



October 24, 2018

#### IHA Summary: President Signs Federal Opioid Package

Today, President Donald Trump signed the bipartisan Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, [H.R. 6 \(115\)](#), which passed both the U.S. House and Senate with overwhelming majorities. A Congressional Budget Office (CBO) analysis of the act can be found [here](#).

The following provides an overview of key IHA-supported provisions that were included in the 667-page bill, including a temporary allowance for states to receive federal Medicaid matching funds for services provided in Institutions for Mental Diseases (IMDs), as well as key Medicaid, Medicare and public health-related provisions that may impact Illinois hospitals. While the legislation addresses many critical issues in dealing with the opioid crisis, we are disappointed that it did not include a provision that would have improved substance use disorder record sharing among healthcare providers.

#### Update on Key Supported Provisions:

##### Medicaid IMD Reimbursement

Most notably, the act expands upon The Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Delivery Act ([H.R. 5797](#)) allowing for the temporary use of federal Medicaid matching funds by states for substance use disorder treatment (not just opioid-related treatment) in an IMD for up to 30 days per 12-month period, from Federal Fiscal Year (FFY) 2019 to 2023. The measure also allows pregnant and postpartum women to receive Medicaid-covered services such as prenatal care while receiving care at IMDs. A more comprehensive funding provision for IMDs that had originally been proposed did not garner enough support because of its impact on the budget, estimated at \$1 billion over 10 years.

However, this coverage would require a state plan amendment with information on how the state will improve access to outpatient care, the process used to transition individuals to appropriate outpatient care and how individuals will be screened and assessed. The temporary, 5-year allowance for federal funding is really a suspension of the current prohibition, and may not impact IMD hospitals in Illinois, due to the approval for federal match for similar services under the state's 1115 Waiver on July 1, 2018, noted in this [IHA memo](#). This 1115 Waiver reimbursement will only be used as a funding mechanism for the state to receive federal match, with no new hospital reimbursement or extended length of stay allowances at IMDs.

##### Substance Use Disorder Record Sharing

The act does not include The Overdose Prevention and Patient Safety Act ([H.R. 6082](#)), previously passed by the House, which would have allowed better information sharing among providers with regard to substance use disorder (SUD) treatment information by aligning 42 CFR Part 2 regulations with the Health Insurance Portability and Accountability Act. IHA and AHA strongly supported this provision, but it faced pushback from some Democrats and consumer advocates who are concerned that it could lead to discrimination in the workplace, divorce proceedings or child custody cases.

#### Overview of Other Provisions in Final H.R. 6 Package:

##### Medicaid Coverage for Former Foster Youth

The package expands upon an existing Affordable Care Act provision (ACA; PL 111-148) that allows former foster youth from 18 to 26 to retain Medicaid coverage regardless of income, by expanding this coverage eligibility across state lines for youth who are 18 on or after Jan. 1, 2018. The U.S. Department of Health and Human Services (HHS) is also required to issue guidance to states on best practices for ensuring access to and raising awareness of Medicaid coverage options for this

population.

#### Maternal and Infant SUD/NAS Coverage

The package clarifies the allowance of Medicaid coverage for infants with neonatal abstinence syndrome (NAS) in residential pediatric recovery centers, which may also provide counseling and other services to mothers or caretakers. The package requires HHS to issue new guidance within a year of enactment on the services states *may* cover under Medicaid and best practices for prevention, screening, treatment, plans of safe care and post-discharge services for parents with SUD and infants with NAS, along with recommending available financing options for Medicaid and the Children's Health Insurance Program (CHIP).

The Government Accountability Office is required within a year of enactment to report to Congress on gaps in Medicaid coverage for pregnant and postpartum women with SUD. Also, the package establishes and re-authorizes non-Medicaid grant programs related to NAS, while authorizing HHS to collect and analyze data for public reports on long-term outcomes of children affected by NAS and outcomes of associated with prenatal SUD.

#### Access to Telehealth

The Centers for Medicare and Medicaid Services is required to deliver guidance to states on providing SUD treatment via telehealth with federal reimbursement, addressing high-risk groups such as adults under 40, patients with a history of overdose, or with co-occurring serious mental illness and SUD. Services provided via telehealth *may* include assessment, medication-assisted treatment, counseling, medication management and adherence. Potential options for service delivery via telehealth provided in the package include a hub and spoke model with an individual opioid treatment program and several other services patients may be directed to, contracts with managed care organizations and claims for disease management activities. The Government Accountability Office must analyze existing youth access to SUD treatment and state options for improving youth access to SUD treatment and outcomes, specifically including the potential impact of increasing the number of Medicaid providers who offer these treatments in a school-based health center using telehealth. The report must recommend to Congress any legislative and administrative actions that may improve youth access to care.

