



AMERICAN BENEFITS

COUNCIL

WRITTEN STATEMENT

FOR THE HEARING OF THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR,
SUBCOMMITTEE ON HEALTH, EMPLOYMENT,
LABOR AND PENSIONS

ENTITLED

MEETING THE MOMENT:
IMPROVING ACCESS TO BEHAVIORAL
AND MENTAL HEALTH CARE

APRIL 15, 2021

The American Benefits Council (“the Council”) thanks the U.S. House of Representatives Education and Labor Committee’s Subcommittee on Health, Employment, Labor and Pensions for holding a hearing examining how to improve access to behavioral and mental health care. The toll of the COVID-19 pandemic on the nation’s public health and economy is readily apparent. Less apparent but similarly devastating is the mental health toll of the pandemic.

Even before the COVID-19 pandemic, large employers recognized the value and importance of providing comprehensive benefits coverage for mental health and substance use disorders and were often frustrated by challenges in access to quality care for their employees and their families. Since the onset of the pandemic, employers have focused attention and resources on expanding access to behavioral and mental health care to help their employees get through these unprecedented times. Yet challenges to these efforts remain. Just as lawmakers have acted to address the public health and economic crisis brought about by the COVID-19 pandemic, so too must lawmakers focus on combatting the behavioral and mental health crisis exacerbated by the pandemic. The physical health and economic threat of the pandemic will pass, but the mental health toll may be felt for years to come.

The Council is a Washington, D.C.-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and families. Council members include over 220 of the world’s largest corporations and collectively either directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.

THE IMPACT OF THE COVID-19 PANDEMIC ON MENTAL HEALTH

There are over 31 million confirmed cases of COVID-19 in the United States.¹ The stress and isolation of the pandemic have profoundly impacted millions more. To rapidly monitor recent changes in mental health care during the pandemic, the Centers for Disease Control and Prevention (CDC) partnered with the Census Bureau on Household Pulse Survey. According to the Household Pulse Survey, from March 17, 2021, to March 29, 2021, more than 30% of adults experienced symptoms of an anxiety or a depressive disorder.² During this same time period, 24.1% of survey respondents reported taking prescription medication for mental health and/or receiving counseling or therapy.

¹ <https://coronavirus.jhu.edu/region/united-states>

² <https://www.cdc.gov/nchs/covid19/pulse/mental-health.htm>

A Kaiser Family Foundation (KFF) Health Tracking Poll from July 2020 also found that many adults are reporting specific negative impacts on their mental health and well-being, such as difficulty sleeping (36%) or eating (32%), increases in alcohol consumption or substance use (12%), and worsening chronic conditions (12%), due to worry and stress over the coronavirus.³ The KFF reports notes that: “Mental distress during the pandemic is occurring against a backdrop of high rates of mental illness and substance use that existed prior to the current crisis.”⁴

EMPLOYER ACTION TO COMBAT THE MENTAL HEALTH CRISIS

Employer efforts to combat the mental health and substance use crisis predate the pandemic and are predicated on the recognition that mental health care coverage is vital to the health and productivity of their workforce. Even though neither the Affordable Care Act (ACA) nor Mental Health Parity and Addiction Equity Act (MHPAEA) mandate that large employers offer such coverage, they voluntarily do so to improve employee well-being while simultaneously improving productivity and business performance. Mental health conditions and medical conditions are often comorbidities, thus treating an employee’s mental health will also support the employee’s general health and well-being. The McKinsey report *Mental Health in the Workforce: The Coming Revolution*⁵ cited a 2015 study which estimated the total cost of major depressive disorders in the United States to be \$210 billion, with about half of that amount attributable to costs of treatment and the rest attributable to absenteeism and presenteeism costs incurred in the workplace. The McKinsey report also highlighted that stress and depression increase not just the costs associated with treating behavioral health problems but also the incidence of other costly physical diseases. Notably, the report found that obtaining an antidepressant increased the odds of subsequently receiving a drug for diabetes by 30 percent, cancer by 50 percent, and heart disease by almost 60 percent.

