National Association for Behavioral Healthcare

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17 September 2021

Chiquita Brooks-LaSure
Administrator, Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Medicare Program: Hospital Outpatient Prospective Payment System and Price Transparency of Hospital Standard Charges Proposed Rule [CMS-1753-P]

Dear Administrator Brooks-LaSure:

The National Association for Behavioral Healthcare (NABH) respectfully submits the following comments on the Proposed Rule for the CY 2022 Medicare Hospital Outpatient Prospective Payment System and Price Transparency of Hospital Standard Charges that the Centers for Medicare and Medicaid Services (CMS) published on Aug. 4, 2021.

NABH represents behavioral healthcare systems that provide mental health and addiction treatment across the entire continuum of care, including inpatient, residential treatment, partial hospitalization, and intensive outpatient programs, as well as other facility-based outpatient programs, including medication assisted treatment centers. Our membership includes behavioral healthcare providers in 49 states and Washington, D.C.

As this proposed rule states, improved access to mental health and addiction treatment services remains critical as the Covid-19 pandemic continues. Recently released data reveal an astounding increase in drug overdose deaths—more than 90,000 deaths in 2020—an increase of almost 30% higher than the previous year.[i] Alcohol consumption during Covid increased 14% over 2019 levels with a 19% increase among adults between the ages of 30-59 and a 41% increase in heavy drinking among women.[ii] Moreover, studies have shown significantly elevated levels of anxiety and depression and suicidal ideation during the pandemic.[iii, iv, v, vi]

NABH supports the proposals to use the CY 2021 reimbursement rates for partial hospitalization as the cost floor for CY 2022 rates and to use CY 2019 data to calculate the CY 2022 rates.

We concur with CMS' assessment that Covid-19 continues to disrupt the provision of partial hospitalization program (PHP) services at a time when access to these services is more critical than ever. While the Covid-19 pandemic has magnified the need for improved access to behavioral healthcare, there are severe shortages of behavioral healthcare providers in many parts of the United States. The reimbursement rate methodology outlined in the proposed rule should help lessen the impact of Covid-19 on providers of partial hospitalization services.

NABH supports continued Medicare coverage of PHP services delivered via telehealth technologies.

As the proposed rule notes, telehealth can increase access to mental health and addiction treatment in communities without local providers and for individuals who have difficulty attending in-person appointments. We applaud CMS for using emergency authorities during the pandemic to expand Medicare coverage of telehealth and waive administrative regulations to help providers adjust to social distancing and other infection-control policies. Ongoing flexibility and expanded coverage of telehealth will be critical as previous epidemics have shown that the impact on mental health and substance use will continue for years to come.[vii]

Telehealth is particularly effective in behavioral healthcare delivery.[viii] This is true for PHP services delivered via

telehealth as well. A recent comparative effectiveness study demonstrated that the only significant differences between those who participated in PHPs via telehealth technologies and those who attended in person was that those who participated via telehealth had greater lengths of stay and were more likely to stay in treatment until completed.[ix]

Other studies have shown that various types of behavioral health services often delivered in PHPs can be provided effectively via telehealth including depression screening, follow-up care after hospitalization, behavioral counseling for substance use disorders (SUD), medication management, and psychotherapy for mood disorders.[x] Telehealth has been found to increase retention for SUD treatment, including medication treatment, especially when treatment is not otherwise available or requires lengthy travel.[xi] In addition, there is evidence of reduced utilization of higher-cost services associated with providing access to behavioral healthcare services via telehealth technologies.[xii]

The experience of our members in delivering behavioral healthcare including PHP services during this pandemic is consistent with these research studies. Our members have continued providing mental health and addiction treatment services during the pandemic and have experienced significantly reduced missed patient appointments. In addition, telehealth has enabled patients and family members who do not have PHPs in their communities to access these services remotely, which has significantly improved access to a level of care that is simply not otherwise available in most communities especially in rural areas.

NABH recommends that CMS continue Medicare coverage of PHP services via audio-only telehealth.

Our members are concerned that many of their more vulnerable patients are unemployed or under-employed and sometimes homeless and do not have access to video technology. Moreover, access to broadband service to support video and audio technology is often very limited in rural areas. These regions also face the most severe shortages of behavioral healthcare providers— particularly PHP providers. Limiting coverage to PHP services via telehealth to video and audio technology will limit the utility of telehealth for reaching individuals that face the greatest barriers to accessing PHP providers.

Coverage of audio-only telehealth services can help fill those gaps by enabling underserved populations to access PHP services. Importantly, beneficiaries and providers have become more familiar with and better equipped to use telehealth including audio-only telehealth. Among Medicare beneficiaries who had a telehealth visit last summer and fall, more than half of them accessed care using a telephone only.[xiii]

NABH appreciates the clarification regarding coverage of incident to services in hospital outpatient programs.

As CMS highlights in the proposed rule, several types of behavioral health practitioners— including counselors and other licensed professionals— are qualified to provide PHP services, including psychoanalysis and psychotherapy, but are not authorized to bill Medicare directly. This policy creates a significant coverage gap because these practitioners provide much of the care in behavioral health facilities.

Recently, behavioral healthcare settings have been struggling with workforce shortages at unprecedented levels. These shortages are so severe that states are resorting to extreme measures; for instance, Oregon requested that the National Guard assist with staffing mental health facilities, and Virginia stopped admitting new patients in its five state mental hospitals due to its staffing crisis.[xiv]

The proposed rule discusses how services by counselors and other hospital staff who may not directly bill Medicare may nevertheless be billed by hospitals under the outpatient prospective payment systems or by supervising physicians or other practitioners as incident to their professional services under the physician fee schedule. This discussion highlights how PHPs can extend the capacity of certain higher credentialed clinicians

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by having additional practitioners provide services under their supervision.

CMS also notes that supervision must be under the physician's or other practitioner's overall direction and control, but the physician's presence is not required. We urge CMS to clarify in the final rule how telehealth technologies may be used to support provision of supervision and "incident to" services by licensed behavioral healthcare practitioners who are qualified and licensed to provide these services by their states but not authorized to bill Medicare.

NABH also urges CMS to clarify that facility fees for providing PHP services via telehealth will continue to be covered.

Our members are extremely grateful that CMS recognized the need to cover facility fees for PHP services provided via telehealth. In the agency's interim final rule last April, CMS recognized that when a physician or practitioner who ordinarily practices in a hospital outpatient department furnishes a telehealth service to a patient who is located at home, the hospital still must provide administrative and clinical support for that service. These additional administrative and ancillary services include scheduling, record-keeping, assisting beneficiaries with technological challenges, and other support services. As Medicare coverage continues for PHP services provided via telehealth, it will be critical to continue covering administrative and other clinical support provided by the facilities that are also critical for ensuring continued improved access to PHP services for Medicare beneficiaries.

Thank you for considering our concerns and recommendations. If you have any questions, please contact me directly at shawn@nabh.org or 202-393-6700, ext. 100, or contact NABH Director of Policy and Regulatory Affairs, Kirsten Beronio at kirsten@nabh.org or 202-393-6700, ext. 115.

Sincerely,

Shawn Coughlin
President and CEO

About NABH

The National Association for Behavioral Healthcare (NABH) represents provider systems that treat children, adolescents, adults, and older adults with mental health and substance use disorders in inpatient behavioral healthcare hospitals and units, residential treatment facilities, partial hospitalization and intensive outpatient programs, medication assisted treatment centers, specialty outpatient behavioral healthcare programs, and recovery support services in 49 states and Washington, D.C.. The association was founded in 1933.

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