Business Roundtable

Business Roundtable Supports Increased Access to Mental Health and Substance Use Disorder Services

Employers play an important role in providing mental health and substance use disorder coverage and care.

Employers are prioritizing mental health coverage for their employees. 90% of employers provide employee assistance programs for mental health services and 86% provide mental health coverage.[1]

Many employers proactively responded to increased mental health needs during the COVID-19 pandemic. The Kaiser Family Foundation's "2021 Employee Health Benefits Survey" found many employers made changes to their mental health coverage, expanded access to services and created new employee assistance programs to better serve employees struggling with mental health needs.[2] As many as 96% could offer tele-mental health services by the end of 2023.[3]

Business Roundtable believes more needs to be done to promote mental health and access to services and supports a three-pronged policy strategy.

1 Improve Screening for Mental Health and Substance Use Disorder Needs and Promote Measurement-Based Care.

Increase Access to Mental Health and Substance Use Disorder Screenings (MH/SUD).

Promote the use of standardized screening instruments and follow-up assessments at regular intervals following initial screening.

- Congress should continue to invest in mental health support, as established in bipartisan legislation like the CARES Act and the Safer Communities Act.
- Congress should build on these bills by authorizing additional funding to states, schools and employers for the purpose of enhancing mental health screening programs.
- This should include allowing grant dollars to be distributed to small- and medium-sized employers looking to improve mental health screening programs for their employees.

Increase Access to Measurement-Based Care.

Measurement-based care is the systematic evaluation of patient symptoms throughout the behavioral health treatment process. Patients are asked to complete a standardized assessment at every visit and this information is used by both patient and clinician to set goals, track progress and adjust treatment so that the patient's goals are met.

- Lawmakers should support funding for states to promote measurement-based care.
- Lawmakers should support funding for small practices to adopt the technology needed for measurement-based care.

2 Enhanced Collaboration Between Employers and the Federal Government Related to Mental Health Parity Requirements.

New Guidance Clarifying Mental Health Parity Compliance and Reporting.

- Business Roundtable calls on the Departments of Labor (DOL), Treasury and Health and Human Services (HHS) to issue additional guidance to group health plans and employers on how to comply with new mental health parity requirements.
- Background:
  - Federal mental health parity rules[4] state that financial requirements (such as coinsurance and copays) and treatment limitations (such as limitations on in-patient visits or prior authorization requirements) imposed on MH/SUD benefits by group health plans or employers cannot be more restrictive than the financial requirements and treatment limitations such health plans or employers place on medical/surgical benefits.
  - Group health plans and employers may not impose a non-quantitative treatment limitation (NQTL)[5] with respect to MH/SUD unless they perform a "comparative analysis." This shows that any processes, strategies, evidentiary standards or other factors used in applying the NQTL to MH/SUD benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards or other factors used in applying the limitation to medical/surgical benefits.
  - In 2021, Congress passed the Consolidated Appropriations Act, which created new documentation requirements related to these comparative analyses.[6]
  - The Biden administration and some in Congress have advocated for implementing civil monetary penalties for violations of mental health parity laws.
  - In April 2022, the Department of Labor (DOL) reported that none of the comparative analyses for NQTLs reviewed by DOL contained sufficient information upon initial receipt, indicating there is significant confusion among employers and insurers around requirements for comparative analyses.
  - Instead of authorizing new penalties for employers who are found to be non-compliant, the focus should be on providing further guidance to help employers comply with the law. In addition, clearer guidance would preserve plan resources for providing benefits.
- New guidance should include clarity around:
  - A core list of NQTLs that plans and issuers are expected to maintain and submit documentation for upon request.

  - A complete example NQTL comparative analysis that would meet the federal standards for each identified core NQTL.
  - Evaluation standards for NQTL reviews.
  - Defined uniformity between state and federal requirements.

Improve Collaboration Between Employers and the Federal Government Related to Mental Health Parity Requirements.

