December 27, 2019

VIA ELECTRONIC SUBMISSION

Ms. Seema Verma, Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Re: Tennessee TennCare II Demonstration Amendment 42

Dear Administrator Verma:

On behalf of the undersigned organizations, thank you for the opportunity to submit comments on Tennessee's TennCare II Demonstration Amendment 42. All of the undersigned organizations are members of the Mental Health Liaison Group (MHLG) -- a coalition of national organizations representing people with mental health conditions, family members, mental health and addiction treatment providers, advocates, and other stakeholders. Together, we are and care for millions of Americans living with mental illness and substance use disorders and have unique perspectives on the important role that Medicaid plays in supporting health and wellbeing.

Access to coverage and care is essential for people with mental health conditions to successfully manage and get on a path of recovery. Medicaid is the lifeline for much of that care, as the nation's largest payer of behavioral health services,[1] providing health coverage to 27 percent of adults with a serious mental illness.[2] Medicaid delivers effective clinical and community-based supports to children and adults that allow people with mental illness and substance use disorders to be successful at work, at school and at home. Under Amendment 42, Tennessee proposes drastic changes to the way the TennCare program is financed and operated. Our organizations know, based on historical lessons, that changing the structure of TennCare to a block grant will jeopardize access to quality and affordable health care for Tennesseans with mental health and substance use disorders. Our organizations urge you to reject this demonstration amendment request.

Tennessee's plan would cap federal spending for currently eligible children, adults, and seniors with low incomes as well as those with disabilities. Dually eligible individuals who receive Medicare and services provided to those with intellectual disabilities under the 1915(c) waiver are excluded, but adults and children with mental health and substance use conditions are subject to the cap, despite the fact that they may have the same specialized and high needs reflected in the excluded populations and services.

The cap would be adjusted over time to reflect annual growth estimates rather than changes in costs, as is the case under current law. In exchange for accepting capped federal spending, the state requests exemption from several federal requirements central to the program. This would

mean that the state could make changes to the enrollment process, required and optional benefit coverage, and managed care rules without federal oversight. For example, Tennessee is asking to waive the "amount, duration, and scope" of benefits, which could allow the state to put caps on services or only cover critical services for certain individuals. Such broad authority to make these types of changes to critical benefits could be disastrous to people with mental health and substance use disorders who rely on critical Medicaid benefits to live in recovery.

We appreciate that the state indicates that "it is not its intent under this proposal to reduce covered benefits for members below their current level." However, it is not clear how the state's "intent" would be enforced when the state is requesting authority to make broad exemption requests. While it might not be the intent of this proposal to reduce covered benefits, the statement alone is not sufficient to ensure that current or future administrations will not make changes to benefits that could harm people with mental illness and substance use disorders.[3]

In the amendment, the state also proposes to create a closed formulary with as few as one drug per class limiting the availability of new, FDA-approved medications for beneficiaries. Limiting access will be detrimental to people with mental illness and substance use disorders. As has been the case for decades, there are unique challenges for drug development in major mental illnesses, and even after drugs are approved by the FDA, ensuring that individuals can appropriately access medications and get on a path of wellness can be a long journey. People with mental health conditions respond differently to the same drug based on a variety of factors – meaning that what works for one individual may not be effective for another. In addition, many of the medications used to treat mental health conditions have unwanted side effects and it is critical that people are able to make decisions about their medicine with their doctor. Beneficiaries should be able to access the medications that meet their unique needs and not be forced to take a particular drug because it is the only medication on a formulary. All beneficiaries should have the opportunity to access treatments that best meet their unique needs.

Our organizations also have questions and concerns with other elements of the proposal such as provider payment rates, adequacy of provider networks, and the request to use Medicaid funding for other public health initiatives. In addition, the state has a strong incentive to save money given its recuperation of a share of the savings, and the amendment vaguely points to outcomes that will be determined with the Centers for Medicare and Medicaid (CMS) later in the process. Given the lack of strong quality measures in mental health and addiction and the very clear financial incentives, this lack of accountability is deeply concerning.

In totality, this waiver has the potential to greatly undermine access to care for people with mental health and substance use disorders. The Medicaid statute requires that demonstration projects must further the objective of the Medicaid program which is to furnish health care to low-income and needy populations. This demonstration request does not further that goal. Our organizations strongly urge CMS to reject this request and instead focus on activities that will help improve the health and well-being of people with mental health and substance use disorders. Thank you for the opportunity to provide comments.

Sincerely,

1. American Art Therapy Association
2. American Association for Geriatric Psychiatry
3. American Association for Psychoanalysis in Clinical Social Work
4. American Association of Suicidology
5. American Association on Health and Disability
6. American Dance Therapy Association
7. American Foundation for Suicide Prevention/SPAN USA
8. American Mental Health Counselors Association
9. American Occupational Therapy Association
10. American Psychiatric Association
11. American Psychological Association
12. Anxiety and Depression Association of America
13. Association for Behavioral Health and Cognitive Therapies
14. Bazelon Center for Mental Health Law
15. Children and Adults with Attention-Deficit/Hyperactivity Disorder
16. Clinical Social Work Association
17. Depression and Bipolar Support Alliance
18. Eating Disorders Coalition for Research, Policy & Action
19. Global Alliance for Behavioral Health and Social Justice
20. International Certification & Reciprocity Consortium
21. The Jewish Federations of North America
22. The Kennedy Forum
23. Mental Health America
24. National Alliance on Mental Illness
25. National Alliance to Advance Adolescent Health
26. National Association for Children's Behavioral Health
27. National Association for Rural Mental Health
28. National Association of County Behavioral Health and Developmental Disability Directors
29. National Council for Behavioral Health
30. National Disability Rights Network
31. The National Register of Health Service Psychologists
32. Postpartum Support International
33. School Social Work Association of America
34. SMART Recovery

[1] Medicaid and CHIP Payment and Access Commission, "Behavioral Health in the Medicaid Program—People, Use, and Expenditures," June 2015, https://www.macpac.gov/publication/behavioral-health-in-the-medicaid-program%E2%80%95people-use-and-expenditures/.

[2] Rebecca Ahrnsbrak, Jonaki Bose, Sarra Hedden, Rachel N. Lipari, and Eunice Park-Lee, "Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health," Substance Abuse and Mental Health Services Administration, September 2017, https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.pdf.

[3] https://www.healthaffairs.org/do/10.1377/hblog20191205.927228/full/