



November 1, 2021

Senator Ron Wyden  
Chairman, Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

Senator Mike Crapo  
Ranking Member, Committee on Finance  
239 Dirksen Senate Building  
Washington, DC 20510

**Re: Senate Finance Committee Request for Information (RFI) on Behavioral Health Care**

Dear Chairman Wyden and Ranking Member Crapo,

Biogen appreciates this opportunity to comment on the Senate Finance Committee's Request for Information (RFI) on behavioral health care, including mental health care and substance use disorder services.<sup>1</sup>

Biogen is a pioneer in neuroscience. Since our founding in 1978 as one of the world's first global biotechnology companies, Biogen has led innovative scientific research with the goal over the last decade to defeat devastating neurological diseases, including by working to develop transformative new treatments in the areas of Alzheimer's disease, multiple sclerosis, and spinal muscular atrophy. Our focus on neuroscience, our deep scientific expertise, and our courage to take risks make us leaders in research and development of medicines to transform neuroscience to benefit society.

Biogen supports policies that encourage appropriate and reliable access to the mental and behavioral health care that patients need, including by facilitating access to transformative new medicines with the potential to reshape society by changing the treatment paradigm for debilitating mental and behavioral health conditions. We are deeply committed to promoting access to innovative medicines for patients that need them the most, and strongly encourage Congress to similarly promote beneficiary access to the best clinical treatments available to help address their pressing medical needs.

The COVID-19 Public Health Emergency (PHE) highlighted the urgent need to support and invest in critical mental and behavioral health infrastructure. Due to major life changes such as job loss, social isolation, and trauma, COVID-19 has exacerbated many risk factors for depression.<sup>2,3</sup> In fact, research suggests that COVID-19 has led to an approximately fourfold increase in symptoms of anxiety and

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<sup>1</sup> Senate Finance Committee, "Behavioral Health Letter" (Sept. 21, 2021), *available at* <https://www.finance.senate.gov/imo/media/doc/092221%20Bipart%20mental%20health%20RFI.pdf>.

<sup>2</sup> McGinty EE, Presskreischer R, Han H, Barry CL. Psychological Distress and Loneliness Reported by US Adults in 2018 and April 2020. JAMA. 2020;324(1):93-94.

<sup>3</sup> Panchal N, Kamal R, Orgera K, et al. The implications of COVID-19 for mental health and substance use. Kaiser Family Foundation. 2020.

depression, compared to pre-pandemic levels.<sup>4,5,6</sup> It has become clear that the impacts of COVID-19 may negatively affect our health and overall wellness for years to come.<sup>7</sup> We applaud the Senate Finance Committee for seeking legislative and policy solutions intended to improve access to mental and behavioral health care services for Americans.

We write to specifically comment on the following proposals contained in the RFI:

- Biogen supports new mental health quality measures that are adaptable to both current and future treatment paradigms in mental health;
- Biogen urges Congress to strengthen and sustain the mental health care workforce in order to increase patient access to care;
- Biogen encourages Congress to create innovative reimbursement mechanisms for new mental health therapies, similarly to how Congress treated new, evidence-based opioid and non-opioid therapies for patients in the past; and
- Biogen supports extending and expanding COVID-19 flexibilities, including flexibilities for telehealth and remote mental health services.

Please find select answers to the Senate Finance RFI questions below.

## **I. Strengthening Workforce**

### *a. What policies would encourage greater behavioral health care provider participation in these federal programs?*

Biogen supports federal policies that ensure patient access to innovative therapies that further quality mental and behavioral health care. We also advocate for policies that support and appropriately reimburse physicians for administering these highly-complex therapies. Central to physician reimbursement policy is quality: quality measures help quantify health care processes, outcomes, and patient perspectives that are critical for high-quality care.