- Due to the complex nature of developing comparative analyses and the ever-developing evidentiary standards to support coverage of MH/SUD treatments and services, the federal government should establish a mechanism outside of the individual company compliance process for regular coordination and collaboration with group health plans and employers.
- Background:
  - Given the issues noted above, more regular communication outside of formal audit and reporting processes would provide stakeholders and DOL the opportunity to share best practices and relieve confusion and administrative burden on the government, group health plans and employers.

3 Increase Support for and Access to Behavioral Health Providers.

The Federal Government Should Extend Current Telehealth Policies that Allow Employers to Offer High-Deductible Health Plans (HDHPs) Paired with Health Savings Accounts (HSAs) to Cover Telehealth Services without a Deductible or Prior to the Deductible.

- In the CARES Act, Congress included temporary provisions permitting HDHP paired with health savings HSAs to cover telehealth and other remote services without a deductible or before the deductible has been met. This policy, along with other pandemic flexibilities, has empowered employers to increase access to health care services, including services for mental health and substance use disorders.
- This policy was extended as part of the Fiscal Year 2023 Omnibus and currently expires on January 1, 2025.
- Business Roundtable calls on Congress to permanently extend the policy to give employers certainty and ensure they have the flexibility to provide affordable mental health and substance use disorder services to their employees through telemedicine.
- Background:
  - Over half of U.S. counties have no psychiatrists. Even in areas with mental health providers, there are often not enough to meet the need — especially if patients must travel long distances to reach available providers.[7] Telemedicine increases access to mental health services and improves health equity by enabling patients in underserved areas or historically disadvantaged populations to connect with a mental health provider in a different geographic location.
  - 22% of firms that offer health benefits offer an HDHP/Health Reimbursement Arrangement, an HSA-qualified HDHP or both.

Broadly, Public Policies Can Sustainably Address Ongoing Workforce Shortage Issues, Expand Access to High-Quality Providers, Improve Health Equity and Ensure Patient Safety by Having the Federal Government:

- Offer incentives for providers, nurses and counselors to receive training in behavioral health care for children and adolescents, particularly in more care-intensive specialties like autism spectrum disorder.
- Expand the use and adoption of the Collaborative Care Model to integrate MH/SUD services into primary care and other evidence-based integrated care models.
- Expand training in measurement-based care and other evidence-based care delivery models.

- Expand support for wraparound community services and mobile crisis centers to fill gaps in care, particularly in rural areas.
- Permanently allow behavioral health providers to practice across state lines and behavioral health providers with a medical license and accreditation to practice virtually, with guardrails to ensure quality and safety.
- Expand support for workforce initiatives, particularly those efforts focused on expanding access to culturally and linguistically competent providers and improving access in underserved areas of the country.
- Enhance underrepresented minority representation in behavioral health education and training programs to improve access to behavioral health care for minority and underserved groups.
- Expand eligibility for federal financial aid to students pursuing certificate and/or industry-recognized certification programs.
- Modernize our immigration system to recruit and retain top talent, especially in industries experiencing critical workforce shortages and in underserved geographical areas.
- Streamline and simplify state provider licensing processes and reduce the variability practice law scopes, allowing non-physicians to practice at the top of their licenses and drive integration of care teams.
- Promote interoperability/exchange of mental health assessment/outcomes data.
- Encourage the Drug Enforcement Administration (DEA) and Department of Health and Human Services to make permanent the policy that allows DEA-registered practitioners to prescribe controlled substances to patients without an in-person interaction.

1. *Employers Enhance Emotional and Mental Health Benefits for 2020 (shrm.org)*
2. *2021 Employer Health Benefits Survey | KFF*
3. *Large U.S. Employers Accelerating Adoption of Virtual Care, Mental Health Services for 2021, Business Group on Health Survey Finds | Business Group on Health (businessgrouphealth.org)*
4. See generally *FAQs-Part-45 (cms.gov)* for additional details.
5. For a list of examples of NQTLs, see *https://nqtls.com/nqtl-examples-non-quantitative-treatment-limitations/*
6. See generally *FAQs-Part-45 (cms.gov)* for additional details.
7. *Telehealth | NAMI: National Alliance on Mental Illness*