

# Mental Health Liaison Group

October 4, 2017

The Honorable Lamar Alexander  
Chairman  
Senate Health Education Labor and  
Pensions (HELP) Committee  
455 Dirksen Senate Office Bldg.  
Washington, DC 20510

Hon. Patty Murray  
Ranking Member  
Senate Health Education Labor and  
Pensions (HELP Committee)  
154 Russell Senate Office Bldg.  
Washington, DC 20510

## **Re: Stabilizing the Individual Health Insurance Marketplace**

Dear Chairman Alexander and Ranking Member Murray:

Thank you for leading a bipartisan effort to reform our health care system. The HELP Committee's hearings on stabilizing the individual health insurance marketplace under the Affordable Care Act (ACA), held in September, reassured the Mental Health Liaison Group (MHLG) that a bipartisan consensus around a legislative package designed to stabilize the individual health insurance marketplace is attainable, and that such a package could ensure continued coverage of mental health and substance use disorder prevention and treatment services through marketplace plans. However, we write today to raise a limited number of caveats.

The MHLG is a coalition of more than 60 national organizations representing consumers, family members, mental health and substance use treatment providers, state behavioral health agencies, advocates, payers, and other stakeholders committed to strengthening Americans' access to mental health and substance use services and programs.

While we support proposals to streamline the procedures to obtain approval of Affordable Care Act § 1332 waivers, we caution against eliminating § 1332 waiver requirements that would weaken key consumer protections such as the Essential Health Benefit (EHB) requirements. If states are to be allowed to modify benefit design and/or allow flexibility between EHB categories, we request that the legislation be explicit that a comprehensive addiction and mental health treatment benefit must be maintained and that the benefit must be compliant with the Mental Health Parity and Addiction Equity Act (MHPAEA) and ACA provisions that further strengthened MHPAEA.

We raise this caution based on our historical experience with exclusions and limitations placed on substance use disorder and mental health benefits by insurers. Prior to the passage of the ACA, 34 percent of enrollees in the individual market did not have coverage for substance use disorder treatment, and 18 percent did not have coverage for mental health services. Moreover, the Congressional Budget Office (CBO) confirmed in its May 2017 scoring of the American Health Care Act that these services would be among those most likely to be excluded. CBO stated, "Services or benefits likely to be excluded from the EHBs in some states include maternity care, mental health and substance abuse benefits, rehabilitative and habilitative services, and pediatric dental benefits. In particular, out-of-pocket spending on maternity care

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at [akimball@nami.org](mailto:akimball@nami.org), and Debbie Plotnick, MSS, MLSP, Mental Health America at [dplotnick@mentalhealthamerica.net](mailto:dplotnick@mentalhealthamerica.net)

and mental health and substance abuse services could increase by thousands of dollars in a given year for the nongroup enrollees who would use those services.”

Furthermore, refraining from permitting health and substance use disorder benefit coverage to be subject to state § 1332 waivers of coverage or other ACA limitations would ensure that individuals with a serious mental illness or substance use disorders are not denied coverage based on the state in which they reside.

Particularly in light of the ongoing national opioid addiction epidemic, MHLG believes that ensuring the whole health of all Americans in every state requires maintenance of coverage for mental health and substance use disorder benefits at parity with existing medical/surgical benefits in all marketplace plans. Maintenance of those benefits has little meaning without affordable and ready access to the plans providing that coverage. Ensuring affordable and ready access requires retaining the ACA’s prohibitions against denying coverage based on a pre-existing condition, or limiting coverage through annual or life-time limits.

It is important to remember that untreated serious mental illness and substance use disorders intensify and increase the number of comorbid medical conditions in individuals with those conditions, increasing total individual insurance coverage costs in the long-run. Those proliferating comorbid conditions and costs also have the potential to increase costs in the Medicaid program for individuals whose catastrophic health events leave them at income levels making them eligible for Medicaid.

We strongly support the HELP Committee’s consensus around continuing the cost-sharing reduction payments (CSRs) made to insurers to keep co-payments and co-insurance requirements low for plan members. Congress should fund the CSRs on a permanent basis—or at least long enough to assure insurers of the marketplace’s stability—to ensure that those insurers do not withdraw from markets, leaving low-income enrollees who are sicker or older—particularly those with mental illness and/or substance use disorders—without affordable coverage. So many individuals with serious mental illness and substance use disorders have limited-incomes that eliminating premium assistance and cost-sharing subsidies, thereby rendering coverage largely unaffordable, would—in essence—eliminate coverage for these essential services for many.

