

7/10/2020

Good Evening REDC Members,

Thank you to everyone for participating in the advocacy for the SERVE Act House Floor vote this week, and hope your staff and network can participate in a larger grassroots calls/emails/tweets next Tuesday and Thursday before the vote! Here are your updates for this week:

## I. **SERVE Act:**

- **Refresher:**
  - Senate included language around the SERVE Act within their NDAA report (passed through Committee) which encourages DOD to do everything within SERVE. The Senate is still doing amendments (been over a week) on the NDAA, before the Floor vote occurs.
  - House Committee markup last Wednesday did not include the similar SERVE Act provisions. It did include report language around residential eating disorders treatment that requests DOD to analyze and submit a letter by December 20<sup>th</sup> on the feasibility of the Secretary expanding benefits for residential eating disorders in adults. (see attached)
  - While the Senate provisions set a “basement” for us of what will be passed, we want to continue pushing for these benefits to be required vs. encouraged. Typically Senate report language wins over House (during the “conference process”).
- **Let me walk you through the process:**
- On Tuesday, the Rules Committee opened up submissions for Amendments to the NDAA, with amendments due by Monday at 1PM (7/13) which will include co-sponsors. (*Note this is what your Center's emails have been requesting from your Members of Congress to be added to*).
  - The amendment preparation process is currently under way, as we need to get the Office of Legislative Counsel, Office of the Parliamentarian, and Congressional Budget Office input and sign-off on before submitting in addition to finding an offset.
  - We do believe we have identified an offset based on low recruitment #s this year (*in part caused by COVID*) limiting amount of funding needed for healthcare retirement accounts than what was previously estimated (giving some money for offset possibly). However, we may hit some opposition based on the appearance on its face of the offset.
- After the amendment is submitted, then it needs to be approved by the House Armed Services Committee and voted through on the Rules Committee.
  - Note this will be the behind the scenes baseball that could get challenging and change what the amendment looks like.
- The House of Representatives will vote on the NDAA, with the amendments starting *expected next Thursday (July 16<sup>th</sup>)*.

- **In turn we've been asking the entire eating disorders community to make calls, emails and tweets for folks to "vote yes" for the amendment** on Tuesday and Wednesday (social media toolkit and action alert attached).

## **Other Important Items:**

### **PHE Designation**

- **ICYMI, HHS spokesperson Michael Caputo tweeted last week that HHS intends to extend the COVID-19 public health emergency that is set to expire on July 25. The extension would prolong the emergency designation by 90 days.**

### **Telehealth Flexibilities**

- HHS Secretary Azar stated publicly earlier this week that the agency will do everything it can to permanently keep telehealth waivers granted during the pandemic.
- Azar said getting Medicare and Medicaid treatment out of its "1960s-style of delivery" was something the department has always wanted to do, but Congress has never been able to change the Social Security Act to make programs amendable to telehealth.

### **ACA Proposed Rule**

- EBSA, along with the Departments of HHS and the Treasury, released a notice of proposed rulemaking regarding grandfathered health plans. The NPRM and related materials are available at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/grandfathered-healthplans>.
- Context: The Obama Administration allowed companies to continue offering their pre-reform health plans as long as they didn't significantly increase workers' cost-sharing or remove benefits for treating a certain condition.
  - A sizable chunk of the employer market has maintained grandfathered coverage—about 16% of people with a workplace health plan—according to a 2018 Kaiser Family Foundation survey.
- The proposed rule, if finalized, would allow grandfathered high-deductible and other employer plans to raise workers' cost-sharing and premiums more than they can today. This proposed rule is part of the administration's sprint to add its tweaks to the health care law before the election.

## **II. COVID-19 Relief Congressional/Stakeholder Actions**

### **Telehealth Visits Dip Amid Uncertainty**

- According to new analysis from Harvard and health tech company Phressia, virtual visits have begun to decline after an initial peak in mid-April.
  - Telehealth visits made up about 14% of visits during the week of April 19, but that number had fallen to 7% in mid-June. Despite this dip, telehealth use is still substantially higher than it was pre-pandemic.
  - Some clinicians argue that virtual care is not worth the long-term investment. While they may have cobbled together telehealth programs during lockdown, reopening makes in-person care a viable option once again.
  - Additionally, it is not clear whether insurers will continue to pay for virtual care at the same levels once the pandemic is over, so making a huge investment in technology is not appealing.
- More than 70 groups including the Connected Health Initiative, American Medical Association, Intel, CHIME and HIMSS urged lawmakers to permanently waive geographic restrictions on Medicare's payments for telehealth, which typically have been restricted to rural patients. The full letter can be read [here](#).

