January 30, 2023

The Honorable Xavier Becerra Secretary of Health and Human Services
U.S. Department of Health and Human Services 200 Independence Ave., SW
Washington DC, 20201

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Notice of Benefit and Payment Parameters 2024

Dear Secretary Becerra Administrator Brooks-LaSure:

Aimed Alliance is a not-for-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. We appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) and Department of Health and Human Services (HHS) *Notice of Benefit and Payment Parameters for 2024* (NBPP), filing code CMS-9899-P.

I. Expanding Essential Community Providers to Include Mental Health Facilities and Substance Use Disorder Treatment Centers Will Ensure Individuals Can Access Life Saving Treatments and Care.

According to a recent survey, nine out of ten adults believe there is a mental health crisis in the United States, and for good reason.[1] Each year in the U.S., one in five adults experience a mental illness and one in six youth experience a mental health disorder.[2] In 2021, drug poisoning deaths reached record levels and suicide rates were also at near record levels.[3]

Some groups of individuals, such as those who live in poverty or are low-income, experience unique mental health stressors due to factors such as limited resources, poor housing, and inadequate school systems, all of which can contribute to poor mental health outcomes.[4] For many individuals living in rural or remote areas, access to mental health treatment can be

[1] Lunna Lopes, et al., *KFF/CNN Mental Health in America Survey*, https://www.kff.org/report-section/kff-cnn-mental-health-in-america-survey-findings/#:~:text=Half%20of%20all%20adults%20(51,visit%20(21%25)%2C%20experienced%20homelessness
[2] National Alliance of Mental Illness, *Mental Health By the Numbers*, https://www.nami.org/mhstats.
[3] CDC, *Drug Overdose Deaths in the United States, 2001-2021* https://www.cdc.gov/nchs/products/databriefs/db457.htm#:~:text=Drug%20overdose%20deaths%20have%20risen,increased%20from%2017.1%20to%2019.6.; CDC, *Suicide Increases in 2021 After Two Years of Decline*, https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/20220930.htm#:~:text=The%20rate%20of%20suicides%20per,in%20October%20(%2B11%25).
[4] Anxiety & Depression Association of America, *Low Income & its effects on mental health*, https://adaa.org/find-help/by-demographics/low-income.

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difficult because treatment centers and clinics are often located in or near urban areas.[5] Further, due to a lack of providers within networks, individuals often have to seek out-of-network care which increases their overall health care costs. As a result of such challenges, less than half of Americans with a mental health disorder receive proper treatment, and these outcomes decrease by nearly half for Black individuals with mental health conditions.[6]

Thus, it is essential that individuals living with a mental health disorder have access to affordable mental health care within a reasonable geographic location. Employers should also recognize the benefit of ensuring employees have access to mental health treatments given that untreated mental health conditions can impact workforce participation and productivity, with one report finding that individuals living with depression accounted for nearly $44 billion in lost productivity.[7]

In the NBPP, CMS has proposed to expand the essential community providers (ECPs) definition to include (1) mental health facilities; and (2) substance use disorder treatment centers. Under the Patient Protection and Affordable Care Act, ECPs are providers who offer care to low-income individuals, and individuals residing in areas with health professional shortages.[8] Currently, a qualified health plan must provide coverage of ECPs in six categories: Federally Qualified Health Centers, Ryan White Program Providers, Family Planning Providers, Indian Health Care Providers, Inpatient Hospitals; and other services such as TB clinics, STD clinics, hemophilia treatment centers, Black Lung Clinics, and other entities that serve predominantly low-income, and medically underserved individuals.[9] By expanding the six categories to include mental health facilities and substance use disorder treatment centers, more individuals will have access to affordable mental health services in health care deserts. Aimed Alliance strongly supports this expansion as it would increase the ability of individuals living with mental health conditions to access care.

II. Aimed Alliance Supports Door-to-Door Enrollment by Navigators and other Assisters.

Approximately eight percent of U.S. households have no cars,[10] and only 32.5 percent of households have at least one vehicle available for use.[11] At the same time, 45 percent of Americans do not have access to public transportation.[12] In addition, nearly 19 million

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[5] Megan Leonhardt, *What you need to know about the cost and accessibility of mental health care in America,* https://www.cnbc.com/2021/05/10/cost-and-accessibility-of-mental-health-care-in-america.html.
[6] *Id.*
[7] *Id.*
[8] 45 CFR § 156.235.
[9] *Id*.
[10] United States Census Bureau, *Why We Ask Questions About Vehicles Available,* https://www.census.gov/acs/www/about/why-we-ask-each-question/vehicles/.
[11] *Id*.
[12] Ana Maria Ferreira and Colleen E Wynn, *Invest in Infrastructure: People need access to public transit,* https://thehill.com/opinion/finance/593710-invest-in-infrastructure-people-need-access-to-public-

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Americans do not have access to fixed broadband services.[13] Individuals without access to adequate transportation and/or reliable internet can have difficultly enrolling in state and federal health plan exchanges. As such, door to door service can be beneficial to ensure eligible individuals are enrolled in affordable health care coverage.