While we recognize that current mental health treatment paradigms treat depression predominantly as a chronic condition, as innovative treatments for acute incidence of depression are available to patients, we encourage Congress to work with the Centers for Medicare and Medicaid Services (CMS) and other stakeholders to develop quality measures that encourage and incentivize providers to choose the most appropriate treatment options for patients, whether those are chronic or acute treatments. For example, Congress could work with federal agencies and other stakeholders to create quality measures that align health equity and social determinants of health (SDOH) with mental and behavioral health; or create episodic-based payments for acute incidence of depression and corresponding quality measures.

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<sup>4</sup> Ettman CK, Abdalla SM, Cohen GH, Sampson L, Vivier PM, Galea S. Prevalence of Depression Symptoms in US Adults Before and During the COVID-19 Pandemic. JAMA Netw Open. 2020;3(9):e2019686.

<sup>5</sup> Kaiser Family Foundation, How the COVID-19 Pandemic is Affecting People's Mental Health and Substance Use (Feb. 10, 2021), available at <https://www.kff.org/coronavirus-covid-19/press-release/how-the-covid-19-pandemic-is-affecting-peoples-mental-health-and-substance-use/>.

<sup>6</sup> COVID-19 Mental Disorders Collaborators. Global prevalence and burden of depressive and anxiety disorders in 204 countries and territories in 2020 due to the COVID-19 pandemic. The Lancet. 2021; [https://doi.org/10.1016/S0140-6736\(21\)02143-7](https://doi.org/10.1016/S0140-6736(21)02143-7).

<sup>7</sup> Rogers JP, Chesney E, Oliver D, et al. Psychiatric and neuropsychiatric presentations associated with severe coronavirus infections: a systematic review and meta-analysis with comparison to the COVID-19 pandemic. Lancet Psychiatry. 2020;7(7):611-627.



Biogen asserts that a greater focus on quality will encourage provider participation in federal health programs. Quality measures not only improve patient outcomes and further high-quality care, but quality measures also encourage physicians to drive toward value.

*b. Are there payment or other system deficiencies that contribute to a lack of access to care coordination or communication between behavioral health professionals and other providers in the health care system?*

While acknowledging the myriad issues that may contribute to a lack of access to care—including but not limited to racial inequalities, social stigmas, and financial struggles—Biogen recommends that Congress particularly focus on the critical public health infrastructure, including mental and behavioral health providers, needed to treat patients and communities. Biogen believes that it is critical to strengthen and make improvements to the mental and behavioral health workforce.

One policy solution Congress might consider would be to address reimbursement discrepancies between psychiatrists and other types of providers. Psychiatrists are often reimbursed significantly less by insurers,<sup>8</sup> which can drive psychiatrists out-of-network and only become accessible for patients with the financial means. Biogen believes that equitable and sustainable reimbursement for mental health providers can lead to a more equitable and sustainable health care system for all patients. In turn, this will lead to greater patient access to mental and behavioral health care. Given the unprecedented strain of the COVID-19 PHE on the mental and behavioral health care system, and the health care system at-large, Biogen urges Congress to make an investment in and commit to rebuilding and retaining our nation's mental health workforce.

## **II. Increasing Integration, Coordination, and Access to Care**

*a. What programs, policies, data, or technology are needed to improve access to care across the continuum of behavioral health services?*

Biogen applauds Congress for passing the SUPPORT Act (Pub. Law No: 115-271). We note that the SUPPORT Act added sections 1833(t)(22)(A)(i) and (A)(iii) of the Social Security Act (SSA) requiring CMS to review payments under the Outpatient Prospective Payment System (OPPS) for “opioids and evidence-based non opioid alternatives for pain management (including drugs and devices, nerve blocks, surgical injections, and neuromodulation) with a goal of ensuring that there are not financial incentives to use opioids instead of nonopioid alternatives.”<sup>9</sup> In addition, the Secretary of the Department of Health and Human Services (HHS) “shall consider the extent to which revisions under this subsection to such payments (such as the creation of additional groups of covered [outpatient department] OPD services to classify separately those procedures that utilize opioids and non-opioid alternatives for pain management) would reduce payment incentives to use opioids instead of non-opioid alternatives for pain management.”<sup>10</sup>

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<sup>8</sup> Tami L. Mark, Ph.D., M.B.A., et al, Differential Reimbursement of Psychiatric Services by Psychiatrists and Other Medical Providers, *Psychiatric Services*, Volume 69, Issue 3, March 2018 available at <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201700271>

<sup>9</sup> Social Security Act (SSA) § 1833(t)(22)(A)(i).