Long before the pandemic, Council member companies were embarking on innovative solutions to address the mental health and substance use disorder needs of their workforce. These strategies included collaborative care models that integrate

³ <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=During%20the%20COVID%2D19%20pandemic,largely%20stable%20since%20spring%202020.>

⁴ According to estimates of mental health based on the January-June 2019 National Health Information Survey, 11.0% of adults had symptoms of anxiety disorder or depressive disorder. <https://www.cdc.gov/nchs/data/nhis/earlyrelease/ERmentalhealth-508.pdf>

⁵ <https://www.mckinsey.com/industries/healthcare-systems-and-services/our-insights/mental-health-in-the-workplace-the-coming-revolution>

behavioral health with primary care, removing the stigma associated with mental illness, enhancing Employee Assistance Programs (EAPs) and telehealth offerings, and combating the opioid crisis.⁶ When the pandemic hit, employers recognized the toll that the isolation, stress and uncertainty was taking on their workers and built on these efforts to help working families across the country access the behavioral health care they needed to get through the crisis.

Employers have been leading efforts to protect the well-being of their employees both physically and emotionally throughout the pandemic. A Mercer survey of employers taken from April to October 2020 found that employers are focusing on two areas of health care that have been in the spotlight during the pandemic.⁷ Both areas of focus are closely linked with respect to the goal of increasing access to behavioral health care services.

The first is explicitly in the area of behavioral health, with 71% of respondents saying this was a focus for 2021. As the Mercer report explains: “Already in short supply, behavioral health care is needed more than ever due to the stress and isolation of the pandemic, and employers have made it a priority to expand access to care and to promote it with their employees.”

The second focus is the area of telemedicine, with 59% of respondents saying this would be a focus for 2021. The COVID-19 pandemic has transformed telehealth from an innovative option for delivering services into a vital lifeline to care for millions of patients, including those needing access to behavioral health care. In the years before the pandemic, a growing number of employers were turning to telemedicine to improve access to value-driven care for employees and their families. With COVID-19, what may have been a slower march toward telehealth use became a sprint. The onset of the crisis sparked a dramatic rise in the utilization of telehealth services. The Council recently partnered with Mercer and the Catalyst for Payment Reform on a paper entitled “Telemedicine in the Post-COVID-19 World.”⁸

Telemedicine utilization has increased more in a few months than was expected in five years. Employers recognize the important role of telehealth in caring for patients during the COVID-19 crisis by increasing access to mental health services for employees and their families while abiding by social distancing that is essential to containment of the pandemic. Many employers have made, and are continuing to make, efforts to expand access to telehealth during the COVID-19 crisis in order to protect the public

⁶ <https://www.americanbenefitscouncil.org/pub/?id=2f21fbaf-9ed0-db9b-4aab-ceed75ea80b0>

⁷ <https://www.mercer.us/our-thinking/healthcare/leading-through-the-surge-using-what-we-learned.html>

⁸ <https://www.americanbenefitscouncil.org/pub/?ID=FDD5BCEA-1866-DAAC-99FB-73ABA53755E5> and <https://www.americanbenefitscouncil.org/pub/?ID=FD5C9596-1866-DAAC-99FB-2BB0A37399A3>

health and safety of their employees while ensuring that they still receive the care they need, including for those with mental illness and substance use disorders. Indeed, 95% of employers are satisfied with their telemedicine provider's response time and member service during the pandemic.

A recent survey by the Council highlights the commitment of employers to helping their employees through the pandemic and their focus on expanding access to behavioral health and telehealth in doing so. A significant number of employers reported expanded EAPs and mental health offerings as well as telehealth offerings. Among the employer actions to expand EAPs and mental health offerings are more education and frequent communications about the benefit in team meetings and conference calls and partnering with vendors to provide confidential webinars covering topics like COVID-19 anxiety, resilience, work-life balance, and mental health awareness. These efforts are designed to remove the stigma associated with mental illness and substance use disorders and lack of understanding about available resources that serve as barriers to care. Employers also reported adding more EAP visits, integrating their EAP network with their health plan networks, setting up an onsite counseling service and adding access to behavioral telehealth services with no cost sharing.

