Summary of H.R. 34 – Cures bill that passed 12/7/2016

MENTAL HEALTH PROGRAMS

The amendment combines provisions from a House-passed "Helping Families in Mental Health Crisis Act," H.R. 2646, and the Mental Health Reform Act, S. 2680, which the Senate didn't consider.

The combined measure omits House-passed language that would have allowed states to make payments to a Medicaid managed care organization or prepaid inpatient health plan to cover inpatient mental health stays of 15 days or less for beneficiaries age 21 to 65.

Medicaid Coverage and Service Delivery

Like the House-passed bill, the measure would stipulate that separate payments under Medicaid for mental health services could be made even if the service is considered primary care and provided on the same day in the same facility.

Within one year of enactment, HHS would also have to provide states with the opportunity to design innovative delivery systems for adults and children with serious mental illness. HHS would have to issue a report on the demonstration within two years of enactment.

HHS would have to establish a telephone hotline and website that families could use to find mental health or substance abuse treatment services.

Mental Health Parity

Under federal law, health plan cost-sharing requirements for mental health and substance abuse treatment -- such as copayments -- generally can't be more restrictive than those for medical and surgical care.

The measure would require the HHS inspector general to issue guidance within 12 months of enactment to improve compliance with mental health and substance abuse treatment parity requirements. The guidance would have to provide examples of compliance and noncompliance and recommendations on how to avoid violations. The guidance also would have to be free of protected health information that could be used to identify a patient.

Within six months of enactment, HHS would have to convene a stakeholder meeting to create an action plan for enhancing enforcement of parity requirements.

The measure would also clarify that eating disorder treatments covered by a plan should be covered in compliance with parity requirements.

Mental Health Authorizations

The measure would reauthorize SAMHSA's Substance Abuse Prevention and Treatment Block Grant at an annual level of $1.86 billion for fiscal 2018 through 2022. States applying for a grant would have to submit a plan that would describe the need for prevention and treatment activities in the state and the number of individuals in treatment. Certain grant reporting requirements could be waived by HHS if there is a declared public emergency.

The agreement would reauthorize and modify the Community Mental Health Services Block Grant Program managed by SAMHSA at an annual level of $532.6 million for fiscal 2018 through 2022. The changes to the program would require states submit a plan identifying a single state agency responsible for administering mental health services and using a community-based care system. Grant recipients would have to reserve 10 percent of funding to meet the needs of individuals with early mental illness.

The measure would authorize funding to address a variety of needs of "regional and national" significance. Amounts would be authorized for fiscal 2018 through 2022 as follows:

-- $394.6 million annually to aid state, local and tribal governments.

-- $333.8 million for substance abuse treatment programs.

-- $211.1 million for substance abuse prevention.

The measure would also reauthorize funding for assisted outpatient treatment at the following rates:

-- $15 million for fiscal 2015 through 2017.

-- $20 million for fiscal 2018.

-- $19 million for fiscal 2019 and 2020.

-- $18 million for fiscal 2021 and 2022.

Other programs that would be authorized from fiscal 2018 through 2022 under the legislation include:

-- $64.6 million for homeless transition assistance grants.

-- $51.9 million for integration incentive and cooperative agreement grants that facilitate collaboration between state health agencies and care organizations. Grants would have a target amount of $2 million per year.

-- $41.3 million for grants to aid the treatment and recovery of homeless individuals.

-- $30 million for grants to prevent adult suicide that could be provided to community-based caregivers, state and tribal health agencies, or other groups deemed appropriate by HHS. Grants would last for five years.

-- $30 million annually for youth suicide early intervention and prevention, under the Garrett Lee Smith Memorial Act, Public Law 108-355.

-- $14.7 million for mental health awareness grants to provide training to law enforcement and other personnel to identify the symptoms of mental illness.

-- $12.7 million for a minority fellowship program to increase the knowledge of mental health and substance use disorders and treatment for minority populations.

-- $12.5 million for grants to assist states in establishing a database providing real-time information regarding the number of hospital beds available for mental health patients.

-- $7.2 million for the National Suicide Prevention Lifeline Program.

-- $7 million for grants to enhance on-campus suicide prevention services though hotlines, disseminating informational materials and providing voluntary screening and assessments.