<sup>10</sup> SSA § 1833(t)(22)(A)(iii).

Biogen appreciates that Congress enacted this provision to require CMS to review its policies to ensure that none of its reimbursement mechanisms disadvantage non-opioid treatments. As new mental health treatments come to market that have the potential to change the mental health treatment paradigm, Biogen believes that a similar requirement should exist for these mental health treatments as well. As such, we urge Congress to extend this requirement of CMS to mental health treatments in all settings of care. Specifically, Congress should require CMS to review its reimbursement policies within and across all sites of care and for all provider and supplier types to ensure that CMS' reimbursement policies enhance and promote access to the most appropriate mental health services for Medicare beneficiaries.

### III. Ensuring Parity

- a. How can Congress improve oversight and enforcement of mental health parity laws that apply to private plans offering coverage under the federal health programs? How can we better understand and collect data on shortfalls in compliance with parity law?

Biogen firmly believes that mental health care is just as important as physical health care. In fact, the two are intrinsically tied and lead to downstream impacts on patients and caregivers—for example, depression is the third most prevalent comorbidity associated with multiple sclerosis (MS), behind pain and obesity<sup>11</sup>; ~40% of people with Alzheimer's disease suffer from significant depression,<sup>12</sup> and over one-third of their caregivers reported six or more symptoms of depression themselves;<sup>13</sup> and ~60-70% of spinal muscular atrophy (SMA) caregivers have experienced depression.<sup>14</sup>

Biogen applauds Congress for its previous efforts to improve access to mental health care services, including through the Affordable Care Act (ACA) and 2008 Mental Health Parity and Addiction Equity Act. Despite these improvements in mental health parity, Biogen is concerned that several barriers still exist for patients to access high-quality mental health care; for example, we are aware that many states have weak parity statutes with minimal coverage (i.e., limited-to-no parity or coverage requirements with many exemptions). Biogen supports state laws that, at a minimum, meet current federal laws. We also encourage states to pass laws that extend coverage further than these federal requirements. We also support federal efforts to help states enforce and comply with federal parity laws. Biogen is aware of several bills in Congress intended to strengthen mental health parity standards, such as the Parity Implementation Assistance Act (S. 1962) which builds on the Mental Health Parity Compliance Act of 2019 (part of Pub. Law No: 116-260) to support states in oversight of mental health parity compliance and efforts to collect additional data. We encourage Congress to continue its efforts to ensure mental health parity so that remaining barriers are addressed to improve patient care.

### IV. Expanding Telehealth

- a. How do the quality and cost-effectiveness of telehealth for behavioral health services compare to in-person care, including with respect to care continuity?

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<sup>11</sup> Health Union Research, *Multiple Sclerosis In America* 2017 Findings (N=5,300 MS patients.)

<sup>12</sup> Alzheimer's Association, *Depression Statistics*, available at <https://www.alz.org/help-support/caregiving/stages-behaviors/depression>.

<sup>13</sup> Levine C. Depression in caregivers of patients with dementia: a greater role for physicians. *J Gen Intern Med*. 2003;18(12):1058–1059.

<sup>14</sup> CureSMA, Voice of patient report (Jan. 10, 2018).



Biogen appreciates the opportunity to comment on expanding access to telehealth and other related services during, and potentially after, the COVID-19 PHE. Biogen supports telehealth as the future of health care; although not a complete replacement for in-person medical visits, telehealth-based solutions offer the promise of fundamentally reshaping how patients access many types of health care. By facilitating faster and easier access to specialized medical care and referrals, telehealth promotes earlier interventions, while simultaneously being associated with lower costs.<sup>15</sup> Given the significant promise of telehealth, we believe that Congress should encourage the availability of telehealth and related services as an alternative setting of care, whenever possible—so long as the care can be appropriately furnished through remote, interactive modalities consistent with prevailing medical standards.

