affects future Medicaid Managed Care, Medicare provider pay and more...
- **CMS** moves to permit **work requirements**, other restrictions on Medicaid benefits. At the same time, feds expand **behavioral health wavier opportunities**
- Congress passes **opioid legislation**.



# FY 2019 Appropriations

House and Senate Agree to a Labor-HHS and Defense “minibus” in September 2018

- **+\$2.3 billion** for federal health spending
  - SAMHSA, NIH receive increases
  - \$3.8 billion dedicated to addressing opioid crisis
- Key programs:
  - **Certified Community Behavioral Health Clinics** (+\$150 million)
  - **Primary and Behavioral Health Care Integration (PIPBHC)** (level funding)
  - **Mental Health First Aid** (+\$1 million)
  - **Opioid State Opioid Response(SOR) grants** (\$1.5 billion or level funding; *part of the funding replaces the \$500 million expiring from the Opioid State Targeted Response (STR) fund*)
  - **SAPT Block Grant** (level funding)
  - **Mental Health Block Grant** (level funding)



# FY 19 Labor-HHS Bill

<b>Agency/Program</b>	<b>FY 2019 Minibus</b>	<b>FY 19 vs FY 18</b>
SAMHSA	<b>\$5.7 billion</b>	<b>+\$580 million</b>
Mental Health Block Grant	<b>\$722.5 million</b>	<b>Level funding</b>
SAPT Block Grant	<b>\$1.9 billion</b>	<b>Level funding</b>
Primary/BH Integration (PBHCI)	<b>\$49.9 million</b>	<b>Level funding</b>
Mental Health First Aid	<b>\$21 million</b>	<b>+\$1 million</b>
State Opioid Response Grants	<b>\$1.5 billion</b>	<b>Level Funding</b> <i>(\$500 million replaces STR funds)</i>
CCBHCs Expansion Grants	<b>\$150 million</b>	<b>+\$50 million</b>
NIH	<b>\$39.1 billion</b>	<b>+\$2 billion</b>



# A note about mental health & SUD appropriations...

- White House has proposed various cuts to SAMHSA programs over last 4-5 years to pay for new increases
- Congress has largely rejected program eliminations (e.g. *Mental Health First Aid, Primary-Behavioral Health Integration*)
- Major recent increase to mental health block grant
- Uncertainty about future years' funding

**Don't forget...**  
**...sequestration returns in 2020**



# Tax Cuts and Jobs Act of 2017

## Impact on insurance markets

- Repealed the ACA's individual mandate
  - Substantial premium increases expected in future years as healthy enrollees drop coverage
    - CBO estimates a 10% increase in premiums nationwide; Center for American Progress estimates a 16.40% increase nationwide (taking into account the individual mandate repeal and short term health plan expansion)



**Did you know:** The tax bill also doubled the standard deduction, shifting incentives away from charitable giving, resulting in an projected \$13.1 billion loss in giving.



# Meanwhile, at the White House...

## Action on EHBs, AHPs and STLD policies

New Essential Health  
Benefits Selection Process

Association Health Plans  
(AHPs)

Short Term Health Plans  
(STLD plans) [Fact Sheet](#)



Less comprehensive  
health plans, including  
plans lacking strong  
MH/SUD coverage





# Emphasis on “Flexibility”

“Today, we commit to ushering in **a new era** for the federal and state Medicaid partnership where **states have more freedom** to design programs that meet the spectrum of diverse needs of their Medicaid population...”

–Former Sec. Tom Price & Administrator Seema Verma



# Medicaid Managed Care Proposal



- [Proposed rule](#) would rollback many of the managed care standards
- Relaxes requirements that support **network adequacy** and **provider pay**
- Comment period closed on January 14, 2019.

# Medicaid Managed Care Proposal

## Network Adequacy

- Replaces the **current time and distance standards** with a variety of quantitative network adequacy standards. **States would be free to use different standards** in combination and are encouraged, but not required, to do so.
- Allows states to create their own definition of what providers qualify as “specialists” and therefore are subject to network adequacy requirements.

