Senate Bill to Raise Medicaid Cap for Inpatient Opioid Addiction Treatment Falls Down Again

Last week the Senate Finance Committee released the opioid legislation it would be debating this week, but the compilation was missing a legislative element that many had counted on seeing: a measure led by Senators Dick Durbin (D-Ill.) and Rob Portman (R-Oh.) that would raise Medicaid's payment ceiling for inpatient stays of individuals treated for opioid addiction.

Included in the proposal is the codification of a regulation developed under the Obama administration that allows Medicaid to provide coverage for up to 15 days at mental health institutions. This would offer a way around the decades-old issue known as the "IMD exclusion" that prohibits Medicaid from paying for institutional stays at facilities that have 17 or more beds.

But this doesn't mean that all experts think the legislation alone would truly resolve the issue; and regarding the codification aspect of it, Frankie Berger of the Treatment Advocacy Center had this to say to Modern Healthcare: "If all they are doing with IMD is codifying the regulations, then they are just squandering an opportunity to make real change and taking credit for work already done. States can already make decisions within their state plans to reimburse for acute substance use and psychiatric IMD stays less than 15 days."

Legislation may not be gone for good

According to Greg Walden (R-Ore.), the chair of the House Energy and Commerce Committee, there is still hope for the bipartisan bill; Walden told Modern Healthcare that Portman has been working with his committee on a similar measure that should be subject to a vote in the House soon.

Whether this latest attempt to secure inpatient opioid addiction treatment for Medicaid beneficiaries will go the way of the last attempt before Congress remains to be seen.

The prior bill (proposed during the previous Congress) ended up failing after the Congressional Budget Office (CBO) put the cost of implementing the measure between $40 billion and $60 billion). Despite the fact that the argument for the bill included the opinion that the CBO's projection shouldn't be taken as gospel because the office didn't have the requisite data on patients or IMDs, the measure went no further at the time.

Does the bill drain attention from other mental health needs?

This time around, the provision will be limited to addressing those beneficiaries in need of treatment for substance use disorder, which should bring the CBO's cost projection down. This narrow focus, however, has caused mental health advocates to criticize the measure for excluding people in need of forms of psychiatric treatment outside of substance use disorders. Another criticism leveled at the bill is that it focuses too keenly on inpatient treatment, which could shrink the seeming importance of follow-up outpatient treatment, a key element to a successful recovery.

In addition to working with the House Energy and Commerce Committee, Portman has also been looking for more cost-effective methods for removing the Medicaid funding caps when it comes to inpatient opioid treatment stays so that this measure doesn't get slayed by the same arrow.

Regarding his collaboration with the Energy and Commerce Committee, Portman told Modern Healthcare: "We

have helped them look at it in different ways too, so we'd like to end up where we can all be together and expand the opportunity for not just treatment but for treatment that is inclusive of various types of medication assisted treatment."

This article is provided for educational purposes only and is not offered as, and should not be relied on as, legal advice. Any individual or entity reading this information should consult an attorney for their particular situation. For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.

NELSON HARDIMAN
HEALTHCARE LAWYERS