*b. How can Congress craft policies to expand telehealth without exacerbating disparities in access to behavioral health care?*

Biogen notes that expanded access to telehealth can aid Americans living in underserved and rural areas, where it may be difficult to obtain high-quality and timely psychiatric care and consultation.<sup>16</sup> Nearly one in five Americans lives in a rural area and incidence of mental and substance use disorders in rural populations is comparable to that seen in urban populations.<sup>17</sup> Yet people in rural areas face dramatically more barriers to accessing appropriate mental health care, due to funding issues, specialist shortages, and other systematic barriers.<sup>18</sup> Telehealth based psychiatric evaluation and intervention has the potential to overcome these barriers and revolutionize access to mental health care. As the American Psychiatric Association (APA) has stated, “[t]elemedicine in psychiatry, using video conferencing, is a validated and effective practice of medicine that increases access to care.”<sup>19</sup>

Biogen does, however, acknowledge that many patients and providers in underserved and rural areas may have inadequate broadband services necessary for telehealth services. We strongly support efforts to increase access to broadband and other, necessary infrastructure to improve telehealth services for both patients and providers. Biogen looks forward to working with Congress on these important telehealth issues for underserved and rural areas.

*c. Should Congress make permanent the COVID-19 flexibilities for providing telehealth services for behavioral health care (in addition to flexibilities already provided on a permanent basis in the SUPPORT for Patients and Communities Act and the Consolidated Appropriations Act, 2021)? If so, which services, specifically? What safeguards should be included for beneficiaries and taxpayers?*

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<sup>15</sup> See, e.g., G. Nord et al., On-Demand Synchronous Audio Video Telemedicine Visits are Cost Effective, 37 Am. J. Emergency Med. 890, 890 (2019) (study finding that telehealth-based visits were associated with reductions in visit costs by diverting patients from more expensive care settings, even without considering longer-term cost savings associated with expanded access to early intervention and preventive care).

<sup>16</sup> T. Rabinowitz et al., Telepsychiatry for Vulnerable and Underserved Populations, Psychiatry Times, psychiatrictimes.com/view/telepsychiatry-vulnerable-and-underserved-populations (May 24, 2016).

<sup>17</sup> SAMHSA, Rural Behavioral Health: Telehealth Challenges and Opportunities 1 (2016), available at <https://store.samhsa.gov/product/In-Brief-Rural-Behavioral-Health-Telehealth-Challenges-and-Opportunities/SMA16-4989>.

<sup>18</sup> *Id.* at 1-2.

<sup>19</sup> American Psychiatric Association, Position Statement on Telemedicine in Psychiatry 1 (2018), available at <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2018-Telemedicine-in-Psychiatry.pdf>.

Biogen thanks Congress and CMS for swiftly acting during the COVID-19 PHE to ensure that patients have access to mental and behavioral health services, including through telehealth and other audio/visual technology modalities. We are encouraged that Congress has acknowledged the vital role of telehealth in promoting access to mental health services and that CMS has continued to propose policies to expand such services. Given the importance of mental health telehealth services, we strongly recommend that Congress work with CMS to extend these flexibilities on a *permanent* basis to the maximum extent practically permissible.

Therefore, based on the promise of telehealth and the positive impacts on both patients and providers, Biogen urges Congress to continue to facilitate and expand mental health telehealth services during and after the COVID-19 PHE.

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Biogen thanks the Senate Finance Committee for this opportunity to comment on this important RFI on mental and behavioral health. We look forward to continued engagement with Congress to ensure that new legislative proposals continue to encourage broad and appropriate access to mental and behavioral health services, as well as effective clinical interventions.

If you have any questions regarding our comments, or if we can provide additional information to assist Senate Finance Committee in its consideration of our comments, please contact me via email at [Jon.Causey@Biogen.com](mailto:Jon.Causey@Biogen.com) or via phone at (857) 270-4583.

Sincerely,



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