

August 18, 2011

The Honorable Kathleen Sebelius
Secretary of Health & Human Services
Hubert H. Humphrey Bldg., Room 120F
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

As organizations concerned with mental health policy, we are writing to urge you to consider the enclosed document providing recommendations regarding the definition of Essential Health Benefits under the Affordable Care Act.

Our organizations represent consumers, advocates and providers of mental health services and we are concerned that the regulation defining Essential Health Benefits must ensure access to essential mental health services for those with mild, moderate and severe disorders. We believe our recommendations strike a balance between a very narrow benefit that will leave many without essential services and the comprehensive benefits that are covered only by Medicaid. We recommend a skeleton basic benefit, but also suggest that plans be given additional guidance on evidence-based services that can offset unnecessary institutionalization or future treatment costs. We have also provided recommendations regarding standards for access and coverage of the benefits.

Thank you for considering our recommendations.


Sincerely,



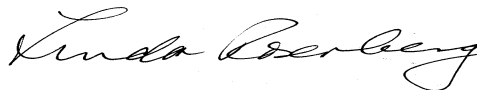
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Recommendations Regarding HHS Definition of Essential Benefits With Respect to Mental Health Services

Submitted by:
Bazon Center for Mental Health Law
Mental Health America
National Association of State Mental Health Program Directors
National Council for Behavioral Healthcare

Background

Individuals with mental illnesses and substance use disorders tend to have high health care costs due to the significant level of co-occurring disorders such as hypertension, heart disease, and diabetes. One way to reduce health care costs overall is to encourage insurers to provide effective and targeted services for this population.

The Affordable Care Act requires that the Essential Benefit package include mental health and substance abuse services at parity with other medical/surgical care, prevention services and rehabilitative services (while the latter two categories do not reference “mental health and/or substance use” there are evidence-based mental health prevention and psychiatric rehabilitation services that should be included under such terms).

Benefit Design

To determine the mental health and substance abuse and the mental health rehabilitation essential benefits, there are several categories to consider:

- The benefits found in a typical employer plan, as referenced in the ACA, (but recognizing that often plan benefits are not laid out in detail in the plan documents);
- Benefits that further national goals for an efficient health care system, such as an appropriate focus on addressing chronic care holistically;
- Benefits that lead to reduced future utilization;
- Meeting the ACA mandates that coverage ensure there is no discrimination against persons with disabilities and health disparities are addressed.
- Ensuring availability of services that further requirements of federal law, such as the Americans with Disabilities Act.

In designing these benefits, the federal government can require certain specific services (perhaps in broad terms) but also require plans to offer additional services designed to meet a particular goal while permitting the plan to determine which specific services it will then cover in that category.

Recommendations for Mandated Essential Benefit

Hospitalization:

- ✓ Inpatient hospital services for mental illness in an accredited institution (plans must comply with federal parity regulation)

Mental Health and Substance Abuse Services

- ✓ Routine outpatient mental health and substance use services furnished by a licensed practitioner, including psychotherapy and medication management including management of adverse side effects (plans must comply with federal parity regulation)

Prescription medications

- ✓ Including psychotropic and addiction medications (plans must comply with federal parity regulation)

Rehabilitation

- ✓ Psychiatric rehabilitation services consisting at least of skills training to address functional impairments resulting from a serious mental illness, which shall be furnished in any appropriate setting (including on-the-job-site or in the home).

Prevention

- ✓ Services mandated for coverage under the ACA (see above)
- ✓ Screening for suicide ideation in depressed patients

Chronic Disease Management

- ✓ Patient and family education and self-management assistance for persons with physical and mental disabilities
- ✓ Intensive case management
- ✓ At least one service designed to avoid institutional placement for chronic and serious mental disorders both for children and adults in order to ensure a sustainable, successful outcome (stability or remission) of a serious or chronic condition.
- ✓ Peer support services

Prevention

The USPSTF has designated broad categories of preventive services that under the ACA must be covered without cost sharing for enrollees.

Additional Stipulations for Plan Implementation of Essential Benefits: Recommendations for Instructions from HHS to Plans

On the assumption that the HHS rule on Essential Benefits will go beyond a short listing of services that must be incorporated in the Essential Benefit, the following are suggestions regarding how plans should address scope of covered services, chronic care management and the ACA requirement for non-discrimination with respect to disability.

Scope of Services

- Services covered should be those designed to meet a health care objective in an effective, cost-efficient and consumer-friendly manner. Health care objectives are intended to “continuously reduce the impact and burden of illness, injury and disability and to improve the health and functioning” of the individual.¹
- Each plan’s benefit should ensure coverage of services for:
 - ✓ Acute/transient conditions
 - ✓ Chronic conditions
 - ✓ Conditions requiring rehabilitation to achieve or maintain a designated level of functioning
 - ✓ Prevention
- Non-medical services, especially for those with chronic conditions, should be covered when they are part of an evidence-based practice that bundles together medical and non-medical services (an example would be supported employment) in order to ensure a sustainable, successful outcome (stability or remission) of a serious or chronic condition.
- Covered services should be those that meet certain criteria (and services that do not meet these criteria are not *required* to be covered but may be covered at plan option):
 - ✓ Services with credible evidence to demonstrate the efficacy and safety of a treatment (peer-reviewed medical literature)
 - ✓ Services for which there are practice guidelines from credible sources
 - ✓ Services for which there are national consensus evidence-based treatment protocols
 - ✓ Services that are found more efficacious in comparison to existing treatments based on evidence of efficacy and safety (the existing treatment is therefore not, or is no longer, covered)
 - ✓ Emerging technologies which have some evidence of efficacy, application of population specificity, relative safety and measurable outcomes. (CMS has instituted such a process through the National Coverage Determination policies).
 - ✓ Treatments that are widely practiced but do not have historical evidence strong enough to meet the criteria of “proven” (but not based on single case studies or only the personal clinical opinion of the provider).
 - ✓ Services that do not meet these standards but which are critical due to the potential for adverse outcomes if not included – these treatments may preserve life or avoid disability, be furnished to subpopulations who have demonstrated no response to traditional treatment and who are at risk of significant disability or death.

