



## Behavioral Healthcare Providers should Monitor Potential Opportunities under the Health Reform Act

CLIENT ADVISORY

Less than two years after the Mental Health Parity and Addiction Equity Act of 2008 (the “MHPAEA”) was signed into law, behavioral healthcare concerns continued to gain momentum and Congressional attention in the recent healthcare overhaul. The behavioral healthcare industry has long been plagued by social stigma, lack of adequate coverage, lack of coordination of care, and workforce shortages. Congress recognized and attempted to address these burdens in The Patient Protection and Affordable Care Act and The Healthcare Education and Reconciliation Act of 2010 (collectively, the “Health Reform Act”) through increased coverage of mental illness and substance abuse treatment, grant programs designed to improve the quality and coordination of behavioral healthcare, and workforce incentives. Although we are still waiting for guidance on the specifics of the newly mandated programs, behavioral health providers should monitor future regulatory developments for opportunities to access additional funding and enhance the quality of their services.

### **I. Expanded Coverage for behavioral health and substance abuse services under the Health Reform Act will result in increased patient volumes for behavioral health providers.**

Financial barriers have long prevented many people from accessing necessary treatment for mental illness or substance abuse problems. Behavioral health providers are already experiencing growth in

patient volumes due to the policy changes implemented under the MHPAEA. Patient volumes are expected to continue to grow as insurance coverage expansion provisions of the Health Reform Act are implemented.

For example, the Health Reform Act generally prohibits group health plans and health insurance issuers offering group or individual health insurance coverage from imposing any preexisting condition exclusions with respect to the plan or coverage. They are also prohibited from discriminating against participants or beneficiaries based on health status or a medical condition (including both physician and mental illnesses). Although these provisions do not go into effect immediately, the Health Reform Act mandates an immediate high-risk insurance pool to temporarily cover individuals with pre-existing conditions. Under the Health Reform Act, the exchange policies and insurance plans in the individual and small group market must cover “essential health benefits,” which include mental health and substance use disorder services. The Health Reform Act also expands Medicaid to include additional individuals who previously “slipped through the cracks,” because they could not afford private insurance coverage and were ineligible for participation in the Medicaid program. These provisions of the Health Reform Act will certainly enhance access to treatment for many Americans who suffer from mental health and substance abuse problems.



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## **II. The Health Reform Act mandates the development of programs, which may improve the quality and coordination of care provided to behavioral health patients.**

Due to the fragmented healthcare delivery system and lack of coordinated care, behavioral health providers face unique challenges in providing quality care to their patients. In response to these quality concerns, the Health Reform Act mandates the development of the following programs specifically designed to assist behavioral health providers and other industry stakeholders in tackling issues associated with coordination and quality of care in behavioral health services.

- **“Health Home” Services.** The Health Reform Act authorizes state Medicaid programs to establish payments to designated healthcare providers and/or teams of health care professionals and providers for the provision of “health home” services to eligible individuals with chronic conditions, including mental health conditions. “Health home” services include comprehensive care management, care coordination and health promotion, transitional care (e.g., appropriate follow-up from inpatient to other settings), referral to community and social support services, and use of health information technology to link services when appropriate. Behavioral health providers should monitor whether their state Medicaid programs elect the “health home” option, and whether there are any opportunities to participate as a “health home” provider.
- **Co-Locating Primary and Specialty Care.** The Health Reform Act authorizes grant funding to qualified community mental health programs under the Public Health Services Act to establish demonstration projects for the provision of coordinated and integrated services to adults with mental illnesses who

have co-occurring primary care conditions and chronic diseases. Such coordination of care must be accomplished through the co-location of primary and specialty care services in community-based mental and behavioral health settings.

- **Medicaid Emergency Psychiatric Demonstration Project.** The Health Reform Act appropriates \$75,000,000 in FY2011 for the creation of a 3-year Medicaid demonstration project focused on improving emergency mental health stabilization services. Currently, Medicaid does not cover inpatient psychiatric services provided to individuals ages 21 to 64 years in institutions for mental diseases (“IMDs”). Under the demonstration project, Medicaid reimbursement will be made available for stabilization care provided by IMDs that are not publicly owned or operated to individuals ages 21 to 64 years with emergency medical conditions. For purposes of the demonstration project, individuals are considered to have emergency medical conditions if they express suicidal or homicidal thoughts or gestures and are determined dangerous to self or others. To participate in the demonstration projects, states have to submit an application to the Secretary of Health and Human Services (the “Secretary”). If providers are interested in the demonstration project, they should urge their state Medicaid programs to submit an application.
- **Services to Individuals with Postpartum Depression.** The Health Reform Act allows the Secretary to establish a program, under which grants will be available to eligible entities for projects for “the establishment, operation, and coordination of effective and cost-efficient systems for the delivery of essential services” to individuals with or at risk for postpartum depression or psychosis. Entities eligible for this



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grant program include, but are not limited to, public or nonprofit hospitals, community-based organizations, ambulatory care facilities, and community health centers.

Other programs mandated by the Health Reform Act, but not specific to behavioral health services, may also benefit the behavioral health community. As more detailed regulatory guidance is published for the following programs, behavioral health providers should read the guidance closely for hidden opportunities.

