Questions for Medicare Rights Center

Summary

Section 6084 of the SUPPORT Act requires CMS to consult with stakeholders on the topics listed below.

Questions

The availability of supplemental benefits designed to treat or prevent substance use disorders [SUDs], including any differences in the availability of such benefits under Medicare Advantage special needs plans.

- **Can you comment on the availability to beneficiaries of supplemental benefits offered by Medicare Advantage Organizations related to the treatment and/or prevention of substance use disorders?**
    - In our experience, people with Medicare face significant challenges when attempting to obtain treatment for substance use disorders (SUDs). Often, and as discussed below, Medicare does not increase access to these services. As a result—compared to other calls we receive about access to Medicare mental health services—SUD-related cases are very difficult for us to resolve. Typically, we can only help if the caller has access to a state-based program that can supplement or override their Medicare coverage.

- **Which substance use disorder related supplemental benefits are most important to your members to be covered under their Medicare Advantage plans? Why?**
    - We have experience serving Medicare beneficiaries with SUDs in our independent case work as well as through New York State's Community Health Access to Addiction & Mental Healthcare Project (CHAMP) Helpline. CHAMP is designed to help individuals and their families resolve issues in accessing substance use disorder and mental health services. Through both avenues, we see MAT, counseling, telehealth, and non-opioid alternatives for the treatment of pain as the most important benefits for people with Medicare with SUDs. These are the services that create the highest volume of calls on our National Consumer Helpline and through the CHAMP network. Unfortunately, these services do not appear to be widely available, hindering access. We also find it extremely difficult to place people with Medicare into inpatient settings.

The extent to which Medicare Advantage plans offer supplemental benefits relating to coverage of— (A) medication-assisted treatments for opioid use, substance use disorder counseling, peer recovery support services, or other forms of substance use disorder treatments (whether furnished in an inpatient or outpatient setting); and (B) non-opioid alternatives for the treatment of pain.

- **What is your organization's understanding on the availability of supplemental benefits for Medicare Advantage beneficiaries of the following treatment categories? (See table below)**

Treatment Categories	Understanding on Availability
Medication-Assisted Treatment for opioid use	We have not seen widespread availability but have seen barriers to care. So far, only three Opioid Treatment Programs are participating with Medicare in New York state and all are located in New York city. Outside of New York state, we have only had one caller able to access care through an OTP. Unfortunately, the number of calls that show the opposite—beneficiaries who are not able to access OTP care—are numerous. The guidance that explains how Medicaid should continue to pay if someone is dually eligible is very useful, however, many of our callers are transitioning out of Adult Group Medicaid and are not eligible for ABD Medicaid. We have also seen transition issues for those coming from QHP or commercial plans. Unfortunately, we also have clients who have been forced off of suboxone because their

	plan chose to take it off the formulary, leaving them without the option of continuing.
Substance use disorder counseling	The counseling benefit is generally available, but in our experience it has proven very difficult for many beneficiaries to access because providers believe that Medicare Advantage plans do not cover it.
Peer recovery support services	We do not have direct data on this topic, but we have been informed by other CHAMP organizations that services are not generally available to MA beneficiaries. As a result, they are forced to find workarounds to access care.
Other forms of SUD treatments (whether furnished in an inpatient or outpatient setting)	While some plans appear to cover needed SUD drugs, we have clients who are forced off their established SUD treatments because of plan formulary changes. They are often then told to take opioids as a replacement therapy. We have also had at least one client who was not able to access family therapy from an outpatient SUD facility, despite it being part of their treatment plan.
Non-opioid alternatives for the treatment of pain	We have not seen much in this space. At least one CHAMP client tried to access acupuncture but could not locate an enrolled provider.
Prevention Services	We do not currently have any information on this topic.
Telehealth	We have helped some people successfully access telehealth services. Importantly, the provider in these instances was a CHAMP CBO so we had a pre-established relationship and were able to walk the provider through setting up the services. This will not be true for all providers.

