October 8, 2021

The Honorable Michael Bennet
United States Senate
261 Russell Senate Office Building
Washington, DC 20510

The Honorable John Cornyn
United States Senate
517 Hart Senate Office Building
Washington, DC 20510

Dear Senators Bennet and Cornyn,

The undersigned organizations of the Coalition to Stop Opioid Overdose and the Mental Health Liaison Group, as well as other organizations that support comprehensive health coverage for mental health and substance use disorders, write in response to your request for input to aid your efforts in reimaging our country's mental health and substance use disorder systems of care. We appreciate your commitment to changing the underfunded systems of prevention, treatment, and recovery support services for individuals with these conditions. **A fundamental component of any reimagining must include extending the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Act) to Medicare and all of Medicaid. The Federal Parity Act, the landmark law that prohibits discrimination in the coverage of mental health and substance use disorder care, should also be extended through statute to TRICARE to ensure equal coverage for members of the military and their families.**

Congress must no longer accept the status quo in which the more than 60 million older adults and individuals with disabilities enrolled in Medicare have among the worst coverage of mental health and substance use disorder services in the country. Additionally, more than 20 million Americans in traditional Medicaid have no protections under the Federal Parity Act and are frequently subjected to discriminatory state plans that offer inferior mental health and substance use disorder coverage. Furthermore, TRICARE's nearly 10 million enrollees do not have full rights under the Federal Parity Act.

Therefore, we urge you to make parity core to your efforts to address the ongoing mental health and addiction crisis facing our country. Indeed, without coverage parity in our nation's foundational public programs, it is difficult to imagine how it will be possible to reimagine the systems of care to meet Americans' needs. While the Federal Parity Act extends to nearly all commercial and Medicaid plans administered commercially, Congress has yet to extend Federal Parity Act protections to tens of millions of Americans in health coverage administered directly by states and the federal government. Unless all medically necessary mental health and substance use disorder services are covered by public and private payers in the same manner as physical health services, grant programs, pilot projects, and demonstrations will continue to fall short.

Medicare's discriminatory coverage provisions, in particular, are neither isolated nor minor. Its lack of adequate coverage for mental health and substance use disorder treatment is even more

problematic, because the program serves as a benchmark for other forms of health coverage. For instance, gaps in Medicare are copied in TRICARE, and most commercial insurance plans rely on Medicare procedure codes, which do not exist for some mental health and substance use disorder services. Medicare fails to cover mental health crisis services, which commercial coverage mirrors, inhibiting the expansion of the nationwide 988 mental health crisis system that Congress has taken pains to set up through the National Suicide Hotline Designation Act of 2020. Additionally, Medicare sets provider reimbursement trends across the U.S. health care system, so disparities in its rate-setting process, which tend to undervalue mental health and substance use disorder services, are replicated elsewhere.

Examples of coverage deficiencies embedded within Medicare include:

- **190-Day Lifetime Limit on Inpatient Psychiatric Hospital Services.** No other medical condition has this limitation, which arbitrarily cuts off necessary treatment for individuals with serious mental illness.
- **Lacks Coverage of Intensive, Evidence-Based Interventions.** Medicare does not cover evidence-based, multi-disciplinary team interventions for people with the most severe mental health and substance use disorders. This includes Coordinated Specialty Care for early psychosis, Assertive Community Treatment (ACT) teams, and medical nutrition therapy for eating disorders.
- **Limited Coverage of Levels of Behavioral Health Care.** Medicare does not cover residential or intensive outpatient levels of care for mental health and substance use disorders. It also inadequately covers services within the American Society of Addiction Medicine (ASAM) Criteria's levels of substance use disorder care, including withdrawal management.[1]
- **No Coverage for Freestanding Community-Based Substance Use Disorder Treatment Facilities.** Medicare does not authorize payment for treatment in these facilities, which needlessly limits the availability of SUD treatment.[2]
- **Narrow Range of Covered Providers.** Medicare does not cover the services from the full range of providers that make up a significant part of the mental health and substance use disorder workforces.
- **Restrictions on Telehealth.** Medicare's coverage of mental health and substance use disorder telehealth services remains limited, including for audio-only, though some *temporary* flexibilities have been granted during the COVID-19 pandemic.

[1] For an extensive description of Medicare's gaps in substance use disorder coverage, see Ellen Weber and Deborah Steinberg, *Medicare Coverage of Substance Use Disorder Care: A Landscape Review of Benefit Coverage, Service Gaps and a Path to Reform*, Legal Action Center, February 1, 2021, https://www.lac.org/resource/medicare-coverage-of-substance-use-disorder-care-a-landscape-review-of-benefit-coverage-service-gaps-and-a-path-to-reform

[2] Id.

Just this summer, the CDC released shocking new data showing a 30 percent increase in overdose deaths in 2020.[3] Survey after survey shows that our country's mental health has been negatively impacted by the pandemic.[4] Suicides among Medicare beneficiaries have long been overlooked, despite the fact that men over 85 have the highest risk of any group.[5] We believe the widespread discounting of older adults' mental health and substance use disorder struggles has allowed Congress to accept Medicare's discriminatory structure for far too long. Now is the time to enact change.

