ACAP
Association for Community Affiliated Plans

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John Lovelace, Chairman | Margaret A. Murray, Chief Executive Officer

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The Honorable Orrin Hatch
Chairman, Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Sent Electronically

Chairman Hatch and Senator Wyden:

On behalf of the Association for Community Affiliated Plans (ACAP) and our 61 member plans serving more than 20 million Americans in Medicaid, Medicare, CHIP and the health insurance exchanges, we are honored to offer our perspective and legislative recommendations to address America's opioid and substance abuse epidemic.

In summary, ACAP:

- ***Urges Congress to require reporting of a core set of measure for adults across all Medicaid delivery systems, which include measures related to SUD and OUD, by enacting the Medicaid and CHIP Quality Improvement Act (H.R.2843/S.1317); and***

- ***Encourages collaborative development of additional valid, reliable, and actionable measures of appropriate opioid prescribing, aligned across various programs.***

- ***Urges Congress to reduce "churn" that undermines the effectiveness of substance abuse treatment regiments and patient monitoring by enacting the Stabilize Medicaid and CHIP Coverage Act (H.R. 2628/S. 1227) to provide 12-month continuous eligibility for Medicaid beneficiaries.***

- ***Encourages Congress to enact S. 1850, the Protecting Jessica Grubb's Legacy Act, and H.R. 3545, the Overdose Prevention and Patient Safety Act, both bipartisan bills that would align rules governing SUD treatment records with HIPAA***

- ***Recommends that public and private-sector leaders commit to working together to encourage prescribing of Medication-Assisted Therapy (MAT), while developing new safeguards to promote appropriate, evidence-based treatment, particularly with respect to providers who only accept payment in cash for their services.***

- ***Urges Congress to add MAT to the list of essential health benefits requiring coverage by QHPs.***

- ***Requests permission be granted for Medicaid health plans to access state PDMP data for their membership in order to identify a larger proportion of patients in need of prescription***

drug abuse intervention and to initiate timely, effective outreach.

- ***Recommends requiring all prescribing providers, including emergency rooms, to fully utilize PDMPs.***

- ***Recommends that when beneficiaries enrolled in a pharmacy or prescriber lock-in program change health plans, State Medicaid agencies should inform the new health plan on a timely basis of the individual's lock-in status.***

America is confronting a widespread opioid and substance abuse epidemic that has taken the lives of countless individuals over the past decade and devastated millions of families from every walk of life. On average, 115 Americans overdose from opioids each and every day. Collectively, our nation must seek ways to understand, prevent, and treat substance use disorders (SUD) to stem the tide of this epidemic.

Medicaid covers nearly 80 million Americans; many people who need treatment for substance abuse can only access it through Medicaid coverage. Maintaining the current Federal/state partnership in Medicaid funding and protecting the state option to expand Medicaid is critical to our country's response to this epidemic.

Safety Net Health Plans (SNHP) serve 20 million Americans, primarily through the Medicaid program. As such, they are uniquely situated to provide high-value care coordination for individuals in need of treatment for substance abuse disorders. Treatment is a key component of addressing the opioid crisis. Access to coverage and comprehensive, integrated physical and behavioral health care is proving essential to addressing the needs of those suffering from mental illness, SUD, or both, as cost is one of the key barriers to treatment. Curtailment of coverage – including coverage in Medicaid and the Medicaid expansion – would have an adverse impact on access to treatment.

ACAP Plan Efforts to Address the Opioid Epidemic

States and the Federal government have turned to managed care organizations (MCOs) to provide coordinated, integrated care for people who rely on publicly-sponsored health coverage programs such as Medicaid. These MCOs assess member needs, identify treatment gaps, engage members, encourage medication adherence, develop individualized care plans, and coordinate care. These programs are particularly important to facilitate integrated physical and behavioral health care and social services for enrollees SUD.

Collectively, ACAP Safety Net Health Plans have a track record of implementing programs and policies that improve health care and patient safety for individuals with substance use disorder. For example, with implementation of their "Managing Pain Safely: Multiple Interventions to Dramatically Reduce Opioid Abuse" initiative, Partnership HealthPlan of California reported a 75 percent decrease in unsafe opioid doses, a 66 percent decrease in the number of members with opioid prescriptions, and a 74 percent decrease in prescription opioid escalations between January 2014 and November 2016. Recognizing the benefits of improved integration of physical and behavioral services, including the integration of mental health and SUD services, Neighborhood Health Plan of RI has instituted weekly, co-managed care rounds. Through the co-managed care rounds, medical and behavioral health providers jointly review the cases of select complex members and work to develop a member engagement strategy and care plan.

