CAMH
Child and Adolescent Mental Health

December 2, 2024

The Honorable Daniel Tsai
Deputy Administrator and Director, Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Request for Comments on Templates for Documenting Compliance with Mental Health Parity and Addiction Equity Act Requirements in Medicaid and CHIP

Dear Deputy Administrator Tsai:

On behalf of the Child and Adolescent Mental Health (CAMH) Coalition, a group of organizations representing a diverse array of perspectives, dedicated to promoting the mental health and well-being of infants, children, adolescents, and young adults, we write to encourage the Centers for Medicare & Medicaid Services (CMS) to consider the needs of children and youth as you finalize the tools for states to document compliance with Mental Health Parity and Addiction Equity Act (MHPAEA) requirements in Medicaid and the Children's Health Insurance Program (CHIP).

By law, MHPAEA prohibits more stringent benefit limitations or higher cost-sharing for mental health and substance use disorder (MH/SUD) services compared to medical/surgical (M/S) care for Medicaid managed care and CHIP enrollees. Unfortunately, in practice, there is evidence of noncompliance with the requirements of MHPAEA throughout Medicaid managed care, Medicaid Alternative Benefit Plans (ABPs), and CHIP. The implications of noncompliance with MHPAEA are especially concerning for children and youth, as Medicaid is the single largest payer of behavioral health services in the US and alongside CHIP covers about half of all children.[i] As of 2021, approximately 85% of children enrolled in Medicaid were in comprehensive managed care plans.[ii] Yet, in 2018, only about half of non-institutionalized youth enrolled in Medicaid or CHIP who experienced a major depressive episode received mental health treatment.[iii]

October marked the third anniversary of the declaration of a National State of Emergency in Children's Mental Health issued by the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, and the Children's Hospital Association.[iv] As we collectively work to address access to mental and behavioral health care for children and youth covered by Medicaid and CHIP, it is essential that managed care organizations and states comply with the MHPAEA and report compliance accordingly.

The templates CMS proposed[v] will represent a step forward for states to comprehensively document compliance with MHPAEA requirements. However, the proposed templates may not reflect the unique nature of pediatric health care. Children are not little adults; their needs, as well as the requirements and protections under Medicaid's Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirement and structures of the health care systems that serve them, are different from those of older populations. As noted by CMS in its recent State Health Official (SHO) letter on Medicaid's EPSDT requirements, this critical protection creates a

"higher standard of coverage for eligible children than for adults" including "a range of behavioral health services that meet the assessed needs of an EPSDT-eligible child."[vi]

In addition, pediatric health care provider networks are different than adult networks, and network adequacy is a key component to ensuring that health insurance coverage translates to access to care. Provider networks should include the full range of pediatric providers who typically care for children, from primary to subspecialty care, to ensure access to all covered benefits. However, certain plans or contracts with managed care organizations may consider access to adult specialty or subspecialty care as meeting a network adequacy standard, when this care may not be appropriate for children, especially in the realm of mental and behavioral health care. As written, the templates may not adequately prepare states to collect needed pediatric-specific data about benefits, patients, or network adequacy. We recognize that in the instructional guide, CMS acknowledges pediatric patients as a specific population that should be represented in the benefit packages that states report and that CMS may feel that the inclusion of CHIP in these tools is sufficient to encourage states to report pediatric data.[vii] However, we are concerned that the language in the templates and guidance lacks clarity about meeting parity requirements and reporting for pediatric-specific populations, including stratified by race and ethnicity. Overall, we find that the needs of children and youth are not sufficiently considered throughout the templates, especially the ways in which pediatric populations' needs and requirements differ from adults. If states and CMS neglect their responsibility to thoroughly collect information on parity compliance for children and youth enrolled in Medicaid and CHIP, violations of parity may continue unabated and even unknowingly.

As documented by the Office of the Inspector General, many states do not comply with MHPAEA and its reporting requirements. In its report from earlier this year, the Office of the Inspector General reviewed eight states and showed that some contracts with managed care organizations failed to include required parity provisions, and that some states and their managed care organizations failed to publicly share compliance documentation in a timely manner, conduct timely parity analyses, and ensure that services were delivered to patients in compliance with parity requirements.[viii] We are hopeful that these templates will help address these deficiencies, but urge CMS to strongly monitor state compliance and take action as appropriate. We encourage states, managed care organizations, and CMS to maximize transparency and meet the stated expectations regarding timely data sharing, including through making responses public including timely posting of state parity compliance documents, including completed templates, by CMS on its website. Accordingly, we recommend that Medicaid plans and states be required to complete these templates no less frequently than annually, in addition to whenever the written changes are made. In so doing, CMS would ensure that all states are meeting their obligations under MHPAEA, both as written and in operation.

