National Alliance on Mental Illness

November 15, 2022

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

Re: New Hampshire Substance Use Disorder Serious Mental Illness Serious Emotional Disturbance Treatment and Recovery Access Section 1115(a) Research and Demonstration Waiver

Dear Secretary Becerra:

NAMI appreciates the opportunity to submit comments on the New Hampshire Substance Use Disorder Treatment and Recovery Access (SUD-TRA) Section 1115 Demonstration extension request. NAMI, the National Alliance on Mental Illness, is the nation's largest grassroots mental health organization and is dedicated to building better lives for people affected by mental illness. We believe that extending this waiver will help support ongoing services for those in need of treatment in Institutions for Mental Diseases (IMDs) and create new pathways to health care for those who are justice-involved. NAMI supports the state's waiver extension and urges its approval by CMS. We also offer the following comments.

Waiving the Payment Exclusion for Institutions for Mental Disease (IMD)
New Hampshire seeks to continue claiming federal reimbursement for payment of services provided to Medicaid beneficiaries receiving short-term substance use disorder (SUD) or mental health treatment for serious mental illness (SMI) or Serious Emotional Disturbance (SED) in a hospital or residential IMDs. NAMI strongly supports this proposed extension of waiving the IMD exclusion for SUD, SMI and SED within NH's SUD-TRA waiver.

The need for expanded access to mental health care in New Hampshire is undeniable. In New Hampshire, over 200,000 adults have a mental health condition, including nearly 60,000 adults with SMI.[1] Trips to the emergency room for a mental health or substance use condition are incredibly common,[2] yet emergency departments (EDs) are not equipped to help people experiencing a mental health crisis. Moreover, ED staff often have nowhere to send a person in crisis because of the limited number of inpatient psychiatric beds. This is in part due to a large hole in the Medicaid benefit package for mental health as federal statute prohibits Medicaid from paying for care provided to most adults in mental health and SUD treatment facilities larger than 16 beds, known as IMDs. This exclusion policy has long blocked the development of a truly comprehensive mental health care system, limited access to needed inpatient psychiatric care and contributed to a shortage of psychiatric beds nationwide.

When beds are unavailable, people with mental illness are frequently discharged from EDs without any place to go for treatment. Sadly, we know what can happen when people don't get treatment they need; they can end up in jail or on the streets – with worse long-term individual outcomes, greater pain for their families and a greater cost to the state and the federal government. The IMD exclusion has had

a real-life impact on people's ability to access needed treatment, while perpetuating the systematic belief that mental illness should be treated as separate and unequal to physical health conditions. Thankfully, in 2015, CMS began approving state demonstration to pay for services provided in IMDs. NAMI is pleased that New Hampshire is part of this growing rank and commends the state for its commitment to mental health care treatment options through the SUD-TRA waiver.

Reentry

New Hampshire proposes to add a community reentry program for beneficiaries who are otherwise eligible and receiving SUD, SMI, or SED treatment while an inmate of a public institution within the NH Department of Correction's system of state prisons. These individuals would receive a tailored package of Medicaid services beginning 45 days prior to release. NAMI strongly supports this proposal to add a community reentry component for justice-involved individuals to NH's SUD-TRA waiver.

People with mental health and substance use conditions are disproportionately represented in our penal institutions. Nationally, about 80 percent of individuals released from prison in the U.S. each year have a SUD or chronic medical or psychiatric condition,[3] and in New Hampshire, nearly 15 percent of incarcerated men and 30 percent of incarcerated women have a mental illness.[4] Since prisons, jails, and other penal institutions are required to ensure the provision of appropriate and necessary health care to individuals while incarcerated, these facilities have become America's de-facto mental health providers. For some inmates, it may be the first time they are even receiving needed mental health care.

When individuals are released from incarceration and return to the community, it is a particularly crucial period because it is associated with significant stress and high risk of recidivism, relapse, or crisis. Yet establishing or re-establishing health care often takes the backburner as they deal with more pressing needs like housing and food security, reconnecting with family members, and finding employment.[5] Many do not have appropriate access to coverage and continuity of care and are more likely to lack health insurance.[6] Moreover, people who routinely receive medications while incarcerated often re-enter the community with a limited supply which can disrupt any positive health outcomes achieved as a result of consistent medication access.