The efforts of ACAP health plans are further detailed in two reports, available at https://www.communityplans.net/research/responding-to-the-prescription-opioid-crisis/

ACAP Policy Recommendations Related to the Opioid Epidemic

1. ***Medicaid Quality Measures Can Assess the Impact on Opioid Use in Medicaid, but are not required to be reported by the states.*** In 2010, Congress required the development of a set of Adult Core Quality measurements in Medicaid. These measures are intended to provide federal and state policymakers with an assessment of the quality of care being provided to adults in this program. However, this measurement program is dramatically underperforming because states are not currently required to report these measures.

   ACAP urges Congress to build on our plans expertise by improving Medicaid quality reporting. Building on the work done for Medicaid and CHIP quality reporting for children included in the **recently passed *Bipartisan Budget Act (H.R.1892)*, ACAP calls on Congress to require a nationwide system of Medicaid quality measurement, reporting, and improvement in Medicaid for adults that either patterns that of H.R.1892 or integrates existing legislation currently introduced in the House and Senate. (H.R.2823/S,1317, *the Medicaid and CHIP Quality Improvement Act*).**

   ACAP specifically recommends that these measures should be compared across all delivery systems, including fee-for-service, managed care, and primary care case management systems.[1] This is particularly important to determine whether and to what extent a state's choice of benefits delivery system impacts the access to and management of pain medication, including opioids. We note that the existing measures included in the Medicaid Adult Core Quality measurement set currently used by CMS includes several measures that are specifically related to opioids and SUD, including:

   - Initiation and Engagement of Alcohol and Other Drug Abuse or Dependence Treatment
   - Concurrent Use of Opioids and Benzodiazepines
   - Follow-Up After Emergency Department Visit for Mental Illness or Alcohol and Other Drug Abuse or Dependence
   - Use of Opioids at High Dosage in Persons Without Cancer

   It should be noted that while CMS has developed these measurements, state Medicaid programs are not currently required to report on these measurements – meaning that federal and state policymakers have no knowledge either of the extent of the issues across the

[1]It should be noted that states contracting with Medicaid managed care organizations (MCO) must provide comparative information on quality and performance indicators for the benefits offered by the MCO. Similar requirements do not exist for other benefits delivery systems.

country or whether current states have implemented policies that are particularly effective in addressing opioid abuse. ACAP urges Congress to rectify this issue.

ACAP Recommendation

- ***ACAP urges Congress to require reporting of a core set of measure for adults across all Medicaid delivery systems, which include measures related to SUD and OUD, by enacting the Medicaid and CHIP Quality Improvement Act (H.R.2843/S.1317); and***

- ***Collaboratively develop additional valid, reliable, and actionable measures of appropriate opioid prescribing, aligned across various programs.***

2. ***ACAP urges Congress to enact legislation to require 12-month continuous eligibility for adults and children in Medicaid and CHIP to ensure consistent access to SUD treatment.*** Medicaid enrollees are often inappropriately disenrolled and reenrolled in the program owing to bureaucratic burdens, paperwork complexities or minor fluctuations in income. "Churning" leaves many Medicaid- and CHIP-eligible Americans uninsured, forcing them to delay needed health care and often in poorer health than had they remained continuously covered. Always a challenge in Medicaid and CHIP, eligibility churn becomes a crisis when people in need of SUD or OUD treatment lose coverage, and therefore lose their access to this critical care.