- **Medication Management Services for Targeted Patient Populations.**

Under the Health Reform Act, the Secretary is required to establish a program to provide grants or contracts to eligible entities to implement medication management services provided by licensed pharmacists, as a collaborative, multidisciplinary, interprofessional approach to the treatment of chronic diseases for targeted patient populations. Targeted patients include individuals who take four or more prescribed medications (including over-the-counter medications and dietary supplements), take high risk medications, have two or more chronic diseases, or are likely to be at high risk for medication-related problems. Many behavioral health patients fall within one or more of these categories. The grant money can be used to develop treatment plans, monitor patients' medication use, document the treatment process, and educate and train providers and patients on the appropriate use of medications.

- **Community-Based Care Transitions Program.**

Recognizing the need to improve a patient's coordination of care throughout the currently fragmented healthcare delivery system, the Health Reform Act requires the Secretary to establish

a program, in which funding will be provided to eligible entities that furnish improved care transition services to high-risk Medicare beneficiaries, including certain beneficiaries with a diagnosis of depression. For example, care transition services may include initiating care transition services for a high-risk Medicare beneficiary at least 24 hours before discharge, arranging timely follow-up services following discharge, offering comprehensive medication review/management services to the Medicare beneficiary, and providing beneficiaries with assistance in arranging services with post-acute providers. Certain hospitals with high re-admission rates and community based organizations will be eligible for participation in the community-based care transition program. The program will be conducted for 5 years beginning on January 1, 2011. Priority for participation in the program will be given to eligible applicants who provide services to medically underserved populations, rural areas and small communities.

### **III. The Health Reform Act attempts to address behavioral health providers' workforce shortage concerns.**

With the increased attention and funding given to behavioral health services, there will inevitably be an increased number of patients seeking treatment. Increased patient volumes will strain the delivery system due to the lack of sufficiently trained behavioral health providers, especially in smaller communities and rural areas. The Health Reform Act attempts to alleviate the strain by offering grants to institutions of higher learning to aid in the recruitment of students and faculty in behavioral health fields such as social work, mental health, and substance abuse prevention and treatment. The Health Reform Act creates a loan repayment assistance program for behavioral



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healthcare providers specializing in child and adolescent mental health who agree to work in medically underserved populations. By encouraging more students to enroll in behavioral health education programs, and more behavioral health professionals to work in under-served areas, the Health Reform Act attempts to solve workforce shortages that will be exacerbated as healthcare reform becomes fully implemented.

#### **IV. The Health Reform Act focuses on enhancing community resources to address awareness and prevention of behavioral health problems.**

Too often, mental illnesses and substance abuse go unrecognized or untreated. Not only do behavioral health problems compound with non-treatment, but untreated behavioral health problems have a detrimental impact on the overall community. The Health Reform Act encourages research, education, prevention and intervention programs in an attempt to stop the cyclical nature of mental illness and substance addiction within families and their communities.

- **Community Transformation Grants.** The Health Reform Act establishes “community transformation grants,” which supply funding to local or state governmental agencies, national networks of community-based organizations, and state or local non-profit organizations to implement community preventative health activities designed to reduce chronic disease. The grants are designed to support programs that are likely to increase awareness and prevention of behavioral health problems. For example, the Health Reform Act authorizes the award of grants to programs aimed at improving children’s emotional and physical health through their educational environment. Grants will also be available to plans with an emphasis on improving physical and emotional wellness in adults

through workforce programs, strategic efforts to reduce racial and ethnic disparities, and increased care for those with disabilities and special needs.

- **Healthy Aging, Living Well Pilot Program.** State and local health departments may also apply for grant money to participate in a five year pilot program to provide public health intervention and screening for individuals between 55 and 64 years of age. Qualified health departments will develop community-based health intervention projects designed to reduce substance abuse in the community and improve the mental health of targeted individuals. The grant money may also be used to screen and monitor individuals for mental health or substance abuse disorders.
- **Centers of Excellence for Depression.** The Health Reform Act provides for grant funding to institutions of higher education and nonprofit research institutions to engage in activities related to the treatment of depressive disorders. The Centers of Excellence for Depression will be expected to research and develop evidence-based interventions for depression, provide training and assistance to mental health professionals and provide education about depressive disorders to the public in an effort to reduce stigma and raise awareness of treatments.

#### **V. Conclusion**

While it is still unclear how effective the implementation of healthcare reform will be, the legislation contains some positive provisions for behavioral healthcare providers and advocates. Through increased coverage and the inclusion of mental health services as an “essential health benefit,” more individuals will be able to seek the behavioral health treatment that they need. This increased demand, coupled



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with federal grant money for demonstration projects and programs to increase the quality and coordination of behavioral health services, will offer behavioral health providers more opportunities to deliver effective care to patients.

demonstrations projects, please contact Emily Towey at 804.967.9604 or by email at [etowey@hdjn.com](mailto:etowey@hdjn.com). Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at [www.hdjn.com](http://www.hdjn.com).

For more information about the impact of healthcare reform on behavioral health providers, or for details about eligibility for federal grants and

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