

5/1/2020

Good Afternoon REDC:

Below you'll find your policy updates/action items:

Action Item: REDC Member Survey To Help Advance Mental Health Provider Dedicated Funding/Grants

- As we work to underscore the importance of dedicated funding for behavioral health care providers in upcoming relief packages we are seeking to gather additional details on how COVID-19 has impacted REDC member sites that we can anonymously use in our discussions with Congressional staff.
- We are hearing mumblings that Congressional staff don't want to get into funding specific sectors because that tends to open a Pandora's box of asks. However, we are building the case that none of the previous funding streams went to the behavioral health sector and this will be the sector that is hardest hit when all this is said and done. Some of our MHLG partner organizations have similar surveys in circulation to their membership, to bolster this argument.
- We encourage you to take the brief survey here: [How COVID-19 Has Impacted REDC Member Sites?](#)

TRICARE TeleMental Health:

- **TRICARE Telehealth for IOP:**
 - ICYMI: TRICARE announced that **they will now cover virtual IOP**. From what I'm hearing, this may not be trickling down to the MCOs, so feel free to use the guidance link if you get any push back.
- **TRICARE Telehealth for PHP:**
 - This is still not permitted.
 - We led a letter with House Armed Services Members (Reps. Escobar (D-TX), Turner (R-OH) and Moulton (D-MA) leading), and had a total of 32 Members of the House Armed Services Committee. [See attached]
 - This letter was sent to the Defense Health Agency today- see attached!
 - We're hoping this puts enough pressure on TRICARE that they will reverse their decision to not cover virtual PHP.
 - Additionally as back-up, we also have an organizational sign-on letter requesting Congress take action on this if TRICARE doesn't make changes. This letter is almost finalized and will go out Monday morning

SERVE Act:

- 2 New Co-Sponsors: Rep. Barbara Lee (D-CA) and Rep. Rouda (D-CA)
- We are continuing to ramp up for SERVE Act inclusion within the NDAA.

- The House released its statutory language (not including their report) yesterday, and we are still waiting for confirmation that the report includes some or all of the provisions as its not available to the public until markup time.
- In the meantime, we are recruiting more constituents and stories in some key HASC/SASC Committee states/districts in the case that we need an amendment vote for markup. Be on the lookout for us seeing if you may have any patients from those areas.

Resources

I. AHIP Releases Health Insurers Respond to COVID-19

- a. AHIP has released a resource that provides coverage updates from commercial health plans during COVID-19
- b. The resource can be found here: <https://www.ahip.org/health-insurance-providers-respond-to-coronavirus-covid-19/#C>

II. Federal Reserves Main Street Loan Program

- a. Although not up and running yet, the Federal Reserve has released an FAQ on the loan program and have provided additional eligibility criteria.
- b. The FAQ can be found [here](#) and eligibility criteria can be found [here](#) under each lending term sheet.

COVID-19 4TH PACKAGE ISSUES

I. ERISA Telehealth Coverage Letter (*final letter attached*)

- a. The REDC led a letter to House and Senate leadership urging Congress to provide temporary statutory authority for the U.S. Department of Labor to mandate telehealth coverage at all levels of care for ERISA plans.
- b. The letter was supported by over 40 national organizations in the behavioral health care space.
- c. This is one of the many priority items we are pushing for inclusion within the fourth relief package.

II. Mental Health Liaison Group (*final letter attached*)

- a. The REDC was one of over 55 organizations to support a letter, in tandem with a petition led by the Psychotherapy Action Network, urging for several telementalhealth coverage provisions within upcoming relief packages.

- b. The final letter was sent to House and Senate leadership and to the Secretary of Labor.

III. American Telemedicine Association (ATA) (*final letter attached*)

- a. The ATA sent a letter to Congressional leadership earlier this week on their telehealth priorities for the upcoming relief package.