-- $6 million annually for the Suicide Prevention Technical Assistance Center under the Garrett Lee Smith law.

-- $5 million for a new assertive community treatment program.

-- $5 million for maternal depression screening.

-- $4.3 million for jail diversion program grants.

The measure would also reauthorize a variety of programs related to underage drinking prevention.

HHS would also have to update publicly available informational materials regarding eating disorders and related treatment resources.

Protected Health Information

One year after enactment, HHS would have to issue guidance clarifying the circumstances under which a health-care provider or other entity can disclose protected health information regarding a patient to caregivers and family members without violating the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191.

HHS would also have to create a training program and related materials within one year of enactment to clarify when information could be shared.

To carry out the provisions, the measure would authorize $4 million in fiscal 2018, $2 million in fiscal 2019 and 2020 and $1 million in fiscal 2021 and 2022.

Pediatric Mental Health

The Health Resources and Services Administration would have to provide grants to states, local governments and tribes to support the development of statewide child psychiatric access programs.

Programs would consist of "pediatric mental health teams" that support primary care locations and provide integrated services at those locations. States would also have to develop communication mechanisms, such as telehealth, to provide consultation and technical support to primary care professionals. The measure would authorize $9 million total for fiscal 2018 through 2022.

Programs for children with a serious emotional disturbance would be authorized at an annual level of $119 million for fiscal 2018 through 2022.

The National Child Traumatic Stress Network would be reauthorized through fiscal 2021 at the fiscal 2016 appropriated level of $46.9 million.

The legislation would modify the network to require the collection and reporting of child outcome data. The network would also have to coordinate training initiatives offered to grantees.

The measure would authorize $20 million for the fiscal 2018 through 2022 period for grants with a 10 percent matching requirement to service agencies to conduct infant and early childhood mental health promotion intervention and treatment.

Funds could be used to provide age-appropriate specialized services for children younger than five who exhibit signs of mental illness.

The measure would also make children in an inpatient mental facility eligible for early screening and diagnostic services starting in 2019.

HHS Administrative Changes

The legislation would create a new HHS "assistant secretary for mental health and substance use." The position would be appointed by the secretary and subject to Senate confirmation. The duties of the SAMHSA administrator would be transferred to the new position.

A chief medical officer position would be created within SAMHSA to assist the new assistant secretary with promoting evidence-based and promising practices.

The Center for Behavioral Health Statistics would also be codified under the agreement.

The assistant secretary would also have to create a strategic plan by Sept. 30, 2018 -- with an update every four years -- for the planning and operation of evidence-based programs and mental health grant initiatives. The new assistant secretary would also be subject to a biennial reporting requirement regarding federal mental health programs starting Sept. 30, 2022.

At least half of any mental health-related peer review groups would be required to have a medical degree, psychology doctorate, or an advanced degree in nursing or social work.

A new Interdepartmental Serious Mental Illness Coordinating Committee would be established within three months of enactment.

The assistant secretary would have to establish a new National Mental Health Policy Laboratory. The program would be used to identify new polices that could improve mental health services; disseminate best practices for mental health programs; recommend ways to implement program changes to reduce cost and improve outcomes; and identify programs that are duplicative or aren't evidence-based, cost-effective or efficient.

Mental Health Workforce

HHS would establish a demonstration program to support medical resident training to integrate mental health and substance abuse treatment and prevention with primary care.

Grant recipients would have to partner with a medical education accreditation body to be eligible. Priority would be given to programs of sufficient size and scope to provide training and have the capacity to increase services in areas with demonstrated needs.

The measure would authorize $50 million annually for the demonstration programs for fiscal 2018 through 2022.

Child and adolescent psychiatrists would be eligible for National Health Service Corps loan repayment programs.

The measure would provide liability protections to health-care professionals who volunteer to provide services at offsite programs conducted by community health centers. Volunteers would have to be certified to provide the relevant service and a conspicuous notice would have to be posted explaining how liability is limited.

Veterans Mental Health Status

The Veterans Affairs Department would be barred from deeming a veteran mentally incompetent to manage monetary benefits without first providing notice of the potential designation and the supporting evidence.

The veteran would have to be afforded the opportunity to request a hearing, present evidence, provide an opinion from a health professional, have legal representation and bring a professional or other person to offer testimony.

