



## **KEY PROVISIONS**

### **of H.R.2646, the *Helping Families in Mental Health Crisis Act***

Included in the version approved by the House of Representatives on July 6, 2016

---

On July 6, 2016, the House of Representatives passed H.R.2646, the bipartisan *Helping Families in Mental Health Crisis Act*.

The House-approved legislation includes several important elements that align with NAPHS advocacy priorities.

#### **Medicaid IMD Exclusion**

While this latest version of Rep. Murphy's bill does not include a full repeal of the IMD for short-term psychiatric hospital care, it would put in statute the Centers for Medicare and Medicaid Services (CMS) [final rule on Medicaid managed care](#), which will allow managed care organizations (MCOs) to contract with Institutions for Mental Disease (IMDs). It is estimated that more than 50% of Medicaid adult beneficiaries will be subject to the new Medicaid managed care rule, allowing them to get care in IMDs through MCOs. Moreover, the Medicaid managed care population will continue to grow nationwide. As more states pick up the Medicaid expansion option under the *Affordable Care Act* (ACA), the vast majority (if not all) of these new Medicaid beneficiaries will be under managed care and would be able to access IMDs.

This codification of the IMD provision in the House bill is important because it would make the ability of MCOs to contract with IMDs permanent. This would prevent future administrations from changing or repealing the rule change on IMD.

The compromise provision in the House bill also sets a precedent. It would be the first time since 1972 that Congress had made an exception to the IMD. (In 1972, Congress passed the Medicaid under-21 benefit.)

Once in statute, this provision would also have the effect of reducing cost estimates for any future changes to the IMD exclusion. [The cost of modifying the IMD had posed the major hurdle to further IMD changes in this bill.]

NAPHS will continue to advocate for a full repeal of the IMD exclusion for all Medicaid beneficiaries who need short-term psychiatric hospital care.

#### **1115 Waiver Authority**

Also included in the House bill that has passed out of committee is a provision that would direct the Health and Human Services (HHS) Secretary to use existing waiver authority (Section 1115 waiver authority) to give states more flexibility in reforming their mental health system, including the waiving of the IMD exclusion. This would potentially give states another option beyond the MCO/IMD option to address the IMD exclusion barrier to accessing short-term psychiatric hospital care.

### **Assistant Secretary for Mental Health and Substance Use**

The House bill also would create an Assistant Secretary for Mental Health and Substance Use. This provision would help to elevate mental health and substance use disorders within the Department of Health and Human Services and to emphasize the importance of treatment for serious behavioral health disorders. In selecting the person who would serve as the Assistant Secretary, the President would have to give preference to individuals who have a doctoral degree in medicine, osteopathic medicine or psychology; have clinical and research experience regarding mental health and substance use disorders; and have an understanding of biological, psychosocial, and pharmaceutical treatments of mental illness and substance use disorders.

### **National Mental Health and Substance Use Policy Laboratory**

The bill establishes a National Mental Health and Substance Use Policy Laboratory to identify, coordinate, and facilitate the implementation of policy changes likely to have a significant effect on mental health, mental illness, and the prevention and treatment of substance use disorders. The laboratory would also aim to provide leadership in identifying and coordinating policies and programs, including evidence-based programs, related to mental and substance use disorders.

### **Medicaid Same Day Billing**

The bill clarifies that a facility can bill and be paid for a primary care visit and a behavioral visit on the same day. The Centers for Medicare and Medicaid Services (CMS) has interpreted current requirements to prohibit same day billing.

### **Providing a Full-Range of EPSDT Services to Children in IMDs**

The bill would allow IMDs serving young people under the age of 21 (through the so-called Psych Under 21 benefit) in a psychiatric hospital or a Psychiatric Residential Treatment Facility (PRTF) to provide and get paid for a full range of early periodic screening, diagnostic, and treatment services, including non-psychiatric medical services. Currently, CMS has interpreted the Psych Under 21 optional benefit to not allow for payment of non-psychiatric medical services for patients receiving treatment in a psychiatric hospital or PRTF. NAPHS has advocated for many years to change this interpretation.

### **Compassionate Communication on HIPAA**

The bill includes a “sense of Congress” resolution that makes the case for the sharing of medical information between caregivers and patients within the guidelines of the current privacy law (the *Health Information and Portability Accountability Act* or HIPAA). In addition, the bill requires the Health and Human Services (HHS) Secretary, no later than one year after enactment of this legislation, to issue regulations clarifying the circumstances under which, consistent with current law, a healthcare provider or covered entity may disclose the protected health information of a patient with a mental illness. The bill would direct the HHS Secretary to develop and disseminate model programs and materials to help providers better understand when and how they can communicate patient protected health information to caregivers.

### **Strengthening Mental Health Care for Children and Adolescents**

The bill would establish grants to fund telehealth for access to mental health services for children and adolescents; fund infant and early childhood mental health promotion, intervention and treatment; and fund national child traumatic stress grants.

### **Suicide Prevention Programs**

The bill also establishes several suicide prevention programs, including youth and adult suicide prevention grants.

### **Workforce Development Studies and Reports**

Not later than two years after enactment of this legislation, the Assistant Secretary (in collaboration with other agencies in the Department of Health and Human Services) would be required to conduct a study and publicly post on an HHS website a report on mental health and substance use disorder workforce in order to inform Federal, state, and local efforts related to workforce enhancements.

The bill would amend the National Health Service Corps requirements allowing pediatric subspecialists, including child and adolescent psychiatrists, to participate in the loan repayment program.

**Parity Transparency**

The bill calls for health plans to have greater transparency in how they are conforming to the requirements of the federal parity law (the *Mental Health Parity and Addiction Equity Act*). Specifically, the bill would require the Departments of Labor, HHS, and Treasury to issue a compliance program guidance document to help improve health compliance with parity. This guidance document would have to be issued no later than six months after enactment of this legislation. The compliance program guidance document shall include recommendations to avoid violations of parity and encourage the development and use of internal controls to monitor adherence to applicable statutes, regulations, and program requirements.

#####