Highlights from MACPAC March 2021 Public Virtual Meeting

Overview

On March 4, 2021, the Medicaid and CHIP Payment and Access Commission (MACPAC) held its March 2021 public virtual meeting. This summary includes highlights from all six meeting sessions. Presentation slides and the agenda for this meeting can be found on the MACPAC website.

Session 1: Behavioral Health Services for Adults: Plan for June Chapter and Policy Options

MACPAC's Erin McMullen presented on potential policy options to improve access to care for Medicaid beneficiaries with behavioral health conditions. This presentation continues the Commission's previous work on expanding access to behavioral health care for Medicaid beneficiaries. In prior meetings, Commissioners discussed introducing new Section 1115 waiver demonstrations and supporting certified community behavioral health clinics as a way to improve access to crisis services. For a summary of the Commission's work so far, see Viohl & Associates' past MACPAC summaries.

Ms. McMullen began her presentation with an overview of the mental health risks faced by Medicaid beneficiaries. Based on 2018 data, Medicaid beneficiaries aged 18 to 64 with any mental health condition were nearly four times as likely to receive inpatient treatment for their mental health condition and nearly twice as likely to report a prior arrest or being booked for breaking the law as their privately insured peers. She also highlighted racial disparities in behavioral health among Medicaid beneficiaries, noting that Medicaid beneficiaries of color are significantly more likely to experience mental illness, and significantly less likely to receive treatment than white beneficiaries.

Ms. McMullen also discussed current efforts to address behavioral health crises. She highlighted recent guidance from the Substance Abuse and Mental Health Services Administration (SAMHSA), which established three core elements for crisis systems, and the Federal Communications Commission's (FCC) implementation of a new three-digit telephone code, "988", to instantly connect individuals in crisis with the national Suicide Prevention Lifeline. She said that these measures, while helpful, may ultimately be insufficient to address the overwhelming need for behavioral health crisis services. The National Lifeline may not have enough funding or capacity to meet demand after implementation of the 988 hotline, and states may require additional guidance on how to use various Medicaid authorities and administrative funding to pay for new behavioral health programs.

After reviewing these challenges, Ms. McMullen discussed three policy suggestions to address them:

1. The Secretary of Health and Human Services (HHS) could direct the Assistant Secretary for Mental Health and Substance Use and the Administrator of the Centers for Medicare & Medicaid Services (CMS) to work together to support states in developing and implementing a crisis continuum to support children and adults with behavioral health conditions;
2. The HHS Secretary could direct relevant agencies to issue joint subregulatory guidance that addresses how Medicaid and the State Children's Health Insurance Program (CHIP) can be used to fund a crisis continuum for beneficiaries experiencing behavioral health crises, and;
3. The HHS Secretary could direct a coordinated effort by relevant agencies to provide education and technical assistance on the implementation of a behavioral health crisis continuum that coordinates and responds to people in crisis in real-time. Additionally, the HHS Secretary could examine options to use existing federal funding to support state-level activities to improve the availability of crisis services.

Detailed rationale for each of these policies can be found on slides 11 to 16 of Ms. McMullen's presentation. After reviewing these policy options, Ms. McMullen asked Commissioners to provide feedback and consider potential behavioral health policy recommendations for the April 2021 meeting.

Commissioners' Comments

Commissioners were generally supportive of all three policy suggestions, and said they would support converting each option into a recommendation to be considered for formal adoption at the April meeting. Commissioners argued that more work should be done to better develop the working relationship between SAMHSA and CMS,

since close collaboration between the two agencies will be crucial for any effort to improve access to behavioral health care for Medicaid beneficiaries.

Session 2: Behavioral Health Services for Children and Youth: Plan for June Chapter and Policy Options

MACPAC's Melinda Becker Roach discussed the Commission's ongoing work to improve access to behavioral health care for children and adolescents with behavioral health conditions. She analyzed existing challenges facing youths attempting to access behavioral health services, and presented two policy suggestions for how to address them. For a summary of the Commission's past work on this topic, see Viohl & Associates' past summaries.

As of 2018, Medicaid covered one in three adolescents who experienced a major depressive episode within the past year. According to 2020 data from the State Health Access Data Assistance Center (SHADAC), children experiencing major depressive episodes and other mental health conditions are at an elevated risk for substance use disorders (SUD), death by suicide, and involvement with the child welfare and juvenile justice systems.