When a veteran is designated "mentally incompetent," the VA reports that status for inclusion in the National Instant Criminal Background Check System, which is used to run background checks for gun purchases. Federal law bars the purchase, possession or transporting of a firearm by someone who "has been adjudicated as a mental defective or committed to a mental institution," which covers the VA's designation.

Veterans have the right to appeal a decision that they are mentally incompetent and the VA also has a process for veterans to seek relief from a firearm prohibition, according to its website.

Law Enforcement and Mental Health

The measure would allow grants provided through the Edward Byrne Memorial Justice Assistance Program, Community Oriented Policing Services Program and the Fire Prevention and Control Act to be used for training for law enforcement and first responders to recognize individuals with mental illness, de-escalation and crisis intervention teams or related activities. States would also be able to use federal funds to conduct behavioral risk and needs assessments for individuals in the criminal justice system.

The measure would also reauthorize the Mentally Ill Offender Treatment and Crime Reduction Act at an annual level of $50 million from fiscal 2017 through 2021.

The agreement would establish a forensic assertive community treatment initiative providing 24-hour recovery services to help individuals with mental illness avoid incarceration. The measure would also expand transitional services to include mental health treatment.

Mental health court grant funding could be used to create court-ordered outpatient mental health treatment programs to provide alternatives to incarceration and inpatient treatment. The measure would also create a pilot federal mental health court in one judicial district to divert low-level offenders with mental illness.

The measure would also:

-- Require the Justice Department to provide training to the federal uniformed services on identifying individuals with mental illness and responding to their needs.

-- Allow states to use offender reentry funds to provide housing and mental health services to individuals reentering the community.

-- Allow drug court funding to be used for targeted intervention involving individuals with a substance use disorder and identified mental illness.

-- Expand the Secure Our Schools Program to provide for school-based mental health intervention teams.

-- Expand in-prison reentry programs to cover mental health treatments that would reduce the chance of recidivism when a inmate is released.

-- Permanently authorize the Justice VALOR initiative, which provides active shooter training to state and local law enforcement.

-- Require GAO to issue a report on the number of mentally ill offenders in prison and related costs of incarceration.

-- Direct the Justice Department to issue regulations for data collection related to the instances of mental illness and the commission of violent crime.

SPR SALES

The agreement would require the three sales of oil from the Strategic Petroleum Reserve as follows:

-- 10 million barrels in fiscal 2017.

-- 9 million barrels in fiscal 2018.

-- 6 million barrels in fiscal 2019.

Proceeds would be deposited in the general fund of the Treasury.

The SPR, overseen by the Energy Department, is the U.S. emergency supply of crude oil. The reserve is authorized to hold as much as 727 million barrels.

CBO estimated the provision would generate $1.04 billion, which would be treated as a reduction in mandatory spending.

PREVIOUS ACTION

House and Senate negotiators announced Nov. 25 that they had reached agreement, and the text was posted on the House Rules Committee website.

The measure is being advanced using an unrelated bill, H.R. 34, that the House initially passed by voice vote on Jan. 7, 2015, and the Senate passed in an amended form by unanimous consent on Oct. 6, 2015.

Both of those versions would have reauthorized the National Oceanic and Atmospheric Administration’s tsunami hazard mitigation and research programs. That language is omitted from the health policy amendment the House is slated to consider.

The House passed its 21st Century Cures Act, H.R. 6, on July 10, 2015, by a vote of 344-77 (see BGOV Bill Summary). The Senate never acted on a comprehensive package, though the Health, Education, Labor and Pensions Committee approved 19 bills containing similar provisions in three markups earlier this year. For more on the Senate measures, click here.

The House passed its mental health bill, H.R. 2646, on July 6 by a vote of 422-2 (see BGOV Bill Summary). The Senate never acted on that bill or its own measure.

The Medicare provisions included in the amendment were also previously passed by the House in a variety of measures. The Ways and Means Committee included a list of them in a news release on the combined measure.

PROSPECTS

The House Rules Committee issued a closed rule for the legislation that would make in order a motion to concur in the Senate amendment to the H.R. 34, with the House amendment containing the revised agreement.

A simple majority would be required to advance the measure, which would return to the Senate for further action.

The White House said it strongly supported the measure in a Nov. 29 statement of administration policy.