



January 8, 2024

The Honorable Janet Yellen  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure  
Administrator Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

*Re: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program (CMS-9895-P) ([link](#))*

Dear Secretary Yellen, Secretary Becerra, and Administrator Brooks-LaSure:

Thank you for the opportunity to submit comments on the Notice of Benefit and Payment Parameters for 2025 Proposed Rule, issued by the Department of Treasury, the Department of Health and Human Services, and the Centers for Medicare and Medicaid Services (CMS). NAMI has also submitted comments in coalition with the Partnership to Protect Coverage (PPC) which address various parts of the proposed rule. In this comment letter, we focus exclusively on the need to encourage state coverage of crisis response services as an Essential Health Benefit (EHB).

NAMI, the National Alliance on Mental Illness, is the nation's largest grassroots mental health organization and we provide education, support, and advocacy in communities around the country. We are dedicated to building better lives for people affected by mental illness, including the millions of people with mental health (MH) and substance use disorders (SUD) who rely on health coverage through qualified health plans (QHPs) sold on the health insurance marketplace.

### **The Need for Better Insurance Coverage of Crisis Response Services**

Mental health crises and suicides can be devastating for individuals, families, and communities. When someone experiences a mental health crisis and do not receive the care they need, they can end up in emergency rooms, on the streets, involved in the criminal justice system, or in the worst case, they could lose their life. We appreciate the Biden Administration making access to MH/SUD care a top priority by expanding access to crisis response services. By building and providing a full continuum of crisis services across the country, we can end the cycle of ER visits, arrests, incarceration and homelessness — and ensure that every person in crisis receives a humane response and is treated with dignity and respect.

There are three core elements of Substance Abuse and Mental Health Services Administration (SAMHSA) [National Guidelines for Crisis Care](#): regional or statewide 24/7 crisis call centers, mobile crisis teams, and crisis receiving and stabilization programs. Another way to describe these elements is saying that they ensure that those in crisis have “someone to call, someone to respond, and somewhere to go.” Funding for these three core elements is made through a patchwork of sources – Medicaid, federal SAMHSA grant funding, and local and state funds. However, despite the universal and growing need, most commercial health plans do not explicitly include behavioral health crisis services in their benefit package<sup>i</sup>. We believe it is critical that CMS do all it can to change this reality and make coverage of mental health critical crisis response services on par with coverage of emergency care for physical health issues.

### **Essential Health Benefits: Standards for EHB Benchmark Plan Selection and Possibilities for Coverage of Crisis Response Services**

The Affordable Care Act (ACA) requires insurers that sell fully insured individual and small employer health plans to cover a minimum set of 10 essential health benefits (EHBs), including emergency, mental health, and SUD services. The establishment of the specific EHBs has been largely delegated to the states with each state required to select an existing health plan from one of 10 different group plan options to serve as a “benchmark” plan.

In this proposed rule, there are several changes to the standards that a state must follow should it choose to update its EHB-benchmark plan. NAMI believes the proposals would encourage states to augment their benchmark plans by reducing burdens on states during the EHB-benchmark plan selection process. In a similar vein, we anticipate these changes would help to clarify state policy options and make the benchmark selection process more accessible, which may promote greater public engagement. Therefore, we encourage HHS to finalize these modifications as proposed, but to also consider additional actions, as articulated below.

NAMI is thankful that nine states have augmented their benchmark plans in recent years to address gaps in covered benefits. However, we do not believe that any of these updates have addressed the issue of mental health crisis response services. Therefore, NAMI greatly encourages CMS to consider ways that you can help states amend their EHB definitions to explicitly include mental health crisis response services within the definition of emergency services and/or MH and SUD services. Specifically, this might include a state redefining

emergency service to include crisis services needed to respond to and stabilize a patient in an acute or with an emergent behavioral health condition and requiring that they be covered in the same manner in which other medical services are covered for an acute or emergent medical condition<sup>ii</sup>. Such a change would not only help expand access to crisis response services, but it would also be consistent with what the public believes should happen – in a recent NAMI-IPSOS poll, nine in ten people agreed mental health crisis services should be available to everyone, not just to people who can pay out-of-pocket, and that insurers should cover mental health care services the same way they cover physical health services (91% and 90%, respectively)<sup>iii</sup>. We recognize that what we are asking might not require regulatory language but could be achieved through a discussion in the preamble of the final rule, through communications with state or through issuance of “Frequently Asked Questions.”

Thank you for the opportunity to provide comments on this important issue. We hope you will take our comments into consideration, as we believe that expanded coverage of crisis response services has the potential to address our country’s growing mental health crisis. If you have any questions or would like to discuss this issue, please do not hesitate to contact Jennifer Snow, NAMI National Director of Government Relations and Policy at [jsnow@nami.org](mailto:jsnow@nami.org).

Sincerely,



Hannah Wesolowski  
Chief Advocacy Officer  
NAMI

CC:

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<sup>i</sup> [https://www.brookings.edu/wp-content/uploads/2023/05/OBrien\\_Crisis\\_5.15.2023.pdf](https://www.brookings.edu/wp-content/uploads/2023/05/OBrien_Crisis_5.15.2023.pdf)

<sup>ii</sup> [https://www.shvs.org/wp-content/uploads/2021/10/Funding-for-Crisis-Services\\_FINAL.pdf](https://www.shvs.org/wp-content/uploads/2021/10/Funding-for-Crisis-Services_FINAL.pdf)

<sup>iii</sup> <https://www.nami.org/Press-Media/Press-Releases/2023/New-NAMI-Ipsos-Poll-Finds-a-Majority-of-Americans-Want-Congress-to-Address-the-Mental-Health-Crisis>