MHLG | MENTAL HEALTH LIAISON GROUP

MENTAL HEALTH AND ADDICTION ADVOCATES ADVANCING POLICY, LEADING CHANGE

April 24, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United State Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, D.C. 20515

Dear Leader McConnell, Leader Schumer, Speaker Pelosi and Leader McCarthy:

The Mental Health Liaison Group −a coalition of national organizations representing consumers, family members, mental health and addiction providers, advocates and other stakeholders− requests immediate action to protect the mental health of our nation's citizens. As mental health providers have moved to providing services via telehealth, there are many problems with coverage from insurance companies -- ranging from outright lack of coverage to additional restrictions and burdens that don't apply to in-office coverage.

Our concerns are outlined below. Many of these concerns have been supported by a petition led by the Psychotherapy Action Network, (Petition: Fair coverage for telementalhealth), which now has 24,000 signatories. The time for action is now, while a fourth COVID-19 bill is being considered in Congress. We desperately need an act of congress to require insurers, including those that offer self-funded plans (regulated by ERISA and the Department of Labor at the federal level), allow for telementalhealth via any secure platform during this pandemic.

Specifically, we request the following:

- Telehealth benefits for medical/surgical *and* mental health/substance use disorder (MH/SUD) care adhere to the Mental Health Parity and Addiction Equity Act (MHPAEA).
- Telehealth benefits, including telementalhealth, be included in *all* individual and group plans.

- Telehealth benefits, including telementalhealth, be available on an out-of-network benefits basis if a plan generally provides for out-of-network benefits.
- If an in-network provider is not available, the plan *cover services* with an out-of-network provider at the in-network rate.
- Reimbursement for telementalhealth services *be the same* as for in-person services, as they require the same amount of professional time, and are equally demanding on the practitioner.
- Insurance plans may not limit, require or define the type of technology for delivering telehealth services by out-of-network providers. Therapist and patient must have discretion to make that choice.
- Patients using mental health services *not be forced to change* their providers. Continuity of care is essential in mental health treatment.
- CMS must cover telephone-only psychotherapy and health behavior assessment and intervention services.

**Rationale:**

The MHLG is concerned that restrictive coverage policies by insurance plans, especially those that are ERISA/self-funded, will compound what we are calling a ***Secondary COVID-19 Crisis***, which will be a mental health crisis accelerated by the restriction on teletherapy at a universally stressful and frightening time.

The COVID-19 pandemic is creating new tensions and exacerbating long-standing emotional struggles. It is worse when ongoing therapy is denied at the very time when the country as a whole is going through such traumas, personal and social. Therapy relationships are the most essential element of successful psychotherapy, and can provide an especially valuable point of constancy and stability in these times, especially for the most disturbed, traumatized or stressed patients. Both patient and therapist have invested a lot in creating their relationship; therapy relationships are not interchangeable nor can they be prematurely relinquished without harm. Meanwhile, creating a choice between patient abandonment at a time of crisis or asking therapists to work for little or no fee, or forcing them to travel into their offices, will only lead to dire consequences, endangering patients, therapists and the public at large.

**The problem:**

Despite executive orders by some Governors and the commitment by CMS to relax its restrictions on telementalhealth, most insurance private plans are still falling short.

- **Telementalhealth is not universally covered in all insurance plans**
  - Some insurers do not cover telehealth at all.
  - ERISA plans are not bound by states' executive orders.