Generally, access to home- and community-based behavioral health services reduces the risk of developing a serious behavioral health condition, and also reduces the risk of suicide and involvement with law enforcement However, only about half of adolescents enrolled in Medicaid who experienced a past-year major depressive episode received treatment for their condition, suggesting ongoing access concerns. Black beneficiaries were even less likely to receive treatment, highlighting ongoing racial disparities in access to behavioral health services. Additionally, unmet needs for mental health services have been worsened by the COVID-19 pandemic.

Ms. Becker Roach said that addressing this need will require collaboration between multiple agencies and partners since behavioral health is such a cross-cutting discipline; CMS, SAMHSA, the Administration for Children and Families (ACF), and other various state and local authorities, including behavioral health, child welfare, and juvenile justice agencies could all have a part in improving access to care and directing youths to appropriate services.

Although medically necessary behavioral health services must be covered by Medicaid under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, courts ruled in several class action lawsuits that states have not met their obligations to fulfil this benefit. Some states ultimately failed because they lacked sufficient federal guidance necessary to structure benefits for children and adolescents with mental health conditions. For this reason, Ms. Becker Roach argued that states could benefit from additional guidance and technical assistance to expand access to home- and community-based behavioral health services.

To that effect, Ms. Becker Roach suggested two policy options:

1. The Secretary of HHS should direct CMS, SAMHSA, and the ACF to issue joint subregulatory guidance that addresses the design and implementation of benefits for children and adolescents with significant mental health conditions covered by Medicaid and the State Children's Health Insurance Program, and;
2. The Secretary of HHS should direct a coordinated effort by CMS, SAMHSA, and the ACF to provide education and technical assistance to states on improving access to home and community-based behavioral health services for children and adolescents with significant mental health conditions covered by Medicaid and the State Children's Health Insurance Program. Additionally, the Secretary should examine options to use existing federal funding to support state-level activities to improve the availability of these services.

Ms. Becker Roach describes her rationale for these policy suggestions on slides 11 to14 of her presentation. After reviewing these suggestions, Ms. Becker Roach requested feedback from the Commissioners on developing these policy options into recommendations, and on content pertaining to this topic to be included in MACPAC's upcoming June 2021 report.

Commissioners' Comments

Commissioners generally supported turning both of these policy suggestions into recommendations to be considered for formal adoption during the April 2021 meeting. However, many Commissioners expressed their belief that these recommendations are only important first steps, and that more should be done to address the

ongoing youth mental health crisis. Commissioners also suggested areas of interest to include in the June report, including a further exploration of telehealth payment parity and the applications of telehealth for providing behavioral health services, an analysis of the shortage of behavioral health providers for youths, and an analysis of how increasing funding for behavioral health services could affect access. Commissioners may revisit this topic after publishing their June report.

Public Comments

The public comment period immediately followed Commissioners' commentary. Several stakeholders with interests in youth behavioral health took the opportunity to comment. These stakeholders highlighted other areas of interest for the Commission to explore, including introducing payment incentives and guidance for collaboration to encourage CMS to work with other agencies, further implementation of telehealth, issuing guidance to states on how to use Medicaid funds to cover administrative expenses from behavioral health services, exploring alternatives to inpatient behavioral health services, and addressing the lack of racial and ethnic self-reporting data from Medicaid beneficiaries who receive mental health services. All stakeholders emphasized the urgency of addressing the youth mental health crisis.

Session 3: High-Cost Specialty Drugs: Moving Towards Recommendations

Following up on the previous work of the Commission, MACPAC's Chris Park presented on findings from MACPAC's technical advisory panel and guided Commissioners towards potential recommendations for helping states manage the costs of expensive and experimental specialty drugs. For a summary of the Commission's past work on controlling costs for expensive specialty drugs, see Viohl & Associates' past summaries.

Mr. Park began his presentation with a brief review of how drugs are authorized by the Food and Drug Administration (FDA) under the accelerated approval pathway. He explained that accelerated approval drugs are approved based on a surrogate endpoint that is reasonably likely to predict a clinical benefit, but that confirmatory trials are required by the FDA to ultimately verify the clinical benefit of the drug. He noted that this creates issues for Medicaid coverage of accelerated approval drugs, since the Medicaid Drug Rebate Program (MDRP) cannot be used to cover these drugs until confirmatory trials are completed, which can sometimes take up to five years.

As a way to address this issue, Mr. Park suggested introducing a differential rebate for accelerated approval drugs. Under this differential rebate, the minimum rebate for accelerated approval drugs would be increased, thereby reducing Medicaid spending for states and creating a financial incentive for manufacturers to complete confirmatory trials. The federal government could further push manufacturers to complete confirmatory trials quickly by increasing the inflationary rebate of the drug if the trial has not yet been completed after a set number of years. After the confirmatory trial is completed, drug rebates would revert to the standard amount under the MDRP.