While we are sure that fixing these coverage gaps will result in not-insignificant scores from the Congressional Budget Office, we urge you to remember two things. First, the longstanding discrimination against individuals with mental health and substance use disorders that is baked into the budgetary baseline should not be used to deny equal treatment. Second, research on the impact of previous parity expansions has shown that requiring equitable coverage has not resulted in significant increases in costs, in part because untreated and undertreated mental health and substance use disorders are associated with higher overall medical costs and greater disability (which is also a key Medicare eligibility category).[6]

Finally, we urge Congress to intentionally include both mental health and substance use disorders in efforts to reimagine coverage and care. Millions of Americans struggle with both a substance use disorder and a mental health disorder. Furthermore, the Mental Health Parity and Addiction Equity Act of 2008 applies to both. In fact, substance use disorders are included under the broader umbrella of mental disorders in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. We must not allow artificial divisions to be made moving forward; instead, Congress should apply parity and close coverage gaps for both.

Thank you for your important work to advance mental well-being in America. We stand ready to assist in any way possible to bring parity to Medicare, all of Medicaid, and fully to TRICARE in order to end discriminatory mental health and substance use disorder coverage in these programs, which is foundational to broader reforms.

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[3] CDC, "Drug Overdose Deaths in the U.S. Up 30% in 2020," July 14, 2021, https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20210714.htm.

[4] Audrey Kearney, Liz Hamel, and Mollyann Brodie, "Mental Health Impact of the COVID-19 Pandemic, Kaiser Family Foundation, April 14, 2021, https://www.kff.org/coronavirus-covid-19/poll-finding/mental-health-impact-of-the-covid-19-pandemic/.

[5] Suicide Prevention Resource Center, "Older Adults," https://www.sprc.org/populations/older-adults.

[6] See, for example, Goldman HH, Frank RG, Burnam MA, et al. Behavioral health insurance parity for federal employees. *N Engl J Med*. 2006;354(13):1378-1386. https://pubmed.ncbi.nlm.nih.gov/16571881/ Additionally, the Federal Parity Act allows any plan that is subject to its requirements to obtain an exemption for complying if the plan can demonstrate a 1% increase in premiums due to compliance with the Federal Parity Act. No plan has ever applied for or received such an exemption based on cost. There is also recent research from the independent research firm Milliman, which has shown how un/ undertreated mental health and substance use disorders drive physical health care costs must higher, see: Stoddard Davenport, T.J. Gray, and Steve Melek, Milliman, *How do individuals with behavioral health conditions contribute to physical and total healthcare spending*, Milliman, August 13, 2020, https://www.milliman.com/-/media/milliman/pdfs/articles/milliman-high-cost-patient-study-2020.ashx.

Sincerely,

The Kennedy Forum
American Society of Addiction Medicine
American Psychiatric Association
2020 Mom
A New PATH
American Art Therapy Association
American Association for Psychoanalysis in Clinical Social Work
American Association of Child and Adolescent Psychiatry
American Association of Nurse Anesthesiologists
American Association on Health and Disability and Lakeshore Foundation
American Foundation for Suicide Prevention
American Group Psychotherapy Association
American Mental Health Counselors Association
American Nurses Association
American Occupational Therapy Association
American Osteopathic Academy of Addiction Medicine
American Psychiatric Nurses Association
American Psychoanalytic Association
American Psychological Association
Anxiety and Depression Association of America
Association for Ambulatory Behavioral Healthcare
Brenda Schimenti
The Carter Center Mental Health Program
Centerstone
Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)
Depression and Bipolar Support Alliance
Eating Disorders Coalition for Research, Policy & Action
Education Development Center
Families USA
Global Alliance for Behavioral Health and Social Justice
HIV Alliance
International OCD Foundation
Jed Foundation, The
Maternal Mental Health Leadership Alliance
Mental Health America
The Michael J. Fox Foundation for Parkinson's Research
MindWise Innovations
National Alliance for Medication Assisted Recovery
National Alliance on Mental Illness
National Association for Behavioral Healthcare
National Association for Children's Behavioral Health
National Association for Rural Mental Health
National Association of Addiction Treatment Providers

National Association of County Behavioral Health and Developmental Disability Directors
National Association of Pediatric Nurse Practitioners
National Association of Social Workers
National Association of State Mental Health Program Directors
National Council for Mental Wellbeing
National League for Nursing
Network of Jewish Human Service Agencies
NHMH – No Health Without Mental Health
Partnership to End Addiction
Postpartum Support International
Psychotherapy Action Network
REDC
RI International, Inc.
Schizophrenia & Psychosis Action Alliance
SMART Recovery
Student Coalition on Addiction
Treatment Communities of America
The Trevor Project
Trust for America's Health
UsAgainstAlzheimer's
Well Being Trust