### **Senators Smith (D-MN) and Cassidy (R-LA) Lead Bipartisan Effort on Health Agencies to Expand Telehealth Services Beyond Pandemic**

- Over 35 bipartisan Senate colleagues urged HHS and CMS to provide a plan on permanent changes to Medicare telehealth rules in a letter last week. The full letter can be read [here](#).
- The request includes:
  - Provide a written plan and timeline for making permanent the administrative changes—including the expansion of the definition of telecommunications systems—you have made to Medicare, Medicaid, and Children's Health Insurance Program (CHIP) rules governing the provision of telehealth under Section 1135 Waivers.
  - Provide a timeline for if and when you intend to end enforcement discretion by the Department of Health and Human Services Office for Civil Rights (OCR) for non-compliance with the Health Insurance Portability and Accountability Act (HIPAA) so that health care providers and patients have a reasonable expectation as to when the use of everyday technologies may be discontinued.
  - Clarify whether you intend to extend existing in-office Medicare reimbursement parity to telehealth services provided by Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) for the duration of the pandemic or whether doing so would require Congressional action.
  - Detail the list of permanent telehealth changes to Medicare, Medicaid, and CHIP rules that you can act on within your own authority and those that require Congressional action.

- Develop and issue guidance for private health plans to provide advance notice to their enrollees on future changes to coverage of telehealth services.

### **MHLG Sends Letter to Senate Leadership Urging for FMAP Increase (letter attached)**

- The REDC co-lead a letter on behalf of the Mental Health Liaison Group to Senate leadership urging for a 6.2% increase in the Federal Medical Assistance Percentage (FMAP).
- As Medicaid enrollment numbers increase because of the COVID-19 pandemic, state Medicaid budgets are strapped for more federal monies to provide care for their residents.
- The House passed, HEROES Act included an FMAP increase and this letter calls for the Senate to include this increase within their relief package.

### **Nearly 350 Organization Urge HHS Secretary Azar to Shield CDC from Political Interference**

- The REDC joined a letter led by Trust for America's Health stating the, "CDC continues to be the world's premiere public health institution and should be treated as such during this pandemic. We must amplify the unfettered voice of CDC, not stifle it."
- The letter is a product of growing alarm within the public health community over the damage done by the Trump Administration's dismissals of the pandemic threat—including the President's refusal to endorse basic safety measures.
- The full letter and listing of co-signers can be found [here](#).

### **Healthcare Equality Network Launches**

- Rev. Al Sharpton and several other Black community leaders launched the Healthcare Equality Network—a campaign aimed at highlighting racial disparities in health care and pressing for greater access to care for Black Americans.
- The campaign launch was announced alongside the Congressional Black Caucus Chair Karen Bass (D-CA).

### **III. ACA Watch**

#### **Advocates Sue HHS Over ACA Non-Discrimination Rule**

- The National Women's Law Center, Transgender Law Center, Transgender Legal Defense & Education Fund, Center for Health Law and Policy Innovation of Harvard Law School and law firm Hogan Lovells has filed suit.
- A separate group of LGBTQ clinics and other organizations filed suit last month.

#### **House Democrats Pass ACA Expansion Bill**

- Last week House Democrats (and 2 Republicans) passed a bill that would expand the law's subsidies for private health insurance coverage, encourage hold-out red states to expand Medicaid, and reverse the Administrations final rules that undermine the ACA.

- The bill has no chance of passing in the Senate, but is part of the Democrat's strategy in having the health care law play a central role in their campaign pitch.

### **Oklahoma Gets Ready to Expand Medicaid**

- Voters in the state narrowly approved a ballot measure extending coverage to tens of thousands of low-income adults.
- Expansion will put a dent in the state's uninsured rate that ranks the second-highest in the nation.
  - At least 200,000 will be newly eligible for Medicaid, with enrollment potentially climbing even higher as millions lose their jobs amid the pandemic.

Best,

Allison