Organizations have leveraged the power of telehealth to expand access to mental health services. Notably, employers reported adding mental health to telehealth services and providing free access to online services, adding new on-line mental health tools through the EAP, launching mental health virtual care visits through their onsite health clinic provider, and providing that telehealth for all mental health was covered by the plan at 100%.

BARRIERS TO EMPLOYER EFFORTS TO EXPAND ACCESS TO BEHAVIORAL AND MENTAL HEALTH CARE REMAIN

Despite the action employers have taken to expand access to behavioral and mental health care, their efforts are hamstrung by barriers to access to care. Barriers to accessing mental health and substance use disorder services predate and are magnified by the pandemic, notably the shortage of mental health providers in general and lack of in-network providers specifically.

According to the Household Pulse Survey, among adults reporting symptoms of anxiety and/or depressive disorder, more than 25% reported needing but not receiving counseling or therapy in the past month.⁹ For many of these individuals, a significant barrier to accessing mental health care is a shortage of mental health professionals.

⁹ <https://www.cdc.gov/nchs/covid19/pulse/mental-health-care.htm>

The Bureau of Health Workforce, Health Resources and Services Administration at the U.S. Department of Health and Human Services estimates that 123 million people in the United States are living in Mental Health Care Professional Shortage Areas. More than one out of three Americans reside in these so-called mental health ‘deserts’ where patients are unable to access mental health care services because of a shortage of mental health providers in the area.¹⁰ An additional 6,430 providers are needed to fill this gap nationwide. For patients with private insurance coverage, the provider shortage is compounded by a lack of in-network options for mental health and substance use care. The bottom line is that there are simply not enough mental health providers – this stems from either a shortage or unwillingness of mental health providers to participate in networks – which raise access issues and costs for employees and employers.

POLICY RECOMMENDATIONS TO EXPAND ACCESS DURING THE COVID-19 PANDEMIC AND BEYOND

We appreciate the efforts of Congress and the administration to address the gaps in access to mental health and substance abuse disorder services. However, sustained funding to support the mental health workforce is needed and will bring vital care to the mental health care deserts. Increasing the mental health workforce can also come from policies aimed at retraining the existing workforce to provide behavioral health services and promoting the availability of behavioral health services within primary care practices.

Employers are innovators and are always looking for ways to increase employee access to high-value mental health services by holding down costs and improving quality. The importance of quality and need for evidence-based care is critical to the value equation with respect to behavioral health as well medical benefits. We encourage policymakers to promote the use of evidence-based care by behavioral health providers.

Mental Health Parity

The Council remains strongly supportive of mental health parity. The ambiguity and subjective nature of the non-quantitative treatment limitations (NQTL) rule has been a real challenge for group health plans subject to MHPAEA. Having clear standards, particularly for the NQTL rule, is essential to compliance with MHPAEA. In the Council’s experience with its members, employers work in good faith to comply with MHPAEA requirements but have struggled to understand the components and expectations of the NQTL rule. A key factor in achieving compliance is having a clear understanding of the rules.

¹⁰ <https://data.hrsa.gov/topics/health-workforce/shortage-areas>

We urge lawmakers to reject proposals to create a new civil monetary penalty regime pursuant to mental health parity rules. Employers continue to be committed to providing quality benefits – both medical/surgical and mental health benefits. We feel strongly that creating a new penalty regime is unwarranted. Given the complexity of understanding mental health parity compliance obligations, creation of new civil monetary penalties will neither enhance compliance nor address any perceived shortcomings in enforcement.

