



Legislative and Advocacy Updates



There are Legislative and Judicial events that occur in individual states that have potential for impact and precedence in other states. It is important for to be aware of and learn from them.

The [NFFCMH Legislative and Advocacy Facebook](#) page is a great way to learn of the top issues from other states that could have impact on other states/Nationally.

- Two we have been following are
- 1. Mississippi versus DOJ**
 - 2. Tennessee request for Medicaid Block Grant**



DECISION IN THE DOJ vs. STATE OF MISSISSIPPI MENTAL HEALTH LAWSUIT

*From Families as
Allies*



Judge Carlton Reeves issued his [Memorandum and Order](#) in the case of the *United States vs. Mississippi* regarding the state's mental health system on September 3.

"On paper, Mississippi has a mental health system with an array of appropriate community-based services. In practice, however, the mental health system is hospital-centered and has major gaps in its community care. The result is a system that excludes adults with SMI from full integration into the communities in which they live and work, in violation of the Americans with Disabilities Act (ADA)."
(pp. 2 and 3)

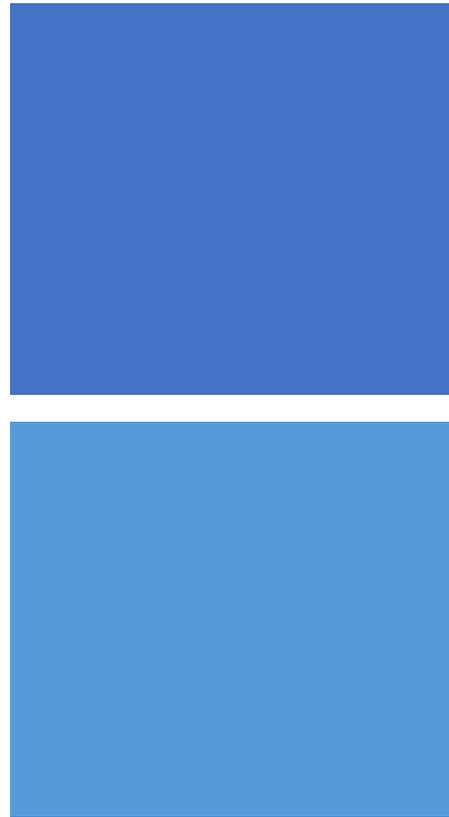
"The parties are therefore ordered to submit, within 30 days, three names of potential special masters and a proposal for the special master's role. A hearing will be held this fall." (p. 60)

About the Case



- The U.S. Justice Department argued that Mississippi’s movement toward community services was far too slow, forcing hundreds or thousands of people into avoidable hospital stays.
- Judge Reeves found that Mississippi is violating the Americans with Disabilities Act, as well as a 1999 U.S. Supreme Court decision that said “unjustified” mental hospital confinement is illegal.
- The federal government catalogued a litany of alleged transgressions during the trial
 - Mentally ill people held in jails because crisis teams don’t respond
 - People forced to live far from their family because services aren’t available in their hometowns
 - People who make repeat trips to state mental hospitals because there’s no effective planning for them to transition to community services and the most intensive kinds of services aren’t made available.

Implications on Funding



This ruling likely has implications for how dollars currently in the state budget are used (for example, if some dollars currently used for state services could be better leveraged if they were put toward Medicaid match for those same services instead) and the best way to monitor and track spending and outcomes. [This chart](#) compares Mississippi's state budget for its Department of Mental Health to that of two other southern states.

State	# of DMH Employees	MH budget	State population
MS	7,712	\$599,924,235*	2.99 million
GA	5,001 (p.10, line 441)	\$1,555,954,722 (p.37)	10.5 million
SC**	4,143 **	\$504,271,729 (p.93)**	5.15 million**

*This is the appropriation for fiscal year 2020, which is increased from [\\$585,986,586](#) in fiscal year 2019.

I am not exactly sure how this ruling will affect Mississippi so it's even harder to conjecture about other states, but these are some things that I have contemplated along the way.