## Rate Setting

- 2016 rule required capitation payments received by managed care organizations (MCOs) to be **actuarially sound**
- New proposal does not remove this requirement, but **gives states flexibility in how they ensure actuarial soundness**



# National Council Weighs In

In official comments, the National Council raised concerns that the proposed rule would **result in a loss of access to mental health and addiction treatment providers.**

National Council recommended that CMS:

1. **Establish two categories of network adequacy** which distinguish between those that are **static** (*e.g. time and distance, provider-to-enrollee ratios*) and those that permit **real-time assessment** of actual network performance (*e.g. length of wait time to appointment, percentage of providers accepting new patients, etc.*).
1. **Require, rather than encourage, states to implement a combination of standards** that includes one or more standards from the second category, measuring network performance.
2. Cross-reference the network adequacy standards codified in the **parity regulations**, and **stipulate that both regulations be satisfied.**



# Medicare Payment Rule

- Finalized 2019 Medicare Physician Fee Schedule (MPFS) and Quality Payment Program (QPP)
  - Key Provisions:
    - Reduced documentation requirements for traditional outpatient, office-based visits
    - Expanded telehealth options
    - Increased electronic health record (EHR) interoperability
    - CMS reviewing comments and considering a bundled payment for the care and management of substance use disorders (SUD)



# Restrictive Medicaid Waiver Proposals

- Work requirements
- Drug testing
- Higher cost sharing
- Use of HSAs
- Special enrollment & lockout periods
- Time limit on coverage
  - CMS rejected KS lifetime limit on coverage



# Exemptions?

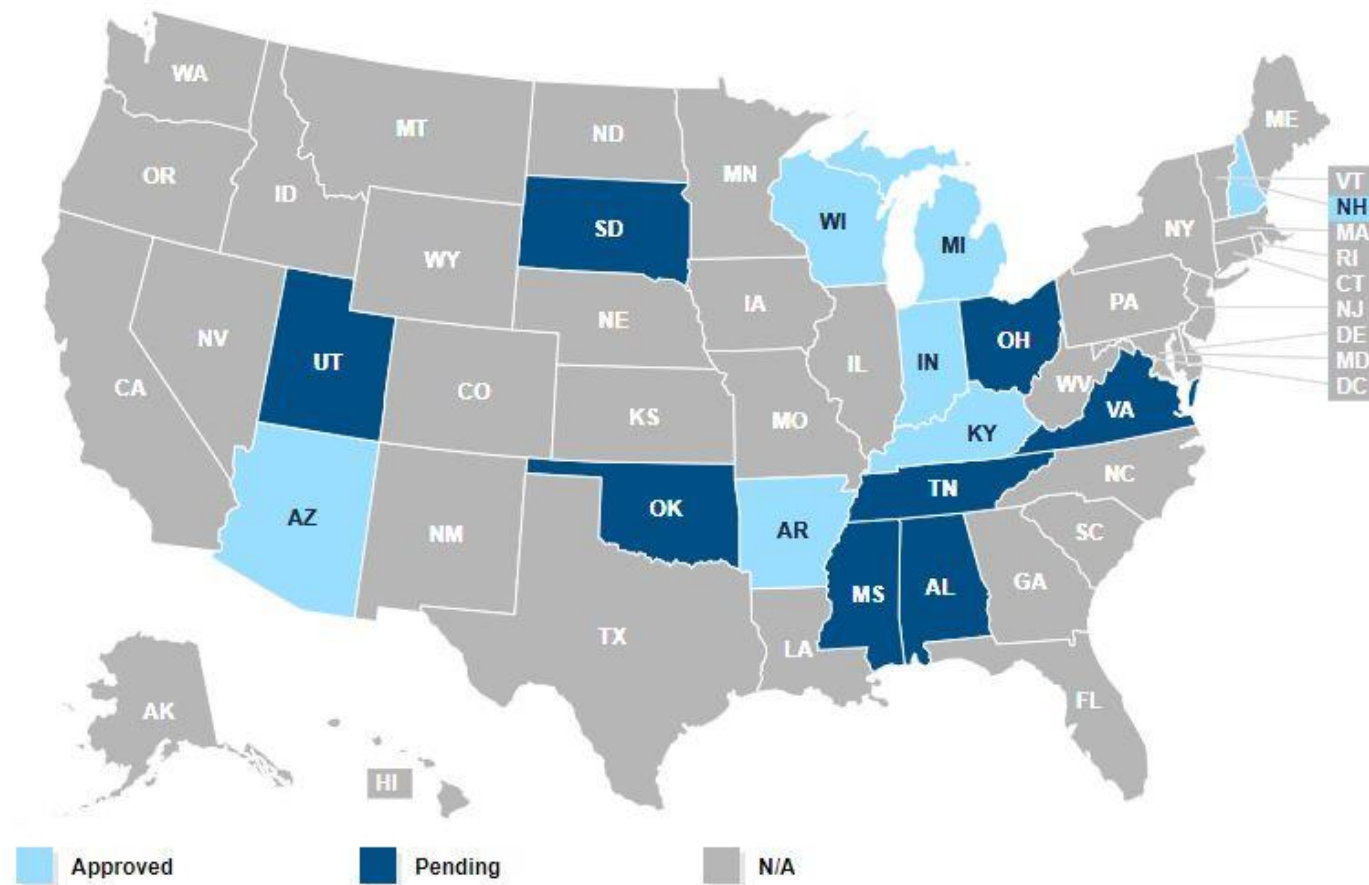


*“Disability” is often touted as a category of exemption from new waiver requirements.*

