



November 10, 2022

The Honorable Chuck Schumer
Majority Leader
S-322, U.S. Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
S-317, U.S. Capitol
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
H-204, U.S. Capitol
Washington, DC 20515

Dear Leader Schumer, Leader McConnell, Speaker Pelosi and Leader McCarthy,

The National Association of Counties (NACo), on behalf of the undersigned county elected officials **representing 30 states and 111 counties** write to you as leaders dedicated to creating safe and healthy counties across the nation. We appreciate the recent passage of the Extending Government Funding and Delivering Emergency Assistance Act (H.R.5305), a short-term funding measure that included continued investments in support of the 988 National Suicide Prevention Lifeline operations through the 2023 fiscal year. **Congress still has an opportunity to pass additional behavioral health policies that would improve the lives of millions of Americans before the end of the year.**

As a key intergovernmental partner, we urge you to work towards the passage of a bipartisan behavioral health package that enhances our ability to provide comprehensive behavioral health services in all settings, strengthens the behavioral health workforce and increases resident access to services.

Counties are integral to the nation's behavioral health system, both funding and coordinating behavioral health services, including those provided in county-owned and operated community health facilities. Through 750 behavioral health authorities and community providers, counties plan and operate community-based services for individuals with mental illnesses and substance use conditions. In nearly every state and the District of Columbia, there is at least one mental health facility operated by a county, local or municipal government.

Additionally, counties help finance and administer Medicaid services, the largest source of funding for behavioral health services in the United States. By directing resources to community-based treatment and services, we can better serve our residents with behavioral health conditions, reduce reliance on the criminal legal system and direct valuable resources towards improving stability and health.

America's counties support the following on behalf of our residents in need of care:

- **Amend the Medicaid Inmate Exclusion Policy (MIEP)** for improved care continuity for individuals suffering from mental illness and substance use disorder.

An unfair and harmful federal statute known as the Medicaid Inmate Exclusion Policy (MIEP) prohibits the use of federal funds and services, such as Medicaid, for medical care provided to “inmates of a public institution.” This policy has created significant barriers to the use of Medication-Assisted Treatment (MAT) in jail facilities, which disproportionately houses both convicted and non-convicted individuals suffering from opioid use disorder (OUD).

Medicaid is a vital source of health coverage for individuals suffering with a substance use disorder, paying for approximately one quarter of mental health and substance use disorders in the United States. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), nearly 12 percent of Medicaid beneficiaries over 18 have a substance use disorder (SUD).

SUD is heavily concentrated in county jails, with a staggering 63 percent of jail inmates suffering with a substance abuse condition, including OUD. However, the National Academy of Sciences reports that only 5 percent of people with an OUD in jail and prison settings receive medication treatment. Medicaid expansion under the Affordable Care Act has created an opportunity for justice-involved individuals – who are disproportionately low-income – to access health care coverage under the program.

Counties support amending the MIEP through legislation such as:

- ***The Medicaid Reentry Act (H.R. 955/S.285):*** *Would allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period preceding the individual’s release.*
 - ***The Due Process Continuity of Care Act (S.2697):*** *Would allow pretrial detainees to receive Medicaid benefits at the option of the state.*
 - ***The Equity in Pretrial Health Coverage Act (S.3050):*** *Would remove limitations under Medicaid, Medicare, CHIP, and the Department of Veterans Affairs on benefits for person in custody pending disposition of charges.*
- **Repeal the Institutions for Mental Diseases (IMD) exclusion** in order to reduce barriers to the provision of comprehensive behavioral health treatment and services at the county level and to increase resident access to care.

The federal Medicaid statute prohibits federal reimbursement for care provided in psychiatric treatment facilities with more than 16 beds, defined as Institutions for Mental Diseases (IMDs). This IMD exclusion has created significant barriers for counties seeking to provide clinically indicated inpatient mental health services, especially to adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). Due to a lack of beds, this statute limits access to inpatient mental health services for low-income individuals on Medicaid, leading to inequities in access to treatment and care that negatively impacts the health of local communities.

