

United States Senate

WASHINGTON, DC 20510-4606

October 3, 2022

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

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Ellen Montz, PhD
Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Becerra, Administrator Brooks-LaSure, and Deputy Administrator Montz:

We thank you for your continued partnership in establishing and extending telehealth flexibilities to ensure Americans have access to vital health care services and supports over the course of the COVID-19 pandemic. As we begin to envision health care policies post-pandemic, we remain concerned telehealth services will be significantly pared back, hindering access to care for millions of Americans—especially those with behavioral health conditions.

According to federal statute, it is incumbent upon the Secretary to periodically review insurance plan Essential Health Benefits (EHBs) and provide a public report to Congress that contains 1) an assessment of whether enrollees are facing difficulty accessing needed services for reasons of coverage or costs; 2) an assessment of whether plan benefits need to be modified or updated to account for changes in medical evidence or scientific advancement; 3) information on how plan benefits will be modified to address any such gaps or changes in the evidence base; and 4) an assessment of potential of additional or expanded benefits to increase costs and the interactions between the addition of benefits and reductions in existing benefits.¹

We believe after 12 years of the ACA it is important that EHBs be formally reviewed and the mandated report be issued to the public and Congress, especially as your Administration is committed to maintaining and further strengthening the law's protections. We urge you to undertake such a review and report, and in addition we urge you to ensure that visit modality is not one of the "reasons of coverage" for which "enrollees are facing difficulty accessing needed services."

¹ 42 USC § 18022(b)(4)(G)

We have heard from constituents who have concerns that coverage will start to vary based upon visit modality. For some specialized, complicated care—eating disorders, for example—it has always been challenging getting the most appropriate treatment covered, whether that’s because of parity or network issues. We are concerned that modality will become one additional way barriers to treatment will be enacted, if arbitrary in-person requirements become one more way care is denied or delayed.

The Department addressed a delay in completing such a report to Congress in its 2019 Notice of Benefit and Payment Parameter Final Rule, citing the need for further insurance market stabilization that the final rule would provide.² Although we understand the difficulty of reviewing the markets as they continue to evolve, it is for that reason critical that the Administration review and report on EHBs so that we have an understanding of whether they continue to be adequate in an ever-evolving health care ecosystem. The health care system will not be the same after the COVID-19 pandemic, and this is an opportunity to renew our commitment to comprehensive, affordable and accessible health care coverage. We respectfully request this report be conducted and issued to Congress to inform future health policy to better serve Americans.

Thank you for your consideration, and we look forward to continuing to work with you on this very important issue.

Sincerely,



Mark R. Warner
United States Senator



Tina Smith
United States Senator



Amy Klobuchar
United States Senator



Tammy Baldwin
United States Senator

² Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019 Final Rule; 83 Fed Reg. 17011 (April 17, 2018). Retrieved from <https://www.govinfo.gov/content/pkg/FR-2018-04-17/pdf/2018-07355.pdf>.



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