- **How does the availability of substance use disorder related supplemental benefits differ for beneficiaries based on contributing factors including: geography, affordability, accessibility, type of plan, etc.?**
    - In our experience, there are significant issues across the board, both in New York state and nationally. Supplemental benefits have not been shown to greatly increase access to SUD services for our clients. MA plans are still engaging in problematic behaviors such as approving one day of services at a time, approving one day and then issuing denials for any additional care, and removing MAT/other SUD drugs from their formularies. While the problems are widespread, we see heightened issues with rural beneficiaries who face unique barriers to care in general, including for SUD services. These challenges persist despite the significant benefits many individuals would gain from utilizing such services. We see several other themes arising: Providers who do not know to enroll in Medicare; Limited beneficiary awareness of coverage; Limited evidence base; Limited availability; and Limited coverage.

Challenges associated with Medicare Advantage plans, including special needs plans, offering supplemental benefits relating to coverage of items and services described above.

- **Are there resources/treatment options that are not federally approved as Medicare Advantage supplemental benefits that would be beneficial in the treatment or prevention of substance use disorders?**
  - We do not currently have any recommendations.

- **What is your organization's understanding of the challenges beneficiaries face regarding access to the following treatment categories? Please provide any recommendations for either mitigating these challenges or for regulatory changes. (See table below)**

Treatment Categories	Challenges	Mitigation Recommendations	Recommended Regulatory Changes
Medication-Assisted Treatment for opioid use	• Plans removing MAT drugs from formularies, requiring beneficiaries to move off the drug that works for them to a new drug that might not. This is counterproductive. • Lack of enrolled OTPs, which we would expect to become less of an issue as time passes	• Plans should be forbidden from dropping SUD treatment medications from their formularies during the plan year.	• Create a protected class including all SUD treatment drugs to ensure that substantially all of them must be covered.
Substance use disorder counseling	• Providers misunderstand coverage rules and guidelines, including how to appeal • Plans all use different scales for assessing if something is medically necessary	• Educate providers about coverage rules and how to appeal • Create standardized coverage guidelines for plans to follow	• Require plans to create training modules for providers • Require all plans to adapt the same clinical criteria for coverage
Peer recovery support services	We do not have direct experience but have been informed by other CHAMP organizations that services are not generally available to MA beneficiaries.	Unknown	Unknown
Other forms of SUD treatments (whether furnished in an inpatient or outpatient setting)	• Providers misunderstand coverage rules and guidelines, including how to appeal • Plans all use different scales for assessing if something is medically necessary	• Educate providers about coverage rules and how to appeal • Create standardized coverage guidelines for plans to follow	• Require plans to create training modules for providers • Require all plans to adapt the same clinical criteria for coverage
Non-opioid alternatives for the treatment of pain	• Many providers do not know to enroll in Medicare. • Limited beneficiary awareness of coverage • Limited evidence base • Limited availability • Limited coverage	Increase education and outreach to providers, professional organizations, and plans. Build information and evidence base about the efficacy of these treatments.	Require plans to do extensive outreach when initiating new supplemental benefits to ensure that beneficiaries and providers understand the rules, including beneficiary eligibility requirements and processes for provider enrollment into Medicare.
Prevention Services	Unknown	Unknown	Unknown
Telehealth	Both providers and beneficiaries have widespread confusion over Medicare coverage of telehealth in	Increase education and outreach to providers, beneficiaries, professional organizations, and plans.	Require plans to do extensive outreach when initiating new supplemental benefits to ensure that

	general and specifically mental health and SUD coverage. We have recently observed that this confusion has been heightened during theCOVID-19 crisis, generally due to the lack of clearly understandable about what the new flexibilities mean for people with Original Medicare, providers, and the program.		beneficiaries and providers understand the rules, including beneficiary eligibility requirements and processes for provider enrollment into Medicare. Develop beneficiary-specific materials that clearly explain the availability and coverage of Medicare telehealth services during the COVID-19 emergency. This includes the new flexibilities for telehealth visits as well as the services unchanged by recent legislation and waivers, for people with Original Medicare and MA. We also urge CMS to work with Congress to make permanent the waiver of geographic and site requirements for Medicare telehealth visits. We support further expanding the availability of these services by allowing beneficiaries who lack audio-video capabilities to participate via audio-only devices.