In the midst of all the political chaos we live in every day, I think it is telling that this case began in the Obama administration with Attorney General Eric Holder and then was brought to trial in the Trump administration with Attorney General William Barr - and nothing about its content or allegations changed. Perhaps Olmstead and its mandate for community integration for everyone is one concept profound enough to begin bridging some of the political chasms that we face. I've certainly seen in my own state that understanding the importance of everyone having the support they need to live in the community is not an insight owned by one political party.

Three things struck me as very relevant to the work of family and consumer run organizations as I watched the trial.

- The trial was much more about coordinating support between the community and institutional care than it was about "de-institutionalization". Our organizations and the members within them have a wealth of expertise to help our systems be more responsive in their coordination.
- We also know this concept in our heads and in our hearts - Olmstead is not so much about where a person gets treatment - it's about the right of every individual to be with their family, to live in the community and to do the things that other people do. Providing the right kind of support for people to do that is very different than simply providing similar treatment in a different setting. And it's really about how we perceive people and them still being just people when they have a mental illness.
- It is always tempting to make issues about lack of funding - often because they are. But this trial opened my eyes to the importance of understanding how current money is being spent. The definition of family-driven practice includes family run organizations and families partnering in funding decisions. I am sure that holds true for consumers and consumer run organizations as well. We need to thoughtfully consider how to become meaningfully involved in funding decisions and monitoring how they are implemented.



We asked Joy Hogge, Executive Director of Families as Allies, to give some thoughts about the effects of this landmark mental health decision in Mississippi.



The State Chapter of the Federation of Families

Learn More About the Case:

- [Memorandum and Order](#)
- [Selected quotes from the Order](#)
- The [Mississippi Department of Mental Health](#)'s response to the ruling (the DMH's references to the Order can be found on pages 60 and 57 of the Order)
- Response of [Attorney General Jim Hood](#) (his one quote from the Order is in a footnote at the bottom of page 58 of the Order)
- [Lt. Governor Tate Reeves' interview response](#) to the Order
- The disability community's [press conference](#) led by Disability Rights Mississippi
- [Background information](#) about the case





Tennessee and Medicaid

There are several reasons that it is important to watch TN

- Tennessee was the first state to develop a plan and request a waiver to implement its own Medicaid Plan – TennCare
 - Other states soon followed suit
- Tennessee is the first state to request that they be allowed to implement Medicaid as a block grant. They are more likely to be approved due to their successful implementation of TennCare
 - Other states will be looking at the model and may follow suit

“It would be very important for the country to see an opportunity to lower the cost of Medicaid services without changing the quality or level of those services to the Medicaid population,” said Tennessee’s Governor Bill Lee.

“For Tennessee to be an example of how we can deliver that would be a very big deal.”



Tennessee
unveiled a
plan to
convert
Medicaid into
a block grant

Under block grants, the government would pay a state a lump sum each year while freeing it from many of Medicaid's rules, including who must be allowed into the program and what health care is covered.

Proponents contend the model would save money and let states run the program more efficiently; opponents contend it would strand states and vulnerable residents during economic downturns or as expensive new therapies emerge.

The Proposal

- The draft plan is not a pure version of a block grant. It would rely on fixed annual payments, adjusted yearly for inflation. The state would get extra money per person in years in which enrollment grew but would not get less money if enrollment shrank.
- If the state spent less in a given year than it would have under the traditional Medicaid system, Tennessee would split those savings with the government, according to the draft plan, in another departure from a classic block-grant approach. It is proposing not to cut back on eligibility rules or benefits.

