

**Access to mental health and substance use services (MHSU) is critical for people living with HIV and those at risk of HIV.** Numerous studies have shown that behavioral health treatment can support better treatment adherence for people living with HIV,<sup>1,2</sup> which not only improves their individual health, but also reduces the risk that they can transmit the virus to others.<sup>3</sup>

**The Affordable Care Act (ACA) made MHSU services an essential health benefit.** Required by the ACA (also known as Obamacare), essential health benefits (EHBs) include a set of 10 categories of health services that insurance plans must cover, with specific coverage determined by each state.<sup>4</sup> To set California's specific standards for EHBs, the state identified a benchmark insurance plan that already offered these kinds of services.

#### California EHB Benchmark Plan: Coverage related to mental health and substance use services

- Mental/behavioral health outpatient services, e.g., diagnosis and treatment
- Psychiatric hospitalization and intensive in-patient psychiatric treatment programs
- Substance abuse disorder outpatient services, e.g., day-treatment, intensive outpatient programs, individual and group counseling, medical treatment for withdrawal symptoms, and transitional residential recovery services
- Inpatient detoxification services

Note: While not specifically under the MHSU category, the EHB mandate for prescription drug coverage also covers medications for behavioral health conditions.

Source: Centers for Medicare and Medicaid Services. California EHB Benchmark Plan

**As federal lawmakers consider a “repeal and replace” plan for the ACA, the future role of the EHBs is uncertain.** Current ACA-related “repeal and replace” legislative proposals would relax regulatory requirements and return decision-making to the states.<sup>5</sup> On the other hand, some earlier proposals would retain the EHB for MHSU services.<sup>6</sup>

**In response, our policy research center initiated a project to understand the impact of EHB regulation services available through Medi-Cal, the state's Medicaid program.** It is worth noting that Medi-Cal services are divided across a couple funding streams, but the program as a whole must meet the EHB standards.\* We conducted telephone interviews with 17 key informants (such as administrators in local county public health offices or Medi-Cal plans) and 36 providers (such as case managers, social workers, and HIV medical directors) at community-based clinics and organizations in 5 California counties (Alameda, Fresno, Los Angeles, San Diego, and San Francisco).

\* Under current Medi-Cal arrangements, managed care plans provide services for mild-to-moderate MHSU needs. Per Medi-Cal policies that existed before ACA, services for severe MHSU needs are delivered directly by counties (or by providers contracted with the counties). This adds a layer of complexity in that clients may move among services funded by different components of the Medi-Cal program. [Source: “Promising Practices to Integrate Physical and Mental Health Care for Medi-Cal Members.” June 2016 Brief. Centers for Health Care Strategies, Inc.]

## The MHSU EHB filled a prior gap in behavioral health services for Californians living with HIV.

Key informants and providers described an improvement in access to behavioral health care for PLWH since the implementation of the ACA. For example, due to the EHB, patients with “mild to moderate” mental health needs can now receive talk therapy sessions. Services were more difficult for Medi-Cal patients to access prior to ACA implementation, as summarized in the quote below:

“Before January 1<sup>st</sup> of 2014, there was this gap in benefit coverage for people with Medi-Cal. Theoretically, there was a fee-for-service benefit for people with mild-to-moderate conditions. It did not exist. If you wanted to pick up a phone book and try to call a Medi-Cal contracted provider in the fee-for-service system, good luck. It didn’t exist. And so this additional benefit really has expanded availability of services significantly.” (Key Informant, San Francisco)

## While Medi-Cal expanded coverage of services in accordance with EHB mandates, certain Medi-Cal rules around billing made it difficult to connect clients with these services.

- Therapy sessions conducted by a Marriage and Family Therapist (MFT) were not billable to Medi-Cal.
- Medical and mental health visits could not be reimbursed if they were scheduled for the same day.

In many settings MFTs traditionally provided counseling services for people living with HIV. Under the new managed care plan rules, billable therapy sessions had to be with a Licensed Clinical Social Worker (LCSW) or someone of higher licensure, but our participants reported that these providers were more difficult to find and had less availability than MFTs. *[Note: This rule has changed since we conducted interviews. MFTs can apply to become billable providers under Medi-Cal; however, those based in Federally Qualified Health Centers (FQHCs) cannot become billable until new legislation is fully implemented in July 2018.]* The same-day billing rule, which has not changed to date, becomes a problem when a medical provider discovers a mental health need during a clinic visit that would benefit from same-day services. In such cases, the clinic must offer the services without compensation or ask the client to return on another day. For clients with transportation challenges or competing needs, offering same-day services can minimize the number of trips that the client needs to make. The same-day billing rule also poses a problem when working with clients who are marginally engaged in care, as it tends to be easiest to connect them to additional services when they are already at the clinic.

Counties have addressed these barriers by using Ryan White HIV/AIDS Program funds to cover same-day visits or more extensive case management and counseling services. However, this solution does not address the needs of HIV-negative individuals with MHSU diagnoses and at high risk of HIV infection.

## Conclusions and Recommendations

- For people living with and at high risk of HIV infection, the MHSU EHB set important standards for health services. Our findings suggest that it would be valuable to maintain in federal law the MHSU EHB requirement for both private insurance and the Medicaid programs, but if not, we recommend that California retain the standard in its state law.
- In California, allowing for same-day billing and for MFTs to be reimbursed for therapy sessions in Medi-Cal managed care plans may help to improve coverage and further expand access to care for people living with or at risk for HIV and who have mental health needs. Such changes would enable plans to better meet the spirit behind the EHB statute, which is to ensure that people are able to access needed services.

### References

- <sup>1</sup> Tucker JS. Substance use and mental health correlates of nonadherence to antiretroviral medications [...]. *Am J Med.* 2003; 114:573-80.
- <sup>2</sup> Ammassari A, et al. Depressive symptoms, neurocognitive impairment and adherence [...] among HIV-infected persons. *Psychosomatics.* 2004; 45: 394-402.
- <sup>3</sup> Cohen MS, et al. Antiretroviral therapy for the prevention of HIV-1 transmission. *N Engl J Med.* 2016; 375:830-9.
- <sup>4</sup> PPACA Sec. 1302. Essential Health Benefits Requirements.
- <sup>5</sup> Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act. March 6, 2017.
- <sup>6</sup> Patient Freedom Act of 2017. January 23, 2017. Available at <http://www.cassidy.senate.gov/download/one-pager>