¹ This language taken from the President’s Commission on Consumer Protection and Quality in the Health Care Industry.

- All services in the plan’s benefit package should be covered in sufficient amount, duration and scope to reasonably achieve their purpose, unless limits are permitted in the HHS definition of Essential Benefits. Additionally, all services must comply with the federal parity (Mental Health Parity and Addiction Equity Act of 2008) regulation.
- All covered services for persons with mental or physical disabilities must be furnished in the most integrated setting, as per requirements of the Americans with Disabilities Act.

Chronic Disease Management

- Covered services should be individualized and furnished to enrolled individuals when needed to treat the individual’s condition. Plan care management systems must ensure coverage at a minimum when the following conditions are met:
 - ✓ A licensed professional practicing within the scope of his/her training, exercising prudent clinical judgment provides evaluation, diagnostic, treatment or rehabilitative services for an illness, injury, disease or its symptoms
 - ✓ Services are furnished in accordance with generally accepted standards of medical practice
 - ✓ Services are clinically appropriate for the individual, in terms of type, frequency, extent, site and duration of treatment and considered effective for the patient’s condition.
 - ✓ Services are at least as likely to produce equivalent therapeutic or diagnostic results as any alternative service, regardless of cost.

Non-Discrimination

- Health plans may not discriminate with respect to people with mental and physical disabilities in the design of their service package. This includes:
 - ✓ Coverage of services for the restoration or recovery from a mental or physical condition
 - ✓ Coverage of services that maintain functioning and prevent deterioration of a mental or physical condition
 - ✓ Payments to providers that take account of the additional time needed to manage care for a person with one or more chronic mental or physical conditions as well as payments to providers that are risk-adjusted to reflect patient mix
 - ✓ Reimbursement rates that do not result in individuals with disabilities being served needlessly in segregated settings
 - ✓ No exclusions from care based on failure to complete a course of treatment, to come to appointments or to comply with specific treatment options.
 - ✓ Medical management standards that are equally applied and are not used to limit or exclude benefits for persons with disabilities based upon the person’s diagnosis.

Recommendations Regarding Guidance to Exchanges Concerning Services to Treat Mental Illness

In addition to the federal minimum requirements in the HHS-defined Essential Benefits under the ACA, the federal government should provide guidance to Exchanges regarding the most effective approaches for meeting the needs of individuals with serious mental illness. These individuals have traditionally been served primarily in public systems and as a result health plans have less experience in the best approach.

Chronic Care Management

Plans should be required or encouraged to cover the following mental health and substance use case management services in the benefit:

- ✓ Intensive case management may include Assertive Community Treatment, an evidence-based practice in mental health and for those with co-occurring substance use conditions
- ✓ Family education may include Family Psychoeducation, an evidence-based practice in mental health
- ✓ Illness/Disability Self-Care (which may include Illness Self Management, an evidence-based practice)

Rehabilitation Services

Effective service options exist for diverting individuals who would otherwise require a high-end service placement into settings that are both more effective, less costly and consistent with the integration mandate of the Americans with Disabilities Act. Certain rehabilitation services can also enable individuals with serious mental disorders to avoid the crises that lead to higher-end services or intensive services. Encouraging plans to target the following services to children and adults with the most serious disorders, either through a carve-out arrangement or through their own management of the benefit, would likely expand access to these important services for high-need and potentially high-cost individuals.

- ✓ Therapeutic Foster Care/Treatment Foster Care (evidence-based practices) for children
- ✓ Crisis residential services for adults
- ✓ Intensive in-home services for children
- ✓ Peer support services for adults
- ✓ Family support services for children
- ✓ Personal assistants/in-home respite care

Co-Morbidity

Individuals with mental illness frequently have co-occurring substance use disorders and/or chronic medical conditions such as diabetes, heart disease and cancer. Coordinated care for these individuals is essential for a cost-effective system. Health plans should therefore cover:

- ✓ Integrated treatment individuals with co-occurring mental illness and substance use disorders (which may include Integrated Dual Disorder Treatment, an evidence-based practice)
- ✓ Consultation and collaboration time for providers serving individuals with mental illness who have significant co-occurring disorders.
- ✓ Consider encouraging the co-location of primary care and mental health and substance use providers through reimbursement policies that allow billing for two separate services on the same day and through pay for performance or other payment incentives.

Prevention

The USPSTF recommendations for preventive mental health services are broad. Additional details should be required of plans, as follows:

- ✓ Well child check-ups should include screening for mental health and developmental problems, including bullying and trauma
- ✓ Adolescent screening should include screening for mental health and substance abuse
- ✓ Screening for depression in adults should ensure all new mothers are screened for post-partum depression
- ✓ Home-visitation for newborns and infants should address social and emotional development as well as physical health needs
- ✓ Obesity screening should be conducted for all individuals taking prescribed anti-psychotics that are known to put them at risk of weight gain
- ✓ Tobacco use screening and tobacco cessation interventions should focus specifically on individuals with serious mental illness 50% of whom smoke (compared with 23% for Americans overall) and who smoke half of all cigarettes produced.

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