Aimed Alliance supports the CMS and HHS' proposal to permit navigators and other assisters to conduct door-to-door enrollment, as it would increase access to health care for eligible individuals and advance health equity. Aimed Alliance also encourages CMS and HHS to be mindful of the importance of ensuring diverse representation amongst individuals engaged in door-to-door outreach and the benefits of community representation, as has been demonstrated within other health care settings.[14] Aimed Alliance also urges CMS and HHS to ensure any new programming requires training for, or inclusion of, individuals who are trained to assist individuals with disabilities, such as Deaf persons who may need sign language interpretation.

III. CMS Can and Should Take Immediate Action to Lower Consumer Health Care Costs

Aimed Alliance is disappointed that CMS and HHS have failed to immediately reduce consumers' annual out-of-pocket costs by prohibiting copay accumulators.

When patients cannot afford their medications due to high copays or costly co-insurance rates, they may rely on financial assistance, often referred to as copay assistance, from pharmaceutical manufacturers or other third parties to help meet their cost sharing responsibilities and fill their prescriptions. Typically, the contribution of this assistance should count towards meeting the individual's deductible and annual out-of-pocket maximum. These programs have been especially helpful for individuals who participate in high deductible health plans (HDHPs). HDHPs have high out-of-pocket costs until the deductible is reached. HDHPs are also becoming more common among employers, with one survey finding that the number of workers enrolled in HDHPs reached an all-time high of 55.7 percent in 2023.[15]

While copay assistance should help individuals with HDHPs, health insurers continue to implement copay accumulator programs that prohibit this third-party assistance from counting

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transit/#:~:text=About%2045%20percent%20of%20Americans%20have%20no%20access%20to%20public%20transit.

[13] Federal Communications Commission, *Eighth Broadband Progress Report*, https://www.fcc.gov/reports-research/reports/broadband-progress-reports/eighth-broadband-progress-report#:~:text=Notwithstanding%20this%20progress%2C%20the%20Report,lack%20access%20to%20this%20service..

[14] University of St. Augustine for Health Science, *Diversity in Healthcare and the Importance of Representation, https://www.usa.edu/blog/diversity-in-healthcare/#:~:text=It's%20critical%20that%20organizations%20commit,communities%2C%20and%20increase%20employee%20satisfaction.&text=It's%20also%20critical%20for%20colleges,empower%20students%2C%20and%20spread%20awareness..*

[15] Value Penguin, *Rate of Workers Enrolled in High-Deductible Health Plans Jumps for 8th Year in Row to Record 55.7%*, https://www.valuepenguin.com/high-deductible-health-plan-study#:~:text=Methodology-,Key%20findings,substantially%20from%2039.4%25%20in%202015.

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towards the individual's deductible and annual out-of-pocket limit. Under these copay accumulator programs; the health insurer essentially deprives the individual of the full benefit of copay assistance and reaps the benefit for itself. For individuals, this means that they will be required to pay more out-of-pocket before their deductible is met.

In the 2020 NBPP, HHS announced that copay accumulator reform would be left to the states. Since this decision, fifteen states plus Puerto Rico have enacted copay accumulator ban laws to prohibit health plans from excluding copay assistance from an individual's deductible requirement and annual out-of-pocket limit. However, 35 of the 50 states have yet to do so, leaving millions of people subject to these harmful policies. Therefore, Aimed Alliance will continue to encourage more states to introduce and adopt similar legislation in 2023.

Aimed Alliance is disappointed that the 2024 NBPP omits an opportunity to protect millions of consumers in states that have yet to enact copay accumulator reform laws. We encourage CMS to reconsider prohibiting copay accumulators in the final 2024 NBPP given the clear need for nationwide reform.

IV. Conclusion

Aimed Alliance supports the steps CMS and HHS have taken to protect and expand health care coverage and affordability for consumers. At the same time, we urge CMS and HHS to go further and prohibit harmful copay accumulator programs. This will ensure that all copay assistance made on behalf of a patient counts toward the patient's deductible and annual out-of-pocket maximum, and not merely enrich the health insurer.

Sincerely,

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Counsel

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