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January 30, 2023

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The Honorable Chiquita Brooks-LaSure  
Administrator  
Center for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9899-P  
P.O. Box 8016  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Re: File Code CMS-9899-P; Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for

Dear Administrator Brooks-LaSure,

The American Psychiatric Association (APA), the national medical society representing over 37,000 psychiatric physicians and their patients, would like to take the opportunity to comment on the proposed rule: [Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2024](#). APA appreciates and supports the Administrator's commitment to creating a system that improves access to care for low-income and medically underserved consumers who are experiencing mental health or substance use disorders (MH/SUD). The APA applauds the Administrators proposals to add:

- a special enrollment period of up to 90 days for individuals who are expected to lose Medicaid or Children's Health Insurance Program coverage and permitting coverage to begin on the first day of the month during which the old coverage ends; and
- two new categories -- mental health facilities and substance use disorder treatment centers -- to the essential community provider ("ECP") categories for plan year 2024.

APA supports CMS' actions to address the coverage gap and its efforts to expand access to MH/SUD care. The extended enrollment period reduces potential gaps in care ensuring continuity of care which is critical for those individuals with MH/SUD. We agree that establishing two new stand-alone ECP categories mental health facilities and SUD treatment centers would strengthen the ECP by requiring that medical QHP issuers offer a contract in good faith to at least one substance use

disorder treatment center and at least one mental health facility that qualify as ECPs in each county in the plan's service area, as opposed to being blended with other provider types in the existing "Other ECP Provider" category. This change improves transparency with regard to network composition. We share CMS' concern regarding the challenges associated with a general shortage and uneven distribution of substance use disorder treatment centers and mental health facilities. **We recommend that when a beneficiary is unable to secure care from a contracted substance use treatment center or mental health facility, that care be arranged with an out of network center/facility within a reasonable distance.**

Thank you for the opportunity to respond to this proposed rule and provide recommendations on how CMS can ensure access to mental health and substance use disorder treatment. If you have questions or would like to discuss these comments in more detail, please contact Becky Yowell at [byowell@psych.org](mailto:byowell@psych.org).

Sincerely,

A handwritten signature in blue ink that reads "Saul Levin" with "M.D., M.P.A." written in smaller letters to the right. There is a horizontal line under the name "Levin".

Saul M. Levin, M.D., M.P.A., FRCP-E, FRCPsych  
CEO and Medical Director  
American Psychiatric Association