RON WYDEN
OREGON

RANKING MEMBER OF COMMITTEE ON FINANCE

221 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON DC 20510
(202) 224 5244

United States Senate

WASHINGTON, DC 20510–3703

COMMITTEES:
COMMITTEE ON FINANCE
COMMITTEE ON BUDGET
COMMITTEE ON ENERGY & NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
JOINT COMMITTEE ON TAXATION

May 28, 2020

The Honorable Gene Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro,

The COVID-19 pandemic is taking an unprecedented toll on the mental health of Americans and exacerbating existing barriers to mental health parity. Before the COVID-19 pandemic ravaged the Nation's health care system, far too many people were denied coverage for mental health care services or unable to find a mental health care provider covered by their insurance. Today, over half of adults in the United States have reported that their mental health has been negatively impacted due to worry and stress over the COVID-19 pandemic.[1] Social distancing and business and school closures, though necessary to slow the spread of COVID-19 and save lives, have exposed many people to situations that are linked to poor mental health outcomes, like isolation and job loss. Doctors, nurses, and other frontline workers are also at an increased risk for developing mental health conditions, including post-traumatic stress syndrome. In April, texts to a federal government mental health hotline increased over tenfold compared to the same month last year.[2]

While some mental health care providers are pivoting to rely on telemedicine during social distancing, not all are able to do so leaving some patients with nowhere else to turn. Increases in unemployment due to the pandemic have also placed increased pressure on essential health care programs like Medicaid – the primary payer of behavioral health care services in the United States. In Oregon, 23,000 individuals enrolled in the state's Medicaid program in the month of March alone with thousands more signing up for coverage in April and May. Such pressures emphasize the need to ensure access to robust, quality mental health care services and full mental health parity across all payers and programs in Oregon and across the United States.

In light of COVID-19, the challenges that providers and patients alike have faced in improving behavioral health care in this country have only intensified. In recent discussions with Oregon's

[1] https://www.kff.org/report-section/kff-health-tracking-poll-late-april-2020-economic-and-mental-health-impacts-of-coronavirus/
[2] https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2020/05/04/the-health-202-texts-to-federal-government-mental-health-hotline-up-roughly-1-000-percent/5eaae16c602ff15fb0021568/?itid=ap_paigewinfield%20cunningham&itid=lk_inline_manual_12

sole academic medical center, it came to my attention that Oregon Health and Sciences University (OHSU) had documented the tactics and practices plans were using to either deny coverage or refuse adequate payment for critical mental health care. Examples range from the rampant use of prior authorizations to blanket denials, and these practices were particularly used when patients were covered, unbeknownst to them, by plans that "carved out" behavioral health care services.

I am pleased to hear that, as the Government Accountability Office (GAO) conducts its oversight of the federal response to the COVID-19 pandemic and reporting requirements under the CARES Act, it plans to examine the effects of the COVID-19 pandemic on the demand for and delivery of mental health care services. In addition to this work, and given OHSU's experience that appears to be increasing, I request that GAO examine what is known about the role of behavioral health service organizations that many Medicaid, Medicare Advantage, employer-sponsored insurance, and commercial health plans contract with for their coverage of mental health care services in regards to the delivery of mental health care services meeting federal parity requirements. I am therefore requesting that GAO include the following questions in their priority COVID-19 oversight and respond to this request as quickly as possible.

1) What protocols do health plans that contract with behavioral health service organizations use to ensure those contracted services meet the statutory requirements of mental health parity? How does compliance with federal mental health parity law differ across plans that contract these services out versus those that do not? For example, to what extent do regulators, providers, or consumers and enrollees report differences, if any, in how non-quantitative treatment limits, such as prior authorization and provider network availability, are applied among health plans with mental health coverage carve-outs from plans that do not carve-out this coverage?
2) What tools do federal and state regulators use to identify any patterns of compliance or noncompliance that may occur across different Medicaid, Medicare Advantage, employer-sponsored insurance or commercial health plans using the same subcontracted or standalone behavioral health service organizations? For example, how do federal and state requirements and industry practices among health plans and subcontracted or standalone behavioral health service organizations address challenges in continuity of care and consistency in application of mental health parity for people with changes in their sources of health coverage?
3) How are federal and state regulators ensuring that health plans are meeting mental health parity requirements if there are changes in availability of providers in plans' networks due to COVID-19?
4) With a documented increase in the use of telemedicine for the treatment and management of behavioral health conditions, what tools are plans using to ensure compliance with mental health parity requirements? To the extent that plans have been identified as failing to meet mental health parity requirements prior to the pandemic, what oversight is occurring to ensure compliance?

Thank you for your urgent attention to this matter. Your efforts to conduct oversight of the effects of COVID-19 on the behavioral health care delivery system are crucial to ensuring patients are able to access needed services during this critical time.

Sincerely,

Ron Wyden

Senator Ron Wyden