The Tennessee Justice Center

Opposes
the Proposed
Change saying

- **The state's TennCare block grant proposal puts coverage and services at risk for vulnerable Tennesseans.** The proposal would give Tennessee new authority to cut services for children, seniors, low-income parents, and people with disabilities. Under the proposal, the state could:
 - eliminate or restrict services like physical therapy, hospice, and medicine without normal federal oversight – and arbitrarily limit who gets them,
 - cut back on core health care services like hospital care and emergency services, without federal approval or public notice,
 - allow Medicaid managed care plans to restrict access to needed care, and
 - exclude coverage of some important prescription drugs.
- **Tennessee is at the bottom of numerous health measures, including infant mortality, maternal mortality, and life expectancy.** Rather than ensuring all vulnerable Tennesseans who are eligible for TennCare are getting the vital medical services they need,. Over the past two years, TennCare cut off 200,000 children, the great majority of whom were still eligible. Seniors have also suffered when TennCare's errors result in money being taken out of their Social Security checks. TennCare needs more accountability, not less.
- Since **TN will only keep half of the money saved** (with the other half going to the federal government), that means the state plans to cut at least \$2 billion out of the \$12 billion TennCare program. The block grant proposal would enable the state to divert funds from the health care system and spend the money however it chooses. It's a transfer from patients and providers to the state and federal governments.

TennCare Block Grants Webinar



TN's Medicaid Block Grant Proposal

Keila Franks
*Director of Medicaid
Policy Advocacy*

Gordon Bonnyman
Staff Attorney

Webinar available at <https://www.youtube.com/watch?v=Iz9k6nHc4ts>



Advocacy Tools You Can Use



NATIONAL BLUEPRINT

FOR EXCELLENCE IN CHILD WELFARE

EXECUTIVE SUMMARY:

*Raising the Bar for Children,
Families, and Communities*

Child Welfare League

Mental Health America

Mental Health America (MHA) released its annual [State of Mental Health Report](#), which ranks all 50 states and the District of Columbia based on several mental health and access measures.

THE STATE OF MENTAL HEALTH IN AMERICA 2020



NATIONAL COUNCIL
FOR BEHAVIORAL HEALTH

CHCS Center for
Health Care Strategies, Inc.