Potential ways to improve upon such coverage or to incentivize such plans to offer additional supplemental benefits relating to such coverage. The impact, if any, of increasing the applicable rebate percentage (for plans offering such benefits relating to such coverage) would have on the availability of such benefits under Medicare Advantage plans.

- **What recommendations (including policy or regulatory changes) would you suggest for incentivizing Medicare Advantage plans, including special needs plans, to offer additional coverage of substance use disorder related supplemental benefits?**
    - Plans may avoid offering and beneficiaries may avoid signing up for any supplemental benefits if they lack a clear picture of the ongoing affordability and feasibility of such benefits. Neither plans nor beneficiaries gain from supplemental benefits that are introduced and then dropped. Wider sharing of data around supplemental benefits would help plans and make good decisions. We support making this information publicly available.
    - In addition, more transparency around supplemental benefit availability would allow for better research and benefit design.
    - We urge CMS to conduct rigorous oversight over all plans offering supplemental benefits to ensure these are not merely benefits on paper, but have meaningful availability to eligible and interested beneficiaries.
    - Medicare Plan Finder should include in-depth, accurate, up-to-date information on supplemental benefits to help beneficiaries choose plans that meet their needs.

- **How can CMS help mitigate/remove any challenges to offering supplemental benefit coverage for substance use disorder treatments?**
    - We encourage CMS to adequately inform consumers and providers of the availability of Medicare coverage for supplemental benefits as well as the limitations of these plan offerings (e.g., may change from year to year, may not be available to all enrollees, may be limited in

scope). We also support enhanced plan reporting to allow CMS to verify that eligible beneficiaries are truly benefiting from these flexibilities.
    - Plan design may also hinder SUD benefit use. Unusually low beneficiary uptake of the benefits should be investigated.
    - Plans should be prohibited from dropping SUD treatment medications from their formularies during the plan year.
    - We urge CMS to formalize plan marketing guidelines with respect to these benefits. Clear rules are needed to prevent beneficiaries from joining plans that do not meet their needs.
    - Similarly, we urge CMS to reinstate beneficiary safeguards, such as the clear distinction between MA marketing and educational events. Beneficiaries must not be misled or confused into enrolling in a plan, even unintentionally.
    - In addition, we urge CMS to again make informational materials available to beneficiaries in multiple languages.
    - Within its authority, CMS should make permanent changes to telehealth access and increase provider reimbursement to ensure it is widely available. We urge CMS to work with Congress where additional authority is needed.
    - Where Medicare and Medicaid overlap regarding the provision of SUD services, beneficiaries may face obstacles to accessing care. We appreciate CMS's vigilance around this issue and urge continued rapid outreach or other responses to address issues when and if they arise.
    - CMS should closely monitor plans to ensure they are not engaging in discriminatory behavior, either in marketing plans or supplemental benefits or in providing access to benefits.

- **How can Congress help mitigate/remove any challenges to offering supplemental benefit for substance use disorder treatment?**
    - Ultimately, we would like to see all evidence-based SUD benefits as general Medicare benefits, which would provide the most opportunity for people with Medicare to access these needed services.
    - We support rigorous congressional oversight of the development, marketing, availability, and utilization of these benefits, including annual public reporting.
    - The COVID-19 crisis has spurred temporary changes to telehealth that should be made permanent, including waiving geographic restrictions and the need for originating sites apart from beneficiary homes. All telehealth services should also be available in audio-only formats for beneficiaries who lack access to video capabilities.