Easing the Medicaid IMD exclusion has been a longstanding behavioral health priority for counties, as it can expand the treatment capacity of county-operated hospitals and behavioral health authorities. The temporary state plan option authorized by the SUPPORT Act (P.L. 115-

271) and new regulatory flexibilities permitted under Section 1115 behavioral health waivers have allowed states to partially lift the IMD exclusion to allow for the short-term residential treatment of substance use disorders and serious mental illness. Results in Virginia showed a 39 percent decrease in opioid-related emergency room visits, and a 31 percent decrease in substance-use related ER visits overall after implementation of the 1115 demonstration. However, Congress should build on these advances and permanently amend the IMD exclusion to permit Medicaid to cover care for needed inpatient behavioral health treatment to all Medicaid beneficiaries and repeal the arbitrary 16-bed limit. These actions would greatly increase equitable access to mental health care treatment options and services in local communities.

- **Fund direct and flexible grant programs to counties to support the recruitment, training and retention of a sufficient behavioral health workforce.** Counties support federal funding for programs and initiatives that both assist with and incentivize the recruitment, training and placement of behavioral health providers that will work within local communities. Additionally, counties support the enhancement of existing programs that promote workforce recruitment and retention like the Health Resources and Services Administration's (HRSA) National Health Service Corps, Graduate Psychology Education and Behavioral health Workforce Training and Education programs, and the Substance Use Disorder Treatment and Recovery Loan Repayment program.

According to data from the Robert Wood Johnson Foundation, 30 percent of the nation's population lives in a county designated as a mental health professional shortage area. The U.S. Department of Health and Human Services (HHS) expects this number to grow over the next decade as the number of providers nationwide is projected to decrease by 20 percent, while demand is anticipated to increase rapidly. The shortage of mental health professionals is especially challenging in rural counties where health care resources, personnel and access barriers are persistent. For example, in Oregon, the ratio of residents to mental health providers can be as large as 640 to 1 in some counties, while in certain counties in Idaho that number is as large as 5,370 to 1.

- **Sustain federal funding to support local crisis response infrastructure through Medicaid.** Counties support legislative and regulatory action that provides flexibility and direct funding for the launch, infrastructure, and modernization of local crisis response systems, to include support for the 988 national suicide prevention lifeline and related services.

The American Rescue Plan Act provided a 3-year enhanced federal matching rate under Medicaid for states to expand access to mobile crisis intervention services. These services are led by behavioral health professionals and help de-escalate behavioral health crises, while also connecting them to community-based services for treatment. Crisis response services also reduce the fiscal burden of behavioral health crises faced by counties by minimizing emergency department visits and hospitalizations and contributing to lower rates of arrest and incarceration of people with behavioral health conditions, who are disproportionately represented in local jails.

- **Enforce policies that ensure equal coverage of treatment for mental illness and addiction.**
Mental health and addiction care should be covered at the same level as care for other health conditions. In 2008, Congress passed the Mental Health Parity and Addiction Equity Act (MHPAEA), which required comprehensive standards for equitable coverage of mental health and substance use disorder treatment and coverage of medical/surgical treatment. The 2010 Affordable Care Act expanded the reach of the parity laws by requiring most health plans cover mental health and substance use disorder care as well as expanding the scope of MHPAEA to reach smaller insurance plans. Despite these legislative advancements, there are still forms of insurance such as Medicare, certain state Medicaid programs, Veterans Administration or short-term limited duration health plans that still place limitations on mental health coverage. Additionally, federal laws do not require parity in reimbursement rates and consequently, Americans are facing barriers to access as people cannot find in-network mental health care providers.

Counties support efforts to address these issues and achieve mental health parity in all forms of health coverage.

Counties are committed to a strong intergovernmental partnership that achieves our shared goals of ensuring our communities have the resources needed to address the long-term behavioral and mental health needs of our residents.

We thank you for your consideration of our requests, we stand ready to work with you and provide additional input towards the advancement of these priorities in the FY23 Omnibus or any other legislative vehicle before the end of the year.

Sincerely,

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