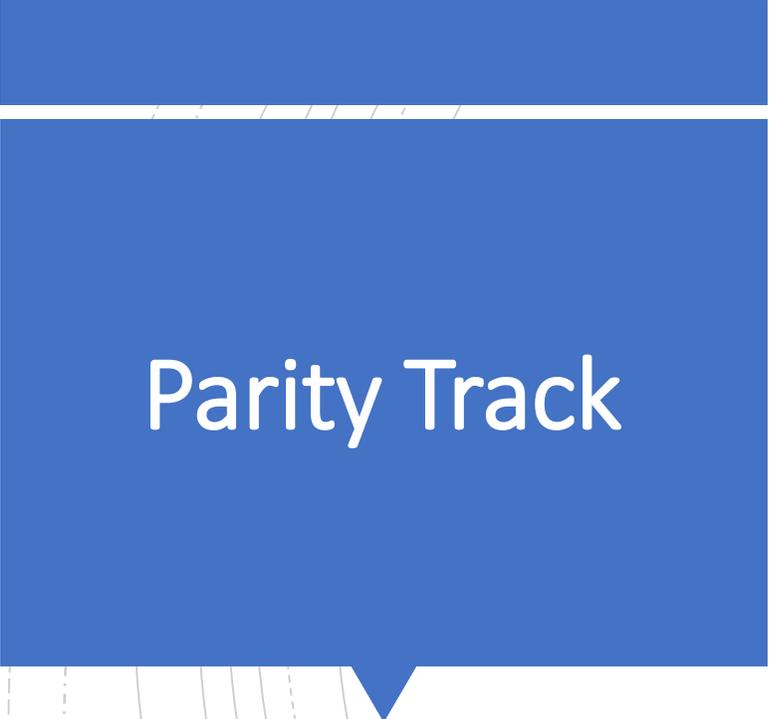
NATIONAL COUNCIL
FOR BEHAVIORAL HEALTH

**BEHAVIORAL HEALTH
PROVIDER PARTICIPATION IN
MEDICAID VALUE-BASED
PAYMENT MODELS:**

AN ENVIRONMENTAL SCAN AND
POLICY CONSIDERATIONS

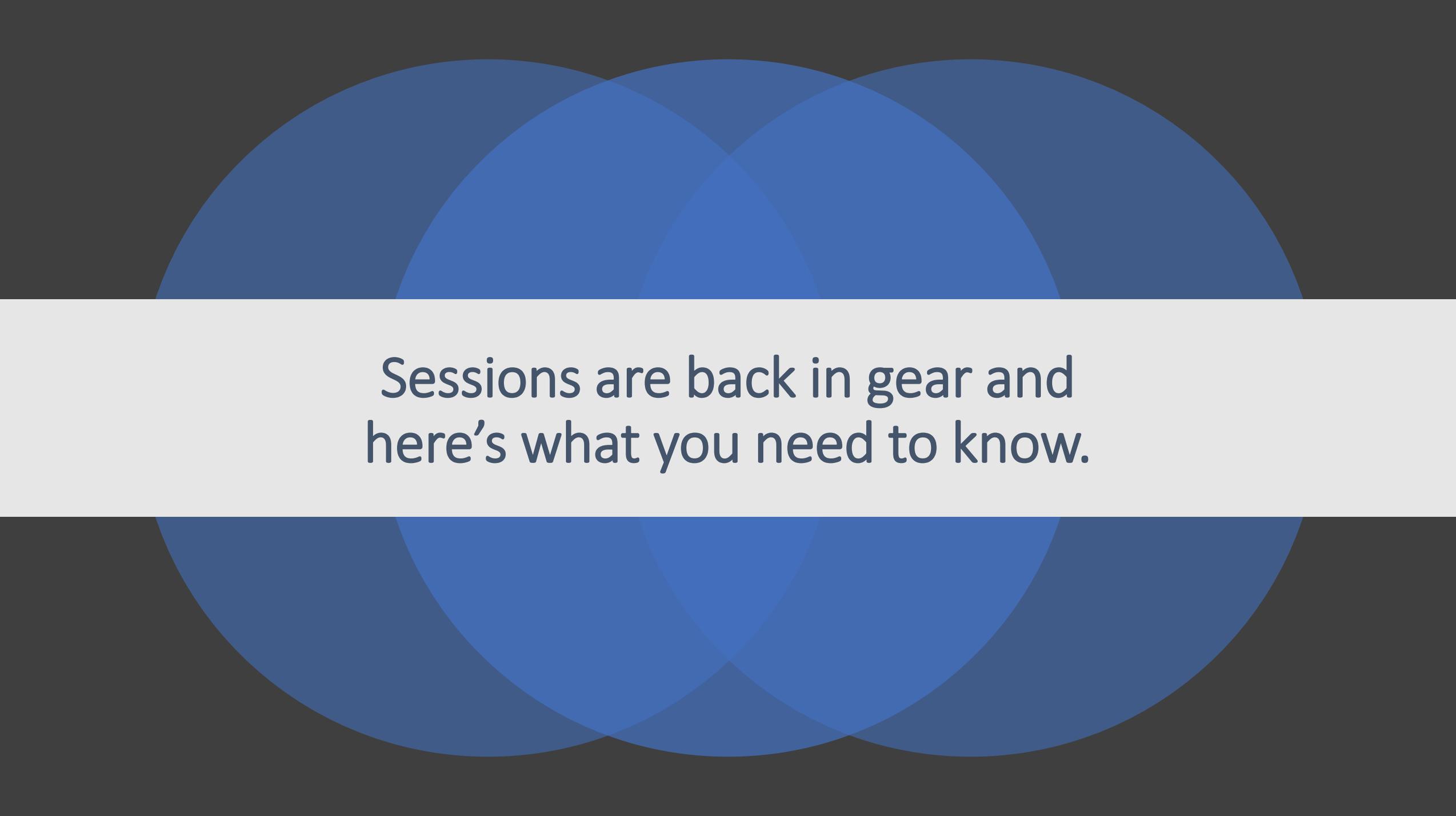
www.TheNationalCouncil.org

Value-based Payments and
Behavioral Health:
Results of a Nationwide
Environmental Scan

The logo for Parity Track is a blue speech bubble shape with the text "Parity Track" in white. It is positioned on the left side of the slide, with a smaller blue rectangle above it. The background features decorative curved lines in the top-left and bottom-right corners.