- **Potential parity violations**
    - Some insurers are violating parity by covering telehealth for physical, but not emotional, problems related to or exacerbated by COVID-19.
- **Insurance companies restricting access by requiring proprietary technology (which is owned by the insurance companies and venture capitalists), even when secure alternatives exist**
    - Some insurers are demanding that therapists work with patients only through their own exclusive, proprietary technology platforms, despite the fact that many secure, HIPAA-compliant platforms exist.
    - Many secure, HIPAA-compliant platforms are available at a range of price points, and the clinician should be in charge of determining which works best for their practice.
    - Even if clinicians wanted to join these additional, proprietary technology networks, many are currently closed to new practitioners. For example, MDLive, used by BCBS-Illinois, has a waiting list of 9 months.
    - Some insurers' platforms are intrusive and unfair to patients and therapists. MDLive, for instance, takes a 40% cut of a therapist's fee (and this negotiated in-network fee is already discounted from the therapist's regular fee) for use of its platform, and only covers a shorter session duration than many clinicians routinely use. This means that BCBS essentially reduces therapist's pay by 60% for any telehealth session using the network even though the amount of professional time and expertise involved has not changed.
    - Many insurers have a financial stake in these proprietary platforms, owning them conjointly with venture capitalists.
    - Some patients do not have video capability, and/or prefer to meet with their therapists by phone during this crisis. This is especially relevant to work with Medicare and Medicaid patients, many of whom do not own computers or smart phones, and many of whom are elderly or disabled. These patients are both the most vulnerable and the least likely to be able to operate video connections even if they have the capability for them.
- **Continuity of mental healthcare is cost effective**
    - Mental health treatments, including ongoing treatments, are cost effective. Patients with untreated mental health issues, especially those whose treatments have been prematurely terminated, are more likely to use emergency rooms, to be absent from work, to engage in risky behavior, to perform poorly at work, and to use more expensive medical services and emergency rooms at a time when medical services are already taxed to the limit.
- **Continuity of care protects patients**
    - It is most important for patients to be able to continue their care with their current therapists, and not fall prey to less effective online offerings.

We ask you to remedy this situation immediately by including the parameters outlined above. These important provisions will protect those in dire need of mental health services.

We stand ready to work with you to avoid a potential secondary COVID crisis.

Sincerely,

2020 Mom
American Art Therapy Association
American Association for Geriatric Psychiatry
American Association for Marriage and Family Therapy
American Association for Psychoanalysis in Clinical Social Work
American Association of Suicidology
American Counseling Association
American Dance Therapy Association
American Foundation for Suicide Prevention
American Group Psychotherapy Association
American Mental Health Counselors Association
American Psychoanalytic Association
American Psychological Association
Anxiety and Depression Association of America
Association for Ambulatory Behavioral Healthcare
Association for Behavioral and Cognitive Therapies
Bazelon Center for Mental Health Law
Children and Adults with Attention-Deficit Hyperactivity Disorder
Clinical Social Work Association
College of Psychiatric and Neurologic Pharmacists
Confederation of Independent Psychoanalytic Societies
Depression and Bipolar Support Alliance
Eating Disorders Coalition for Research, Policy & Action
Global Alliance for Behavioral Health and Social Justice
International Certification & Reciprocity Consortium
International OCD Foundation
The Jewish Federations of North America
The Kennedy Forum
Mental Health America
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
National Association for Behavioral Healthcare

National Association for Rural Mental Health
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Social Workers
National Association of State Mental Health Program Directors
National Council for Behavioral Health
National Eating Disorders Association
National Federation of Families for Children's Mental Health
National Health Care for the Homeless Council
National League for Nursing
National Register of Health Service Psychologists
Psychotherapy Action Network (PsiAN)
Residential Eating Disorders Consortium
Schizophrenia and Related Disorders Alliance of America
SMART Recovery
The Trevor Project
Treatment Communities of America

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Non-MHLG Members:

Austen Riggs Center
Austin Psychoanalytic
California Psychology Internship Council
Chicago Association for Psychoanalytic Psychology
Existential-Humanistic Institute
Institute of Clinical Social Work
Institute of Medicine of Chicago
Metropolitan Institute for Training in Psychoanalytic Psychotherapy
National Association for the Advancement of Psychoanalysis
National Psychological Association for Psychoanalysis
Oakes Children's Center
Philadelphia School of Psychoanalysis
Psychoanalytic Center of Philadelphia
Psychoanalytic Association of New York
Psychoanalytic Psychotherapy Study Center
William Alanson White Institute