   A 2015 analysis of continuity of coverage in Medicaid by George Washington University found the average adult to be enrolled in Medicaid for only 9½ months of the year; children are enrolled for an average of 10 months. Churn also creates costly, unneeded administrative burdens for providers and health plans, and disrupts providers' and plans' care regimens – including treatment for SUD – for patients. A 2012 GAO study found that people with health coverage for only part of the year were nearly twice as likely to have problems obtaining needed care than those who had coverage throughout the year. With respect to the impact of churn and opioid treatment, a 2017 paper from the Institute for Medicaid Innovation states,

   > *"…additional efforts are needed to slow the rate of opioid misuse and overdose deaths in pregnant and postpartum women enrolled in the Medicaid program. Additionally, issues regarding churn in this population need to be addressed. Churn is defined as fluctuations in sources of eligibility (between Medicaid and private insurance) as individuals experience income-related changes. Churn leads to disruptions in care, making it difficult for Medicaid managed care plans to provide care coordination and case management when they are unable to retain Medicaid enrollees for extended periods of time.51 This problem is especially true for Medicaid eligible pregnant women misusing opioids who become eligible as a result of two different eligibility pathways: pregnancy (i.e., single episode of care) and income."*

   In short, it is impossible to truly address the opioid and substance abuse treatment among the Medicaid population without addressing the issue of churn.

ACAP Recommendation

ACAP urges Congress to reduce "churn" that undermines the effectiveness of substance abuse treatment regiments and patient monitoring by enacting the Stabilize Medicaid and CHIP Coverage Act (H.R. 2628/S. 1227) to provide 12-month continuous eligibility for Medicaid beneficiaries.

3. ***Congress should modernize outdated federal regulations that predate current models of care and create significant barriers to care for people with SUD.*** Requirements at 42 CFR Part 2 are excessively burdensome in a coordinated-care setting because it proves impractical to secure separate consent and have the effect of undermining the delivery of health plan services.

   While SAMHSA's recently published final rules did make some changes to the consent requirements, those changes did not go far enough. ACAP strongly supports movement to align 42 CFR Part 2 with the HIPAA standard with additional protections if necessary. As we all know, HIPAA did not exist when 42 CFR Part 2 became effective, but it has now become the well-tested standard for privacy of health information.

   We support necessary enhancements, if needed, to ensure clear prohibitions when dealing with information related to substance abuse treatment. For example, we support prohibition on sharing of SUD treatment records for criminal justice, or any purpose not related to health care treatment, care coordination, and operations.

   We understand from the preamble to the final rule that SAMHSA questions whether the agency has the statutory authority to align with HIPAA standards for information concerning drug treatment. ACAP strongly supports any needed statutory changes to put the issue of appropriate authority to rest. Surely, Congress' did not intend to make it harder for a health plan to provide care management and coordinate services for people with SUD than for those with other chronic conditions.

   ACAP Recommendation

   ACAP encourages Congress to enect S. 1850, the Protecting Jessica Grubb's Legacy Act, and H.R. 3545, the Overdose Prevention and Patient Safety Act, both bipartisan bills that would align rules governing SUD treatment records with HIPAA. ACAP recognizes that this legislative recommendation falls outside of the Finance Committee's jurisdiction, but urges the Committee to work with HELP given the policy impact on programs under Finance Committee's oversight.

4. ***Congress should develop incentives to encourage prescribing of Medication-Assisted Therapy (MAT), while also developing safeguards to promote appropriate, evidence-based treatment.*** Treatment incorporating MAT and use of buprenorphine or naltrexone are viewed as appropriate and necessary components of treatment strategies, but plans have expressed concerns about access to these services for members that are beyond their control. There are

known shortages of providers who are certified to offer these treatments. While the federal government has taken some steps to increase the number of MAT providers and the number of individuals they may treat, policymakers should do more to increase access to MAT services such as developing incentives for physicians, including primary care providers, to become certified to provide MAT.

Medicaid health plans continue to seek ways to promote legal, safe, and evidence-based use of Suboxone to treat addiction. However, the shortage of MAT prescribers contributes to a second issue: some Buprenorphine prescribers will only see patients on a cash basis. This does not necessarily mean that inappropriate prescribing is occurring, but it poses access challenges to people with low incomes. In addition, when members pay in cash, no claims are submitted to the health plan and plans have no way to know whether and when these services are rendered. This can create challenges for plans because SUD delivery system reform efforts, including quality evaluation, are dependent on the availability of accurate and comprehensive data.

ACAP Recommendation

ACAP recommends that public and private-sector leaders commit to working together to encourage prescribing of Medication-Assisted Therapy (MAT), while developing new safeguards to promote appropriate, evidence-based treatment, particularly with respect to providers who only accept payment in cash for their services.

