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December 4, 2023

The Honorable Daniel Tsai

Deputy Administrator and Director, Center for Medicaid and CHIP Services

Center for Medicare and Medicaid Services

7500 Security Boulevard

Baltimore, MD 21244

Re: Request for Comments on Processes for Assessing Compliance with Mental Health Parity and Addition Equity in Medicaid and CHIP

Dear Deputy Administrator Tsai:

The American Academy of Child and Adolescent Psychiatry (AACAP) appreciates the opportunity to comment on the Center for Medicaid and CHIP Services' (CMCS) request for comments on processes for assessing compliance with mental health parity and addiction equity in Medicaid and the Children's Health Insurance Program (CHIP). AACAP is grateful for CMCS' work with state Medicaid and CHIP agencies to support compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Treatment Act (MHPAEA) to ensure that Medicaid and CHIP enrollees have the same level of access to their mental health and substance use (MH/SUD) treatment benefits as they do to their medical/surgical (M/S) benefits.

AACAP is the professional home to more than 10,000 child and adolescent psychiatrists, child and adolescent psychiatry fellows, psychiatry residents, and medical students. Our mission includes promoting the healthy development of children, adolescents, and families. On behalf of the physicians we represent and the patients they serve, we commend CMCS' efforts to improve access to mental health care and addiction treatment for children and families supported by Medicaid managed care, Medicaid Alternative Benefit Plans and CHIP.

AACAP, along with the American Academy of Pediatrics and Children's Hospital Association, declared a national children's mental health emergency in October 2021, which persists today. As we mark the two-year anniversary of this declaration, physicians are once again sounding the alarm for young people who continue to struggle with soaring rates of depression, anxiety, trauma, loneliness, and suicidality that will have lasting impacts on them, their families, their communities, and the futures of all Americans.

Children and adolescents, unlike adults, are continuing to undergo biological, psychological, and social development. Research also shows that the brain continues to develop throughout adolescence and into early adulthood. It is imperative that CMCS guidance on Medicaid and CHIP parity compliance recognizes both the unique needs of pediatric patients and the continuum of care that supports their varying treatment needs.

Equitable Parity Enforcement

40 million American children are enrolled in Medicaid and CHIP health plans, a majority of whom represent minority populations. Amidst a national children's mental health crisis, CMCS must ensure that the largest payor of behavioral health in the country is complying with parity, and that MH/SUD benefits are being offered as required under Medicaid's Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. This is especially important as mental, behavioral, and developmental disorders can begin in early childhood. In fact, 1 in 6 U.S. children aged 2–8 years have a diagnosed mental, behavioral, or developmental disorder. Health plans' disparate management of MH/SUD benefits, often in the form of non-quantitative treatment limitations (NQTLs), results in unnecessary delays in patient care that, for children, can have life-long consequences.

Equity in parity compliance across public and private health insurance would help address existing gaps in access to care for minoritized populations. Moreover, it would support smoother transitions of care for young adults transitioning out of pediatric healthcare and for children in welfare, justice involved settings, and other systems of care transitioning to different health insurance coverage. Millions of parents, children, and adolescents are facing these transitions now as they are disenrolled from Medicaid and CHIP, despite remaining eligible, due to the ending of the continuous coverage protection afforded to enrollees during the COVID-19 Public Health Emergency.

NQTL Priority Issues

AACAP commends CMCS' interest in Medicaid and CHIP health plans' disparate application of non-quantitative treatment limitations. Similar to concerns we raised in response to the Administration's proposed rule, "Requirements Related to the Mental Health Parity and Addiction Equity Act," we ask that CMCS focus on NQTLs that impact network composition, provider directory transparency, scope of services, and crisis service access.