COVID-19 Coverage Changes & Updates

I. Centers for Medicare and Medicaid Services Allowing Coverage for Audio-only Services

- a. Previously, Medicare would pay for certain services conducted by audio-only telephone between beneficiaries and providers.
- b. CMS is broadening that list to include many behavioral health and patient education services
- c. Payments for these telephone visits to match payments for similar office and outpatient visits.
 - i. This would increase payments for these services from a range \$14-\$41 to about \$46-\$110. These payments are retroactive to March 1, 2020.
- d. In the future, CMS plans to add additional telehealth services to its coverage list using a sub-regulatory process during the pandemic, instead of its normal rulemaking process. It will also take into account requests from practitioners.

II. Administration Expands COBRA Coverage Extension

- a. The Labor Department said insurers can allow the newly jobless to sign up for the coverage extension at anytime for up to 60 days after President Trump lifts the national emergency declaration.
 - i. Typically, former employees have just 60 days until leaving their job to sign up for these plans.
 - ii. Congress continues to face intense pressure from health care groups (including REDC), businesses and union to subsidize COBRA premiums for the swelling ranks of unemployed Americans.

iii. Those losing their workplace coverage will still qualify for an ACA special enrollment period within 60 days of becoming uninsured.

III. **ERISA Industry Committee (ERIC) Presses Governors to Join Interstate Medical Licensure Commission Compact**

- a. ERIC sent a letter to 21 governors to join the Interstate Medical Licensure Commission Compact so that practitioners can undergo an expedited application process for state licenses.
- b. The group sent letters this week to AK, AR, CA, CT, DE, FL, HI, IN, LA, MA, MO, NJ, NM, NY, NC, OH, OR, RI, SC, TX and VA.
- c. The IMLCC is an agreement among 29 states and D.C. that allows for a qualified health care provider to receive a license for each participating state through a streamlined process.

IV. **Emergency COVID-19 Telehealth Response Act Introduction**

- a. Reps. Axne (D-IA), Balderson (R-OH), and Hill (R-AR), introduced the bill to ensure Medicare reimbursement for clinical social workers, occupational therapists, audiologists, speech pathologists, and physical therapists.
- b. While CMS continues to expand the types of virtual services Medicare pays for during the pandemic, not all practitioners are covered—forcing them either to avoid virtual treatment or deliver it without any payment guarantees.

Judicial Update

I. **Supreme Court Rules Government Must Pay Billions to ACA Insurers**

- a. Earlier this week the Supreme Court ruled 8-1 the federal government owes health insurers \$12 billion.
- b. The case concerned a temporary fund in the health law intended as a buffer for health plans who had sicker customers than expected in the overhaul of the insurance marketplaces.
- c. ACA law drafters hoped the program would be funded by industry, but health plans quickly racked up losses when the marketplaces opened in 2014.

i. The new year, Republican lawmakers approved the first series of annual appropriations riders barring HHS from using taxpayer dollars to bankroll the program, known as risk corridors.

ii. The high court agreed with insurers that the congressional spending restrictions didn't release the government from its original promise to fund the ACA program.

II. **Wic v. United *Related* Cases**

- a. Today during the MHLG monthly meeting Zuckerman Associates presented on their Wic v. UBH case.
- b. They also discussed a number of other ones that they have recently filed/had pending.
- c. See the below screenshot from her presentation for those who may be interested.

Other Pending Cases

More cases challenging restrictive proprietary coverage guidelines:

- Tomlinson v. United Behavioral Health (N.D. Cal.)
- Berceanu v. UMR, Inc. (W.D. Wis.)
- Hering v. New Directions Behavioral Health, LLC (M.D. Fla.)
- Smith v. Healthcare Services Corp. (N.D. Ill.)
- Collins, et al. v. Anthem, Inc. and Anthem UM (E.D.N.Y.)

Parity challenge to exclusion of Intensive Behavioral Therapy:

- Doe v. United Behavioral Health (N.D. Cal.)

Parity challenges to discriminatory reimbursement rates:

- Smith v. United Healthcare Insurance Co. and UBH (N.D. Cal.)
- Doe v. United Health Group, UHIC, Oxford Health Plans (E.D.N.Y.)

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