Telehealth

Employers, already at the forefront of innovative strategies to pay for value, drive to quality and harness technology, will play a key role in realizing the full potential of telehealth to expand access to behavioral and mental health care. We applaud Congress and the regulatory agencies for taking initial action to expand access to telehealth services offered by employers during the pandemic. We ask Congress to build on these actions to bring greater access to telehealth, including for behavioral health, both during the pandemic and beyond.

The provision allowing Health Saving Account (HSA)-eligible high-deductible health plans to cover telehealth services without cost-sharing under the Coronavirus Aid, Relief, and Economic Security (CARES) Act is an important positive step in expanding access to telehealth services during the pandemic. This provision is effective March 27, 2020, and applies to plan years beginning on or before December 31, 2021.

Also helpful is guidance from the U.S. departments of Labor, Treasury and Health and Human Services (“the Tri-Agencies”). It provides for non-enforcement of Summary of Benefits and Coverage (SBC) advanced notice requirements during the COVID-19 public health emergency or national emergency for situations where a plan or issuer adds benefits, or reduces or eliminates cost sharing for telehealth and other remote care services.

However, recognizing the significant demands of behavioral health services, further action is needed to more fully support the efforts of employers to expand telehealth coverage, in the interest of employees and the public health. Helpful guidance from the Tri-Agencies provided temporary flexibility for employers during the pandemic who wish to provide stand-alone telehealth services to employees who are not benefits eligible without the employer running afoul of the ACA market reforms. The Council urges codification and expansion of this relief to ensure that an employer’s more robust offer of telehealth services is an excepted benefit and, thus, does not result in a violation of the ACA’s market reforms to the extent the benefits provided give rise to an ongoing administrative scheme (i.e., an ERISA plan) and provide significant benefits in the nature of medical care.

In addition, Congress should take immediate action to support audio-only behavioral health services, as patients may be more comfortable and have greater access to audio-only rather than video counseling. We also call upon Congress to take prompt action to remove state barriers to telehealth care, such as removing the requirement that patients have a pre-existing relationship with the provider, and allowing licensed providers to provide services to patients in other states via telehealth. Access to telehealth should not be stopped at state lines. Although some states have temporarily modified licensure requirements in limited circumstances, state-by-state variability of these waivers and gaps in waiver availability have led to uncertainty, complexity and lack of prompt access to care.

The federal government acted decisively to expand access to telehealth services for Medicare beneficiaries during the pandemic by removing state licensing barriers. However, for all too many patients covered by private insurance, state licensing barriers remain. This comes at a time when access to care, including behavioral health care service, is more important than ever. During this mental health crisis exacerbated by the ongoing pandemic, telehealth can bring much needed mental health services to underserved communities and vulnerable populations.

We urge Congress to take action now to ensure that patients in private plans, wherever they live, are able to turn to telehealth to access the care they need. We call on Congress to pass the Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act (S. 168/H.R. 708), which would provide temporary state licensing reciprocity for all licensed and certified practitioners or professionals (those who treat physical and mental health conditions) in all states for all types of services (in-person and telehealth) during the COVID-19 Public Health Emergency.

We also request Congress to look beyond the pandemic era and make permanent the CARES Act provision allowing HSA-eligible high-deductible health plans to cover telehealth services on a pre-deductible basis. The benefits of telehealth will extend beyond the pandemic, and so must the ability of HSA-eligible high deductible health plans to cover telehealth without cost-sharing.

CONCLUSION

The COVID-19 pandemic has shined a light on mental illness and substance use disorders. The pandemic has also shined a light on the role employers play in helping to remove the stigma of mental illness and substance use disorders and helping working families acknowledge and address their need for care. However, the pandemic has also highlighted and magnified barriers to access that impede these employer efforts. We urge Congress to pursue policies that remove these barriers and better enable

employers to lead the way in improving access to quality, affordable behavioral and mental health care not just during the pandemic, but beyond.

Thank you for your consideration of our comments. Please let us know how the Council can further assist in your important efforts.