Network Composition

Disparities related to provider network composition exacerbate persistent workforce shortages in pediatric behavioral health. Child and adolescent psychiatry workforce issues remains a top priority of AACAP. While available training slots for child and adolescent psychiatry fellowship trainees have slowly increased, and fewer training slots went unfilled in 2023 as compared to 2022, fewer individuals are choosing careers in pediatric subspecialties while the existing workforce continues to age. Financial concerns, such as medical school debt load, are a significant factor given the lengthy training requirements for child and adolescent psychiatry. Persistent disparities in reimbursement rates between MH/SUD and M/S treatment services, combined with overly burdensome utilization management practices for behavioral health have long served as deterrents for future physicians from choosing a career path in child and adolescent psychiatry. Lower reimbursement rates disincentivize clinical program development and expansion at a time when greater investments need to be made in these programs to ensure successful mental health/substance use disorder services. Such inequities have similarly impacted recruitment into other mental and behavioral health provider fields.

Provider Directories

Faulty or incomplete provider directories can further frustrate enrollees seeking care for their dependents and function as an NQTL. Improved transparency in provider directories can facilitate access to care. For example, we ask that CMCS consider guidance to states to improve provider directories by specifying which providers treat children and adolescents. Additionally, it would be helpful if provider directories indicate which providers are accepting new patients; any relevant areas of expertise, e.g., child and adolescent psychiatrist that specialize in attention deficit disorder or specialize in the treatment of transition-aged youth; and providers that offer telehealth, including telehealth-only providers. Surveys have repeatedly shown that psychiatry continues to rely on telehealth at a far greater rate than any other physician specialty and AACAP remains supportive of broad access to and coverage of telemedicine, including audio-only care. Plans should be discouraged, however, from using narrow telehealth-only networks to satisfy network adequacy requirements.

Scope of Services

Treatment limitations for certain services within benefit classifications are commonly deployed NQTLs. Health plan medical decision-making should adhere to evidence-based, nationally recognized level of care placement criteria consistent with generally accepted MH and SUD care standards that determine the level of treatment services needed for a patient based on clinically derived, and empirically tested, service intensity standards of care developed by the relevant non-profit clinical specialty associations. Examples of such standards include the American Academy of Child and Adolescent Psychiatry Child and Adolescent Service Intensity Instrument and the Early Childhood Service Intensity Instrument; the American Association of Community Psychiatrists' Level of Care Utilization System and Child and Adolescent Level of Care Utilization System; and the American Society of Addiction Medicine ASAM Criteria. Additionally, AACAP recommends that Medicaid managed care, Medicaid Alternative Benefit Plans and CHIP plans be required to document in their NQTL analyses how their clinical standards deviate from the aforementioned clinical specialty-developed standards and be required to make available to any regulator and enrollee any criteria/guideline they use.

Crisis Services

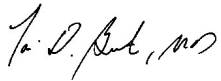
AACAP asks that as CMCS considers additional guidance to states in support of parity compliance that clarifies that, if a plan covers physical health emergency/crisis services, it must cover comparable MH/SUD disorder emergency/crisis services. These services and their providers need to have the training and competency to provide these important services in a developmentally appropriate, culturally humble, linguistically aligned and family-centered approach. Providing crisis services to children, adolescents and families requires additional training and attunement to the biopsychosocial and family-based frameworks.

Additional State Guidance

A January 2022 report from the Department of Labor indicated that covered plans and issuers failed to provide NQTL comparative analyses that contained sufficient information to demonstrate compliance with MHPAEA. State reporting on Medicaid and CHIP parity compliance has been similarly insufficient. AACAP asks that CMCS consider aligning updated data requirements with the requirements recently proposed in the Administration's proposed rule, "Requirements Related to the Mental Health Parity and Addiction Equity Act,". Additionally, AACAP recommends that CMCS include examples of acceptable health plan parity compliance reports in any future guidance, to support state plans in successfully fulfilling CMCS reporting requirements.

AACAP is grateful for the opportunity to comment on this important request. Please contact Alexis Geier Horan at ahoran@aacap.org should you have any questions about AACAP's recommendations. We look forward to working with you to improve children's access to mental health and substance use disorder care.

Sincerely,

A handwritten signature in black ink, appearing to read "Tami D. Benton, MD". The signature is written in a cursive, flowing style.

Tami D. Benton, MD
President