



PARTNERSHIP FOR EMPLOYER-SPONSORED COVERAGE

October 21, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Ms. Brooke Rollins
Acting Director
White House Domestic Policy Council
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Secretary Azar and Director Rollins:

As members of the Partnership for Employer-Sponsored Coverage, we write with our interest in, and input for, the Coronavirus Mental Health Working Group created under Executive Order (E.O.) 13954, *Saving Lives Through Increased Support for Mental- and Behavioral-Health Needs*. We agree that now more than ever is an important time to assess the mental and behavioral health support needs of Americans. We commend you on undertaking this assessment and welcome the opportunity to engage on this very important matter.

The Partnership for Employer-Sponsored Coverage (P4ESC) is an advocacy alliance of employment-based organizations and trade associations representing businesses of all sizes and the millions of American workers and their families who rely on employer-sponsored health coverage every day. We are working to ensure that employer-sponsored coverage is strengthened and remains a viable, affordable option for decades to come.

According to the Society for Human Resource Management's (SHRM) *Navigating COVID-19: Impact of the Pandemic on Mental Health*¹, "the COVID-19 pandemic has put unprecedented strain on workers' mental health... the research finds that a majority of employees are experiencing symptoms of depression, but very few are receiving care." Findings include:

- Two out of three employees report experiencing symptoms of depression sometimes amid widespread lockdowns
- More than two in five employees feel burned out, drained, or exhausted by work
- 37 percent of employees have not done anything to cope with depression-related symptoms and only 7 percent have reached out to a mental health professional

As you undertake your assessment of the mental and behavioral health needs of Americans in both the public and private sectors, we would like to raise two policy areas that should be improved: expansion of telehealth services and insurance network access to mental and behavioral health professionals.

Expanding Telehealth Services

P4ESC believes the time is ripe to modernize laws to increase access to telehealth services as patients, health providers, and coverage plan sponsors continue to adapt to and comply with remote working

¹ <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/documents/shrm%20cv19%20mental%20health%20research%20presentation%20v1.pdf>



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and social distancing measures. In a statement for the record² for the Senate Health, Education, Labor, and Pensions (HELP) Committee’s hearing on June 17, 2020, entitled “Telehealth: Lessons from the COVID-19 Pandemic,” the ERISA Industry Committee (ERIC) wrote “[t]elehealth enables our beneficiaries to obtain the care they need, when and where they need it, in an affordable and convenient manner. It reduces the need to leave home or work and risk infection at a physician's office, provides a solution for individuals with limited mobility or access to transportation, and has the potential to address provider shortages and improve choice and competition in health care.”

Further, in an op-ed published in *THE HILL*³ on May 28, 2020, SHRM’s Emily M. Dickens, Chief of Staff, Head of Government Affairs & Corporate Secretary, writes “[g]reater access to telemedicine, including telepsychiatry, will provide the resources for employees to navigate all health care options and privately seek the help that they need. The convenience of this offering will benefit employers and their employees because such services can be received at home and after work hours during a time when personal and professional schedules are anything but definite for so many workers.”

In the employer benefits space, telehealth services come in different forms, such as: the ability for employees to be treated by a health provider or practice, with whom they already have a relationship, in a telemedicine setting instead of through a traditional in-office visit; and access to a telehealth service vendor which is included in a benefits package offering, similar to a dental or vision plan, that is separate from the medical plan but provides the ability to be connected to a physician or health professional for a consultation. In the later example, the separate telehealth vendor program can legally be provided to full-time employees enrolled in the employer medical plan but not to other groups of the workforce. Part-time and seasonal employees and full-time employees who declined the employer medical plan cannot access the telehealth vendor program because this type of stand-alone benefit would violate the coverage rules under the Affordable Care Act’s (ACA) employer mandate. P4ESC would like the availability of these telehealth services to legally be offered to all employees, regardless of their eligibility for or enrollment in an employer’s medical plan.

P4ESC supports: 1) treating telehealth services as an excepted benefit which would enable employers to offer this type of coverage to part-time and variable workforces, and other employees not enrolled in the employers’ medical plan; 2) reforming licensure requirements to enable services to be offered across state lines; 3) establishing a national set of standards for telemedicine services to address state-based requirements that have not kept pace with technology, practice site and remote working advances, including eliminating originating site and prior provider relationship requirements; and 4) clarifying that CARES Act telemedicine provisions are effective for plan years on or after January 1, 2019 (employer plan years vary between non-calendar and calendar year basis).

Addressing Network Access/Provider Availability

Employers and employees face challenges in finding available and affordable mental and behavioral health care. Some mental and behavioral health providers – particularly those in rural areas – decline to participate in health insurance networks. In the case of most self-insured plans under the Employee

² <https://www.eric.org/wp-content/uploads/2020/06/06-17-20-ERIC-Statement-for-HELP-Telehealth-Hearing-Final.pdf>

³ <https://thehill.com/opinion/healthcare/500017-assist-mental-health-of-workers-by-increasing-access-to-telemedicine>



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Retirement Income Security Act of 1974 (ERISA), employers rent insurance carriers' provider networks. The decision to join a network lies with the provider.

Because many mental and behavioral health providers choose not to go in-network, employees can face large out-of-network bills or even surprise medical bills for care sought. It is important to stress that regulatory efforts to evaluate the availability of mental and behavioral health providers in health insurance networks must also consider whether these providers make themselves available and affordable to employees. Coverage requirements on employers and insurance carriers are counterproductive, particularly regarding affordability, unless there is a countervailing requirement for providers to participate in one or more networks.

Conclusion

The Partnership for Employer-Sponsored Coverage welcomes any opportunity to provide input and speak in further detail about ensuring access to mental and behavioral health services to Americans, especially during the pandemic. Benefits offerings and coverage plans in the employer-sponsored system are as diverse as employers themselves. There is no one-size-fits-all employer plan, and the functionality of a business is centered around a productive, thriving, and healthy workforce. As a coalition representing businesses of all sizes, we have the unique ability to provide operational input across the full spectrum of the employer system – from the smallest family business to the largest corporation.

Sincerely,

American Health Policy Institute
American Hotel & Lodging Association
American Rental Association
American Staffing Association
Associated Builders and Contractors, Inc.
Associated General Contractors of America
Auto Care Association
The Council of Insurance Agents & Brokers
The ERISA Industry Committee (ERIC)
FMI – The Food Industry Association
HR Policy Association
National Association of Health Underwriters
National Association of Wholesaler-Distributors
National Restaurant Association
National Retail Federation
Retail Industry Leaders Association
Society for Human Resource Management