As highlighted above, we were happy to see the release of the SHO letter regarding requirements and best practices related to Medicaid EPSDT requirement. Our organizations submitted recommendations to CMS regarding EPSDT implementation and compliance earlier this year, and we appreciate that the final guidance includes some of these recommendations which, if fully implemented, would enhance compliance with MHPAEA.[ix] As such, we request that CMS communicate with states and managed care organizations, and other stakeholders about the interaction of state parity compliance, including through the use of these templates, with meeting the promise of EPSDT as described in the SHO. As CMS expands their educational offerings and provides technical assistance to states in implementing the EPSDT guidance, CMS should include information about parity compliance and reporting requirements. We also encourage CMS to take additional steps to improve collection and public posting of EPSDT data related to mental health and substance use disorder services for children and youth, including data beyond just screenings.

On behalf of our organizations, we thank you for the work that CMS has done to address the mental health needs of children and adolescents. We look forward to working with the agency to ensure that children and

adolescents' unique needs are well addressed and incorporated in parity compliance efforts. If we can be of further assistance, please contact Tamar Magarik Haro at tharo@aap.org.

Sincerely,

American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Foundation for Suicide Prevention
American Muslim Health Professionals
Children's Hospital Association (CHA)
Children's National Hospital
Family Voices - National
Futures Without Violence
Georgetown University Center for Children and Families
National Alliance on Mental Illness
National Association of Pediatric Nurse Practitioners
Network of Jewish Human Service Agencies
The National Alliance to Advance Adolescent Health

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[i] Centers for Medicare & Medicaid Services. July 2024 Medicaid and CHIP Enrollment Data Highlights; 2024. https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html.

[ii] Medicaid and CHIP Payment and Access Commission. Exhibit 30. Percentage of Medicaid Enrollees in Managed Care by State and Eligibility Group, FY 2021; 2023. https://www.macpac.gov/wp-content/uploads/2023/10/EXHIBIT-30.-Percentage-of-Medicaid-Enrollees-in-Managed-Care-by-State-and-Eligibility-Group-FY-2021.pdf.

[iii] Medicaid and CHIP Payment and Access Commission. Access to Behavioral Health Services for Children and Adolescents Covered by Medicaid and CHIP. In: Report to Congress on Medicaid and CHIP; June 2021. https://www.macpac.gov/wp-content/uploads/2021/06/Chapter-3-Access-to-Behavioral-Health-Services-for-Children-and-Adolescents-Covered-by-Medicaid-and-CHIP.pdf.

[iv] American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry, and Children's Hospital Association. A declaration from the American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry, and Children's Hospital Association; 2021. https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/.

[v] Centers for Medicare & Medicaid Services. Request for Comments on Templates for Documenting Compliance with Mental Health Parity and Addiction Equity Act Requirements in Medicaid and CHIP; 2024. https://www.medicaid.gov/medicaid/downloads/parity-temp-rfc.pdf

[vi] Centers for Medicare & Medicaid Services. SHO #24-005: Best Practices for Adhering to Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Requirements; 2024. https://www.medicaid.gov/federal-policy-guidance/downloads/sho24005.pdf.

[vii] Centers for Medicare & Medicaid Services. Instructional Guide for Mental Health and Substance Use Disorder Parity State Summary Template; 2024. https://www.medicaid.gov/medicaid/downloads/parity-state-summary-temp-instr-guide.pdf

[viii] US Department of Health and Human Services Office of Inspector General. CMS Did Not Ensure That Selected States Complied With Medicaid Managed Care Mental Health and Substance Use Disorder Parity Requirements; 2024. Report Number A-02-22-01016. https://oig.hhs.gov/reports/all/2024/cms-did-not-ensure-that-selected-states-complied-with-medicaid-managed-care-mental-health-and-substance-use-disorder-parity-requirements/

[ix] Child and Adolescent Mental Health Coalition Core Leadership Team. Medicaid EPSDT Recommendations; 2024. https://www.camhcoalition.org/our-work/2024-clt-epsdt.