5. ***Unique among health plan associations, ACAP has asked both Congress and the Administration to make MAT available in Marketplace coverage plan requirements.*** Opioid abuse wreaks havoc on American families and communities, diverts valuable health care resources, and increases the costs on taxpayers for everything from law enforcement to treatment. Although plans are required to cover mental health and substance use disorder services generally as part of their essential health benefits (EHB) package, they are not required to provide coverage for Medication-Assisted Treatment (MAT). SNHPs recognize the important role MAT plays for individuals struggling with opioid abuse and has encouraged CMS to make MAT a required covered service under EHB rules.

ACAP Recommendation

ACAP urges Congress to add MAT to the list of essential health benefits requiring coverage by QHPs.

6. ***Congress should improve coordination between Medicaid and Prescription Drug Monitoring Programs.*** Prescription Drug Monitoring Programs (PDMPs) are electronic databases that track patients, prescribers, and prescriptions associated with all controlled substances dispensed in a state. All states now operate PDMPs. These databases enable providers, professional licensing boards, and law enforcement officials to identify individuals involved in suspected abuse and illegal diversion of

controlled substances and can help identify patients who would benefit from early intervention and treatment.

In many states, health plans are not permitted to access PDMP data. Health plans' pharmacy databases do not include information about controlled substance prescriptions not reimbursed through members' pharmacy benefits, such as those covered by State Medicaid programs under prescription drug carve-out arrangements or those purchased with cash. Without complete data on members' prescriptions for controlled substances, Medicaid health plans are unable to identify many people who could benefit from SUD treatment and counseling. In addition, in many states, the use of the PDMP is voluntary. This means providers and patients are not obtaining the full benefits of a PDMP.

ACAP Recommends

- ***Permitting Medicaid health plans to access state PDMP data for their membership in order to identify a larger proportion of patients in need of prescription drug abuse intervention and to initiate timely, effective outreach***.

- ***Requiring all prescribing providers, including emergency rooms, to fully utilize PDMPs.***

7. ***ACAP recommends better sharing of lock-in information when a member is enrolled in managed care or changes health plans.*** Almost all states use some form of Medicaid lock-in programs to reduce prescription drug abuse among beneficiaries. Lock-in programs identify beneficiaries with drug-seeking behavior (*i.e.*, visiting multiple pharmacies, physicians, or emergency rooms to access numerous prescriptions) and limit them to a single pharmacy and/or prescriber for all medications. Any prescriptions that beneficiaries seek outside of the designated pharmacies or prescribers are denied. Practitioners designated for prescriber lock-in programs typically are pain management specialists or primary care physicians. In some cases, lock-in programs include support services for beneficiaries to help with needs such as housing, transportation, or food, as well as information for prescribers to facilitate care coordination.

   However, in some State Medicaid managed care programs, when beneficiaries enrolled in lock-in programs are initially enrolled in managed care or change health plans, Medicaid agencies do not inform the new health plan of patients' lock-in status. As a result, questionable drug utilization behavior may resume—at least until the beneficiary is again identified for lock-in.

   ACAP Recommendation

   ACAP recommends that when beneficiaries enrolled in a pharmacy or prescriber lock-in program change health plans, State Medicaid agencies should inform the new health plan on a timely basis of the individual's lock-in status.

ACAP has always promoted the need for strong adherence to statutory and regulatory guidelines regarding rate setting. Our policy recommendations include inclusion of health care services and processes that will enhance our nation's response to the SUD epidemic. Inherent in these recommendations is an underlying need for states to follow – and the federal government to provide strong oversight – of actuarial soundness standards when setting rates for Medicaid health plans.

As always, ACAP stands prepared to engage in constructive dialogue to help our nation's policymakers address the pressing health care issues facing America. Certainly, there is little doubt that the scourge of substance abuse is at the top of that list and we look forward to working with you on this vital issue.

Sincerely,

/s/

Margaret A. Murray
Chief Executive Officer

cc: Members, Senate Finance Committee
The Honorable Lamar Alexander, Chairman, Senate HELP Committee
The Honorable Patty Murray, Ranking Member, Senate HELP Committee
The Honorable Greg Walden, Chairman, House Energy and Commerce Committee
The Honorable Frank Pallone, Ranking Member, House Energy and Commerce Committee
The Honorable Kevin Brady, Chairman, House Ways and Means Committee
The Honorable Richard Neal, Ranking Member, House Ways and Means Committee