Also, the Justice Department is permitted to issue a new, special registration to healthcare providers to prescribe controlled substances via telehealth in legitimate emergency situations, including a lack of access to an in-person specialist. Within one year of enactment, the department is required to issue regulations addressing the practice of telehealth for remote diagnosis and treatment of patients, after which these special registrations may be issued.

#### CHIP Behavioral Health Coverage Mandate

CHIP is modified to state explicitly that the program covers mental health and SUD services necessary to prevent, diagnose and treat behavioral health symptoms and disorders, beginning a year after enactment. This language is in addition to the inclusion of behavioral health services under essential health benefits in the Affordable Care Act.

#### Medicare Care Coordination Coverage for Opioid Use Disorder

A new four-year Medicare demonstration project is established that appropriates \$5 million to administer a project designed to increase access to comprehensive outpatient treatment for opioid use disorders and \$10 million to pay care management fees and incentives. Treatments that must be provided include medication-assisted treatment, treatment planning, counseling, social support services, care management and care coordination services with all providers (delivering both behavioral and physical health). Demonstration project outcomes will be based on analysis of hospitalizations, ED visits, reduced prevalence of infectious diseases such as hepatitis C, reduced overdose deaths and any reduction in residential treatment utilization.

#### Prescription Drug Monitoring Program

A clarification is provided that data in state prescription drug monitoring programs (PMPs) may be shared with healthcare providers enrolled in the state Medicaid plan and with any managed care organization with a state Medicaid contract. Also, these providers and organizations must be granted access to the same extent as it is granted to the state agency that administers the Medicaid program.

#### Grant Preference for Extension for Community Healthcare Outcome (ECHO) Models

When HHS awards grants for comprehensive opioid recovery centers, it *may* provide preference to groups using the ECHO model, or technology-enabled collaborative learning and capacity building, as defined in section 2 of the Expanding Capacity for Health Outcomes Act (Public Law 114-270 130 Stat. 1395). There are two existing ECHO models in Illinois serving hospitals and other healthcare partners.

#### Patient Experience Survey Questions Relating to Pain Management

Starting in 2020, the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey will be prohibited from including any questions about communication by hospital staff with a patient about pain, unless the question simultaneously asks if the patient was informed about opioid risks and about non-opioid alternatives for pain management.

#### Medication-Assisted Treatment Administration

The package creates greater access to medication-assisted treatment of SUD by expanding who can administer these treatments and removes the wait period of one year before a qualified physician can apply to treat 100 patients at a time, if meeting regulatory requirements or using covered medications in qualified practice settings. In addition, clinical nurse specialists, certified registered nurse anesthetists and certified nurse midwives are all permitted to administer medication-assisted treatment without a U.S. Drug Enforcement Administration (DEA) waiver until Oct. 1, 2023, an expansion from the existing allowance for physicians, nurse practitioners and physician assistants. Recently graduated physicians of an accredited school of allopathic or osteopathic medicine who meet existing training requirements necessary to prescribe medication-assisted treatment will be allowed to obtain DEA waivers as well. HHS is authorized to establish grants to provide \$4 million a year through FFY 2023 to support the development of healthcare practitioner curricula to help obtain DEA waivers and provide medication-assisted treatment, specifically to accredited schools of allopathic or osteopathic medicine and teaching hospitals.

HHS' Health Resources and Services Administration (HRSA) is required to establish a student loan repayment program for health professionals who agree to take a job primarily treating SUD for up to six years in mental health professional shortage areas or where the rate of deaths from drug overdoses is higher than the national average, authorizing \$25 million a year through FFY 2028. One-sixth of the individual's outstanding student loans (both principal and interest) would be paid for each year, up to an aggregate maximum of \$250,000. Eligible providers could include physicians, physician assistants, registered nurses and nurse practitioners, advanced practice registered nurses, social workers, recovery coaches, mental health counselors, addiction counselors, psychologists and other behavioral health professionals, or any other relevant professional, as determined by the HHS secretary.

#### Alternatives to Opioids, Abuse Deterrence and Prevention

HHS is required to oversee a demonstration program for hospitals to develop alternative protocols for pain management that limit opioid use, authorizing \$10 million each year through FFY 2021. Grants can be used to target common painful conditions, train medical providers on protocols and use of treatments that promote the appropriate limited use of opioids in emergency departments, and provide alternatives to opioids to patients with painful conditions.

Also, HHS is required to review Medicare payments made for opioids and non-opioid alternatives for pain management through hospital outpatient departments and ambulatory surgical centers to ensure that no financial incentives exist for providers to prescribe opioids rather than non-opioid alternatives. HHS must consider revising payment schedules to reduce any existing incentives found in the review, beginning for services provided in Calendar Year 2020.

If you have any questions or comments regarding this notice, please contact [David Gross](#), Senior Vice President, Government Relations or [Lia Daniels](#), Manager, Health Policy.



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