Parity Track

- Parity Track examines the current state of Parity implementation across the country through in-depth analysis of current legislation and regulatory actions by state.
- You can look up your state by:
 - Legislation
 - Regulations
 - Statue
 - Resources
- <https://www.paritytrack.org/parity-reports/state-reports/>



Sessions are back in gear and
here's what you need to know.

Mental Health Parity Compliance Act



Individuals have the legal right to access mental health and substance use disorder treatment just like any other form of medical care. However, they are more likely to encounter barriers when accessing this care because their insurance coverage is more restrictive for these services. Help us make mental health parity reality!



The Mental Health Parity Compliance Act (H.R. 3165/S. 1737) turns mental health parity from promise to practice by providing accountability and a transparent process for insurance plans to demonstrate that they comply with federal law.

Why the Mental Health Parity Compliance Act is Needed?

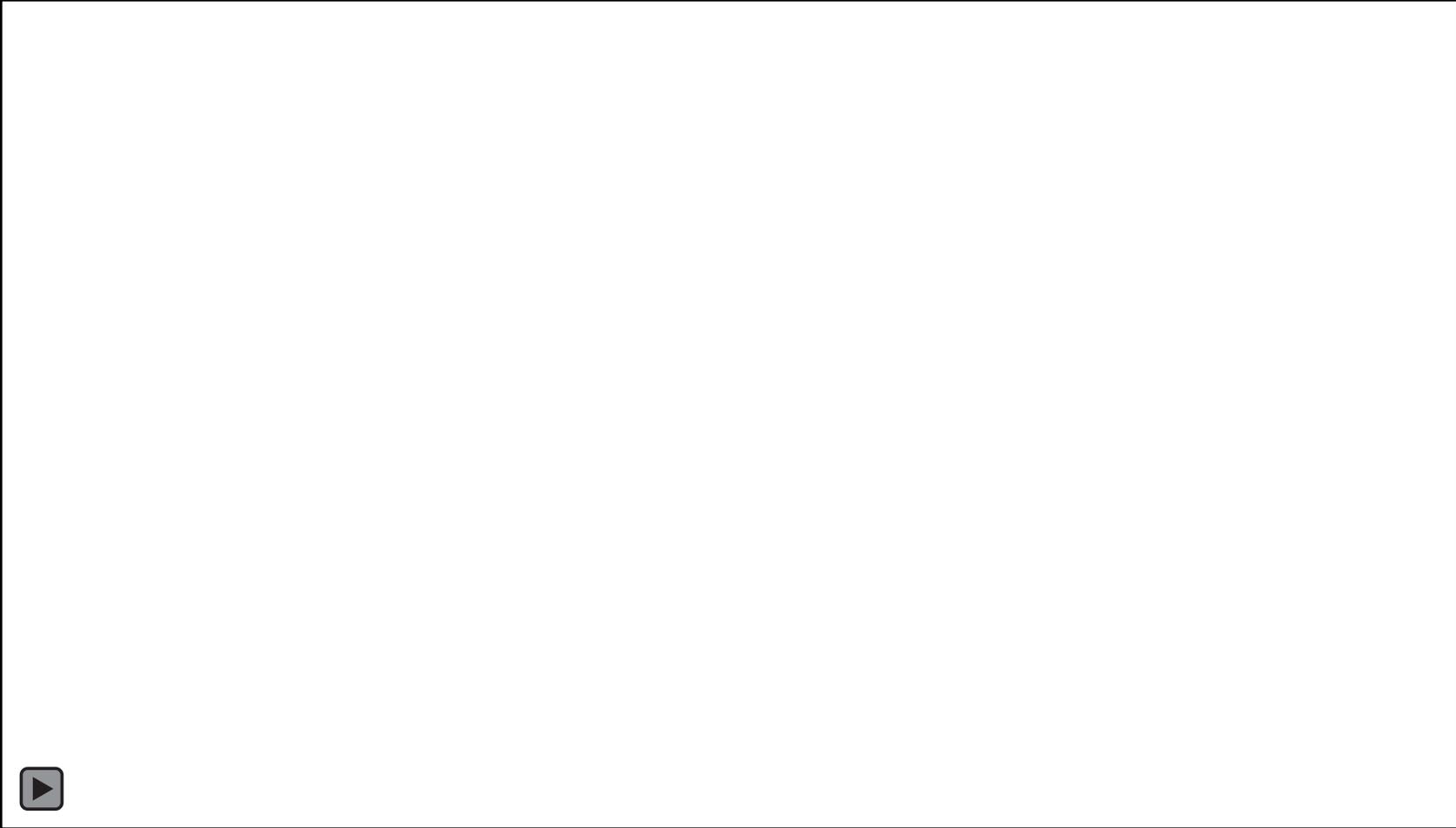
- Individuals have the legal right to access mental health and substance use disorder treatment just like any other form of medical care. However, this promise is not always fulfilled and people who need mental health or substance use treatment are more likely to run into barriers to care than individuals seeking other medical care.
- For over 10 years, federal law has required insurance companies to treat mental health and substance use disorder treatments just like any other form of medical care. However, patients seeking these services still are more likely to:
 - Experience delays or denials of care because mental health care treatment plans are more strictly reviewed than other medical care.
 - Have less access to providers who can treat them because mental health provider networks are more narrow than other provider networks.
 - Not get the care they need because medically necessary and clinically appropriate treatments for common mental disorders are more likely to be excluded from coverage than similar treatments of other medical conditions.
- The Mental Health Parity Compliance Act would help stop these practices by ensuring that insurance companies do the work necessary to comply with the law and are accountable and transparent in how they design coverage.
- An estimated 44 million adults are in need of mental health services. When mental health access and coverage are restricted it can have dire consequences for patients and lead to suicides, overdoses and other forms of preventable death or injury.