Based on this idea, Mr. Park presented two potential recommendations to the Commission:

1. Increase the minimum rebate amount on accelerated approval drugs, then have the rebate amount revert to standard levels after the FDA grants approval, and;
2. Increase the inflationary rebate on accelerated approval drugs if the manufacturer has not yet completed the confirmatory trial within a certain number of years.

Commissioners' Comments

Commissioners generally supported Mr. Park's first potential recommendation, but were ambivalent about his second recommendation. One Commissioner said they expected push back from drug manufacturers were the Commission to support either of these recommendations, since increasing drug rebates for accelerated approval drugs could potentially disincentivize making these drugs. The Commission instructed Mr. Park to bring both recommendations back to the Commission after making some revisions.

Session 4: Medicaid Policy Issues Related to the COVID-19 Vaccine

MACPAC's Michelle Millerick and Chris Park presented on policy issues surrounding ongoing COVID-19 vaccination efforts and considered possible strategies to improve access to vaccines for adult Medicaid

beneficiaries. This work follows up on MACPAC's previous work on expanding vaccine access for Medicaid adults; for a rundown of this work, see Viohl & Associates' summary of MACPAC's September meeting.

Ms. Millerick and Mr. Park began their presentation with a brief overview of current vaccine coverage policies. Currently, the Families First Coronavirus Response Act (FFCRA) requires states to cover COVID-19 vaccines without cost sharing until the end of the public health emergency (PHE). After the PHE, coverage requirements revert back to prior law where coverage is optional for some adults.

Ms. Millerick and Mr. Park also reviewed findings from 11 stakeholder interviews that MACPAC conducted in early 2021 to identify policy issues with the COVID-19 vaccination effort. Several key themes emerged from the interviews, including:

- The immediacy of the COVID-19 pandemic, and how it could warrant a different approach from other adult vaccines in the near term;
- Concerns about payment adequacy, given that Medicaid rates currently do not match Medicare rates for administration;
- Support for flexibilities provided by the Public Readiness and Emergency Preparedness (PREP) Act to allow qualified pharmacists to give the COVID-19 vaccine;
- Emphasis on the importance of collecting timely and accurate data, including on race and ethnicity;
- Consensus on the need to address disparities in vaccine uptake, and;
- Support for policies that would increase federal funding for the purchase and administration of the COVID-19 vaccine.

Ms. Millerick and Mr. Park noted that some federal actions taken by the Biden administration and Congress have already addressed some of these issues and stakeholder concerns. Executive actions including executing a new vaccine purchasing agreement, signaling the extension of the PHE until the end of the year, and starting direct distribution of vaccines to federally-qualified health centers sought to provide added stability to states and speed vaccination efforts. The current budget reconciliation legislation continues the requirement that COVID-19 vaccines be covered without cost sharing and provides additional funding to advance vaccine distribution, uptake, transparency, and surveillance. Currently, the federal government is also looking closely at provider payment rates and improvements to data collection and sharing.

Although the current budget reconciliation bill addresses many of the short-term issues identified by stakeholders, MACPAC staff will continue to monitor government activity on COVID-19 vaccine-related policy issues and will report back to the Commission with additional strategies to improve access to vaccines in general for adult Medicaid beneficiaries.

Commissioners' Comments

In their comments, Commissioners highlighted their priorities for monitoring vaccination efforts. One Commissioner said it would be useful to note lessons learned from the COVID-19 vaccination efforts so that they might be applied to other adult vaccination efforts in the future. Commissioners said MACPAC staff should return to this subject with a heavy focus on a few specific concerns, including vaccine supply, improving vaccine data collection, and addressing logistical issues.

Session 5: Building State Capacity: What We Learned from the Medicaid Innovation Accelerator Program

MACPAC's Robert Nelb discussed findings from the final evaluation of the Center for Medicare and Medicaid Innovation's (CMMI) Medicaid Innovation Accelerator Program (IAP), a program launched in 2014 to provide technical assistance to states to help them implement Medicaid payment and delivery system reforms.

Mr. Nelb's presentation began with background on the IAP. The IAP was initially allocated $100 million over five years to provide technical assistance opportunities structured around four program areas:

1. Reducing substance use disorder (SUD);
2. Addressing the needs of beneficiaries with complex care needs and high costs;
3. Improving state Medicaid programs' long-term services and supports (LTSS), and;
4. Integrating physical and mental health.

The IAP provided technical assistance in these areas through a variety of modalities, including webinars and more intensive one-on-one coaching.