In addition, the permitted range of premiums and deductibles—including the limits on age-banding of premiums—must remain as they currently exist so that plans cannot impose premiums so high for the provision of mental health and substance use disorder services that they become unaffordable to the individuals who most need them. We oppose reducing the Federal premium tax credits which lower-income, non-Medicaid enrolled insureds have received from the Federal government to maintain insurance coverage and which have, until now, averaged 72 percent of the cost of premiums.

We do not believe the answer to keeping coverage costs low is the short-term funding of a temporary Federal fund for state grants targeted toward subsidizing plan coverage for individuals with serious mental illness and/or a substance use disorder, as was contained in H.R. 1628. Such a fund would, within only a few years, be totally inadequate in meeting need for the populations that Congress worked to serve with the passage of the 21<sup>st</sup> Century Cures Act and the Comprehensive Addiction and Recovery Act (CARA) of 2016.

MHLG recognizes that the individual personal responsibility coverage mandate is unpopular among some. However, the 30 percent premium surcharge that would have replaced the

individual mandate under H.R. 1628 for failure to maintain continuous coverage is not an appropriate solution, as it would have a disproportionate impact on the lowest-income enrollees who would have been struggling to maintain premium payments for coverage. It would be particularly destructive for those enrollees whose serious mental illness or substance use disorders often render them cognitively impaired and thus less capable of maintaining premium payment schedules until they recover, when the sizeable surcharge would leave them unable to pick up coverage. Similarly, the waiting period for coverage after a failure to maintain continuous coverage included within the Senate amendments to H.R. 1628 would be particularly harmful for individuals struggling with addiction or serious mental illness who are left with no way to address those issues in the absence of access to insurance coverage.

We urge you to consider these concerns as you continue your efforts to stabilize the marketplace, in order to protect vulnerable Americans' access to and coverage of vital mental health and substance use disorder treatment and prevention services. Ensuring a stable marketplace should not require reversing the recent progress made with the enactment of key mental health and substance use disorder prevention and treatment reforms under the 21<sup>st</sup> Century Cures Act and CARA.

Sincerely,

American Art Therapy Association  
 American Association of Child & Adolescent Psychiatry  
 American Association for Marriage and Family Therapy  
 American Association for Geriatric Psychiatry  
 American Association for Psychoanalysis in Clinical Social Work  
 American Association on Health and Disability  
 American Dance Therapy Association  
 American Foundation for Suicide Prevention  
 American Group Psychotherapy Association  
 American Mental Health Counselors Association  
 American Nurses Association  
 American Psychiatric Association  
 American Psychoanalytic Association (APsaA)  
 American Psychological Association  
 American Society of Addiction Medicine  
 Anxiety and Depression Association of America  
 Association for Ambulatory Behavioral Healthcare  
 Bazelon Center for Mental Health Law  
 Campaign for Trauma-Informed Policy and Practice  
 Children and Adults with Attention-Deficit Hyperactivity Disorder (CHADD)  
 Clinical Social Work Association  
 Clinical Social Work Guild 49-OPEIU  
 Depression and Bipolar Support Alliance  
 Eating Disorders Coalition  
 EMDR International Association  
 The Jewish Federations of North America  
 Global Alliance for Behavioral Health and Social Justice  
 International Certification & Reciprocity Consortium (IC&RC)  
 Mental Health America  
 NAADAC, the Association for Addiction Professionals

National Association for Children's Behavioral Health  
The National Association of County Behavioral Health and Developmental Disability Directors  
The National Association for Rural Mental Health (NARMH)  
National Association of Social Workers  
National Association of State Mental Health Program Directors (NASMHPD)  
National Alliance on Mental Illness (NAMI)  
National Council for Behavioral Health  
National Disability Rights Network  
National Federation of Families for Children's Mental Health  
National Health Care for the Homeless Council  
National League for Nursing  
National MS Society  
National Register of Health Service Psychologists  
No Health Without Mental Health (NHMH)  
Psychiatric Rehabilitation Association and Foundation  
Residential Eating Disorders Consortium  
School Social Work Association of America  
Treatment Communities of America  
Trinity Health of Livonia, Michigan  
Young Invincibles