Autism CARES Act of 2019

President Donald Trump signed the Autism Collaboration, Accountability, Research, Education and Support Act (CARES) into law Monday, which allocates \$1.8 billion in funding over the next five years to help people with autism spectrum disorder and their families

Autism CARES ensures continued federal support for autism research, monitoring, training and services at the National Institutes of Health (NIH), Centers for Disease Prevention and Control (CDC) and Health Resources and Services Administration (HRSA).

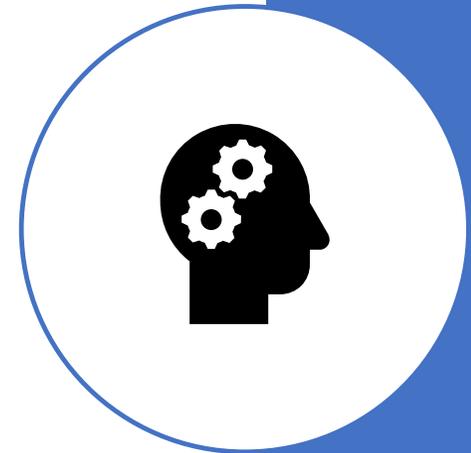
The legislation authorizes more than \$1.8 billion in funding over the next five years and places an increased emphasis on reducing health disparities and improving services for people with autism throughout the lifespan.



Excellence in Mental Health and Addiction Expansion Act (S. 824/H.R. 1767)

- [Fact Sheet](#) from the [National Council For Behavioral Health](#)

In 2014, the Excellence in Mental Health and Addiction Treatment Expansion Act began to address the demand for treatment of addictions and mental illnesses by establishing criteria for Certified Community Behavioral Health Clinics (CCBHCs), which provide a comprehensive range of addiction and mental health services to the communities they serve, including vulnerable individuals. In return, CCBHCs receive a bundled Medicaid payment rate that allows them to expand services to previously untreated populations.



National Suicide Hotline Designation Act



H.R. 4194 – The National Suicide Hotline Designation Act establishes 988 as the three-digit telephone number for a national suicide prevention and mental health crisis hotline.



The legislation, introduced by Rep. Chris Stewart (R-UT), has bipartisan support in Congress led by Reps. Seth Moulton (D-MA); Greg Gianforte (R-MT); and Eddie Bernice Johnson (D-TX).



Behavioral health leaders from across the nation are urging Congress to pass the bill and ensure this service is universally available and fully funded.