Mr. Nelb then reviewed findings from Abt Associates' final evaluation of the IAP conducted under a CMS contract. The evaluation found that states frequently engaged with the IAP, requesting assistance most often in the SUD and LTSS policy areas. Webinars and general technical assistance was helpful for most states, and intensive coaching was particularly helpful for states further along in their implementation process.

Abt Associates' evaluation also identified major barriers faced by states as they aimed to reform their Medicaid systems. These barriers included:

- State staffing changes. In some cases, state staff assigned to the IAP had multiple competing priorities and limited data analysis skills to fully utilize IAP simulations;
- Changes in state priorities. In some cases, projects launched by the state Medicaid agency under the IAP did not get support from state legislatures or other state agencies, and;
- State budget constraints. Since IAP did not provide any additional funding directly to states, in some cases, state Medicaid agencies faced difficulties securing funds necessary for implementing system reforms.

Funding for the IAP expired in September of 2020. After reviewing the study findings, Mr. Nelb explained that it is too early to know where the Biden administration will focus its efforts with the CMMI, and that it is possible the CMMI will continue the IAP or launch new technical assistance programs. He also identified additional policy questions of interest for the Commission to explore, which could set up future work by the Commission. Some of these questions are:

- What is the value of federal investments in state technical assistance?
- Where should CMS focus its technical assistance efforts?
- How can federal technical assistance be better coordinated with the tools and authorities that states are using to pursue Medicaid program innovation?

Commissioners' Comments

After discussing these policy questions, Commissioners identified state capacity constraints as the principle barrier to implementing reforms from technical assistance programs, since in many cases states lack the funding or the workforce to implement reforms. To address capacity issues and build programs that can be adequately run given states' current capacity limitations, Commissioners said the federal government should include states in future discussions about technical assistance and other federal policy decisions that affect states.

Session 6: Panel: Current and Future Issues Facing the Territories

In the final session of MACPAC's March public meeting, Commissioners hosted a panel discussion about Medicaid issues facing the US territories. MACPAC's Kacey Buderi began the discussion with a brief presentation on the Medicaid programs of the U.S. territories, and then introduced the speakers. Guest panelists included Helen Sablan, Medicaid administrator of the Commonwealth of the Northern Mariana Islands State Medicaid Agency, Jorge Galva Rodriguez, executive director of the Puerto Rico Health Insurance Administration, and Gary Smith, Medicaid director of the US Virgin Islands Department of Human Services.

In her presentation, Ms. Buderi highlighted key characteristics of Medicaid programs in the U.S. territories. She explained the territories are generally considered states for the purposes of Medicaid unless otherwise specified. She also noted that Guam, Puerto Rico, and the U.S. Virgin Islands have similar program structures as states, but that the Commonwealth of the Northern Mariana Islands (CNMI) and American Samoa operate under unique Section 1902(j) waivers that allow the HHS Secretary to waive almost any Medicaid requirement.

One key difference unique to territories' Medicaid programs is a difference how the programs are financed. Territories' Medicaid programs are financed with a capped allotment financing structure, as opposed to states' Medicaid programs where there is no cap on the amount of federal dollars states can receive. Ms. Buderi noted that this arrangement often results in territories not receiving sufficient funding to run their programs.

After her overview of territories' Medicaid programs, Ms. Buderi highlighted key issues for the panel discussion, including unique characteristics of territories' Medicaid programs, current and future priorities for program improvements, the effects of new federal reporting requirements for territories, the effects of COVID-19 on territories' Medicaid programs, and concerns about territories' upcoming fiscal cliff, which will occur on October 1, 20201 when Section 1108 allotments return to lower levels and the enhanced Federal Medical Assistance Percentage for territories reverts back to 55 percent.

The panel discussion began following Ms. Buderi's presentation. Each guest speaker gave a detailed overview of their territory's Medicaid program, and described areas where they could use additional support from the federal government. Several common themes and concerns arose from the panel discussion, including:

- Dissatisfaction with the capped allotment system;
- Concerns about the upcoming fiscal cliff in September 2021;
- Requesting territories be treated as importantly as states when making COVID-19 emergency allocations, and;
- A desire to expand territorial Medicaid programs by broadening eligibility and adding additional covered services.

Commissioners' Comments

Commissioners were generally in agreement that the capped allotment system was insufficient for running territories' Medicaid programs; one Commissioner remarked, "it feels like we're trying to run half a safety net program". Given territories' strong performance in recent federal oversight audits, Commissioners felt there was a case to be made for increasing funding to the territories and asking Congress to treat their programs more like states. Commissioners did not yet discuss a formal recommendation, but the Commission may revisit this topic at a future meeting.