# Medicaid Work Requirements

CMS released guidelines for states to create work requirements

Proposals approved in **KY, IN, AR, NH, WI, MI, AZ**; eight other states have applications under review



Source: Kaiser Family Foundation



# Work Requirements Temporarily Halted (June 2018)

## *Key Takeaways on KY Court Decision:*

- Did not overturn work requirements outright
- Judge James Boasberg found that CMS had not properly considered whether the initiative would **violate Medicaid's central objective** of providing medical assistance to the state's citizens
- Set two important precedents:
  1. States must evaluate waiver's impact on coverage
  2. Medicaid provides equal treatment of all groups covered by its statute, including Medicaid expansion populations.



# Kentucky and Wisconsin



- CMS re-approves KY waiver in Nov. 2018 requiring enrollees to work 80 hours each month or face a six-month lockout period
- District Court Judge James Boasberg will consider CMS's reapproval of the Kentucky waiver and Arkansas' program before KY program starts on April 1<sup>st</sup> 2019
- 95,000 Kentuckians projected to lose coverage over 5 years



- Requires certain adult beneficiaries to work 80 hours per month to maintain health coverage
- Institutes premiums
- Subjects applicants to **drug use screening questions**; CMS turned down state's request to drug test applicants
- First non-expansion state with work requirements



# Good News for Medicaid

*2018 Midterms show Medicaid expansion to be a winner at the ballot box*

## New Expansion States:

- Nebraska
- Utah
- Idaho



## Potential Expansion States:

- Kansas
- Wisconsin

To date, **37 states (including DC)** have adopted the Medicaid expansion and **14 states** have not adopted the expansion.



# New Section 1115 Opportunities

## *Expanding Mental Health Services*

- November 2018 State Medicaid Directors (SMD) letter explains how states can use Section 1115 waivers to “**support innovative service delivery systems**” for adults with **serious mental illness (SMI)** and children with **serious emotional disturbance (SED)**.
- Letter includes a **demonstration for mental health treatment in IMDs**.



# Innovative Service Delivery Systems

*CMS encourages states to:*

- Bolster early identification services
- Better integrate mental health and primary care
- Increase access to crisis services

CMS highlighted **Certified Community Behavioral Health Clinics (CCBHCs)** as a model states could use to address these issues and other system improvements simultaneously.



# IMD Demonstration

- Allows states to waive the IMD exclusion for short-term stays (around 30 days) **for mental health treatment in IMD settings**. Previously, Section 1115 waivers had been used to waive IMD restrictions for residential SUD treatment.
- Note: Waiver demonstrations must provide a **full continuum of care for individuals** with mental illness.
  - While residential treatment in IMDs may be included, states are also expected to **improve community-based mental health care** and must adhere to **strict budget neutrality requirements**.



# Opioid Package

**More than 70 unique bills were rolled into H.R. 6 aka the Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act” or the “**SUPPORT for Patients and Communities Act**”**

*Signed into law  
**October 2018***



# Highlights

What's In?	What's Not?
Telemedicine*	Funding
SUD Treatment Workforce*	CCBHC Expansion
Behavioral Health IT*	42 CFR Part 2 Overhaul
Recovery Housing Best Practices	
MAT Prescribing Expansions	
Parity for CHIP Plans	
Temporary IMD Rule Repeal	
Medicare OTP Access	
Health Homes for SUDs	
SUD Provider - Medicaid Capacity Demo	
New and Reauthorized Grants	

**\*Bills included as a direct result of National Council advocacy efforts.**





# Opioid Package Concerns

- Few provisions spend any money
  - Most investment is made via short-term grants, not insurance coverage
- Not a comprehensive response to addiction crisis
  - Does not support the full continuum-of-care for SUDs
  - Very OUD focused



**As former Senate Majority  
Leader Everett Dirksen (R-IL)  
said...**



*“When I feel the  
heat, I see the light.”*

# Questions?