As people with SMI, particularly those with co-occurring SUD, reenter the community, they recidivate at higher rates than those without SMI or SUD. This is frequently attributable to lack of timely access to needed services and supports for their condition.[7] In fact, the risk of opioid-related overdose death dramatically increases in the first days and weeks after an individual with untreated opioid use disorder is released from jail or prison.[8] Former inmates' risk of a fatal drug overdose is 129 times as high as it is for the general population during the two weeks after release.[9] These striking statistics underscore the important need for proposals to improve access to care for those who are incarcerated and improve transitions to care upon release. NAMI is pleased that New Hampshire is the most recent state to request the ability to use Medicaid to support individuals prior to reentry, and encourages CMS to approve this request, along with the other states' outstanding requests.

NAMI shares the state's overall commitment a mental health system that is "robust and cohesive; respects dignity and the centrality of the whole person; empowers individuals, their families and communities; and reduces stigma while facilitating rapid access to a coordinated, high-quality array of localized services and supports for all." We are thankful that New Hampshire recognizes the importance of improving health coverage options for people with mental illness, including those who are justice-involved. NAMI urges CMS to approve the state's extension request to continue covering IMD services

for people with SUD, SMI and SED, and expand health coverage for justice-involved individuals prior to release from incarceration. Thank you for the opportunity to provide comments on this important issue. If you have any questions or would like to discuss this issue, please do not hesitate to contact Jodi Kwarciany, Senior Manager of Mental Health Policy at jKwarciany@nami.org.

Sincerely,

/s/

Jennifer Snow
National Director
Government Relations & Policy
NAMI, National Alliance on Mental Illness

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[1]National Alliance on Mental Illness, "Mental Health in New Hampshire," February 2021, https://www.nami.org/NAMI/media/NAMI-Media/StateFactSheets/NewHampshireStateFactSheet.pdf.

[2] Audrey J. Weiss et al. Trends in Emergency Department Visits Involving Mental and Substance Use Disorders, 2006–2013. Healthcare Cost and Utilization Project, Agency for Health Care Research and Quality, December 2016, https://www.hcup-us.ahrq.gov/reports/statbriefs/sb216-Mental-Substance-Use-Disorder-ED-Visit-Trends.pdf.

[3] Shira Shavit et al. Transitions Clinic Network: Challenges and Lessons in Primary Care for People Released from Prison. *Health Affairs* 36, no. 6 (June 2017): 1006–15. DOI: 10.1377/hlthaff.2017.0089.

[4] Executive Order 2019-02 establishing Governor's Advisory Commission on Mental Illness and the Corrections System; https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/2019-02.pdf.

[5] Reentry from incarceration is a difficult transition, and health management is often a low priority as people grapple with more basic survival needs (e.g., food and housing), reconnecting with family members, and finding employment (Mallik-Kane 2005).

[6] Tyler Winkelman et al. Health Insurance Trends and Access to Behavioral Healthcare Among Justice-Involved Individuals—United States, 2008–2014. *Journal of General Internal Medicine* 31 (Sept 2016): 1523-1529. DOI: 10.1007/s11606-016-3845-5.

[7] Glenda Wrenn, Brian McGregor, and Mark Munetz. The Fierce Urgency of Now: Improving Outcomes for Justice Involved People with Serious Mental Illness and Substance Misuse. *Psychiatric Services*, published online (April 16, 2016), https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201700420.

[8] Ingrid Binswanger, Patrick Blatchford, Shane Mueller, and Marc Stern. Mortality After Prison Release: Opioid Overdose and Other Causes of Death, Risk Factors, and Time Trends From 1999 to 2009. *Ann Intern Med* 159, no. 9 (Nov 2013): 592–600. DOI: 10.7326/0003-4819-159-9-201311050-00005.

[9] Ingrid Binswanger et al. Release from prison--a high risk of death for former inmates. *The New England Journal of Medicine* 356, no. 2 (Jan 2007): 157-65. DOI: 10.1056/NEJMsa064115.