The Barriers to Suicide Act - H.R. 4309

- U.S. Representatives Don Beyer (D-VA) and John Katko (R-NY), the co-chairs of the House Suicide Prevention Task Force, and Grace Napolitano (D-CA), founder and Co-Chair of the Congressional Mental Health Caucus introduced the Barriers To Suicide Act.
- The bipartisan legislation would create grants for state and local governments to fund nets and barriers on bridges, which have been shown to reduce suicide.
- [One Pager on the Suicide Act](#)

The Barriers to Suicide Act Would

- Establish a competitive grant program for states and localities to apply for federal funding to install nets and barriers on bridges
- Make these types of projects eligible under two existing grant programs, the Surface Transportation Block Grant and the National Highway Performance Program
- Authorize a study to identify
 - Structures other than bridges that attract high number of deaths-by-suicide
 - Characteristics that distinguish these structures from those that do not attract high number of deaths-by-suicide
 - Types of nets and barriers that are effective on these structures
 - Methods other than nets and barriers that reduce suicide-by-jumping deaths at these structures

Mainstreaming Addiction Treatment Act

S. 2074/H.R. 2482

[Fact Sheet](#) from the [National Council For Behavioral Health](#)

The Mainstreaming Addiction Treatment Act (MAT) (S. 2074/H.R. 2482) would remove the waiver requirement for health care providers to prescribe buprenorphine for opioid use disorder.

Why do we need the Mainstreaming Addiction Treatment Act?

- The number of Americans with addiction continues to grow and more must be done to curb the overdose epidemic
- The current waiver deters providers from treating individuals with addiction
- Removing the burdensome waiver requirement would have great impact in rural areas.
- The MAT Act ensures parity of prescribing medications for addiction treatment and opioid use disorder

Mental Health Access Improvement Act

S. 286/H.R. 945

Fact Sheet from the National Council For Behavioral Health

Removing Medicare's exclusion of marriage and family therapists and mental health counselors will dramatically expand access to care for older adults and individuals with disabilities. This legislation would allow marriage and family therapists (MFTs) and licensed mental health counselors to directly bill Medicare for their services

Why do we need the Mental Health Access Improvement Act?

- MFTs and mental health counselors will help fight the opioid crisis
- Older Americans have high rates of mental illness and suicide, yet have lower rates of receiving treatment than others
- MFTs and mental health counselors practice in areas without access to other Medicare-covered professionals
- Expanding patients' access to treatment would not change the Medicare mental health benefit
- Mental health counselors and MFTs have equivalent training and licensure standards to providers already included within Medicare

RISE from Trauma Legislation (Resilience Investment, Support and Expansion)

Senators Durbin
and Capito

The legislation will enhance support for children, families and communities that experience trauma and toxic stress.

The bill has a parity provision included as it links to IDEA Part B/ C and early intervening services.

The RISE from Trauma Act expands upon these efforts with a focus on enhancing community programming and workforce development to broaden the reach of trauma-informed services.

The *RISE from Trauma Act* would expand and support the trauma-informed workforce in schools, health care settings, social services, first responders, and the justice system, and increase resources for communities to address the impact of trauma. Specifically, the bill:



Increases funding for the Health Resources and Services Administration's (HRSA) National Health Service Corps loan repayment program, in order to recruit more mental health clinicians;



Enhances federal training programs at HHS, U.S. Department of Justice, and the U.S. Department of Education to provide more tools for early childhood clinicians, teachers, school leaders, first responders, and certain community leaders;



Creates a new HHS grant program to support hospital-based trauma interventions, such as for patients that suffer violent injuries, in order to address mental health needs, prevent re-injury, and improve long-term outcomes;



Creates a new HHS grant program to fund community-based coalitions that coordinate stakeholders to address trauma;



Creates a new HHS program to monitor and enforce health insurance parity requirements for coverage of infant and early childhood mental health services; and



Expands and strengthens the AmeriCorps program and several HRSA health profession training programs to prioritize recruitment and programming in communities that have experienced trauma.



Have News to Share?

If there is legislation
we should share,
please let us know.

Mcovington@ffcmh.org