Legislative Brief

Behavioral Health Information Technology Coordination Act

Senate (S. 2688)
Lead Sponsors: Sen Markwayne Mullin (R-OK) and Sen. Catherine Cortez Masto (D-NV)

House (H.R. 5116)
Lead Sponsors: Rep. Doris Matsui (D-CA-07), Rep. Ron Estes (R-KS-04), Rep. Sharice Davids (D-KS-03) and Rep. Bill Johnson (R-OH-06)

The Challenge
The exclusion of behavioral health providers from funding in the HITECH Act and additional funding inequities has caused many of these critical safety-net providers to settle into a workflow absent of updated clinical and operational technology, with little ability to change. The impact? Reduced ability to provide fully-integrated clinical services to patients with mental illness, substance use disorders and co-occurring physical health problems – at a time of an unprecedented demand for services.

Due to these significant ongoing funding challenges, adoption rates for Certified Electronic Health Record (EHR) systems and related services in mental health and substance use disorder settings lag far behind adoption and use in acute care and health system environments.

For example, the Office of the National Coordinator for Health Information Technology (ONC) reported in 2019 that psychiatric hospitals are using EHRs at a 46% rate, compared with 96% in general medicine and surgical practices. Significantly, the *Consolidated Appropriations Act, 2023* added substantial new data collection and reporting requirements for these facilities, with the results to be used as one element in determining future payment revisions. Many of these statutory requirements are included in the *2024 Inpatient Psychiatric Facility (IPF) Prospective Payment System (PPS) Proposed Rule*, issued in April 2023. The impact on these facilities and units will be significant, with many unequipped with the necessary technology to effectively comply with the anticipated new requirements, some of which may take effect in the fall of 2023.

Similarly, Community Mental Health Centers (CMHCs) also lag behind in adoption rates, with many of those providers using EHRs only for billing and not for key clinical processes and information exchange integral to fully-informed diagnosis and treatment that help assure improved outcomes.

The Legislation
The *Behavioral Health Information Technology Coordination Act* authorizes $100 million for a federal discretionary behavioral health technology (BHIT) grant program administered by ONC. The legislation authorizes $20 million in grants for each of fiscal years 2024 through 2029, with a maximum grant amount of up to $2 million per provider to be utilized within a maximum timeframe of two years. This funding would help resource-challenged behavioral health providers acquire the necessary technology to comply with rapidly increasing data collection and reporting requirements and engage more broadly in providing value-based, integrated healthcare. Here are some highlights of the bill's provisions.

- ***Eligible providers (as defined in the Social Security Act)***
  - Physicians who specialize in psychiatry or addiction medicine
  - Clinical psychologists providing qualified psychologist services
  - Nurse practitioners (in provision of psychiatric services)
  - Clinical social workers
  - Psychiatric hospitals
  - Community mental health centers
  - Residential or outpatient mental health or substance abuse treatment facilities
- ***Authorized grant fund uses by recipients***
  - Purchase or upgrade health information technology software and support services needed to appropriately provide behavioral health care services and, where feasible, facilitate behavioral healthcare integration
  - Demonstrate or attest to the acquisition of an EHR that meets 2015 Edition ONC certification criteria (or successor criteria)
  - Ensure that the health information technology acquired is fully compliant with the regulations specified in the final Centers for Medicare & Medicaid Services (CMS) rule, *Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, and Health Care Providers"* (85 Fed. Reg. 25510 (May 1, 2020)
  - Demonstrate the capacity to exchange patient clinical data with primary care physicians, medical specialty providers and acute care hospitals, psychiatric hospitals, and hospital emergency departments
  - Promote, where feasible, the implementation and improvement of bidirectional integrated services, including evidence-informed screening, assessment, diagnosis, prevention, treatment, recovery, and coordinated discharge planning services for mental health and substance use disorders, and co-occurring physical health conditions and chronic diseases
- ***Geographic distribution***
  - To the maximum extent practicable, ensure an equitable geographical distribution of grant recipients throughout the United States; and give due consideration to applicants from both urban and rural areas.
- ***Required program outcomes items for the Secretary of HHS to report on after 2 years***
  - Number and type of behavioral health care providers that have acquired and implemented certified health information technology (under the program), including description of any advances or challenges related to acquisition and implementation
  - Number and type of behavioral health care providers that received a grant
  - Information on whether the number of, and rate of participation by, eligible behavioral health care providers (including grant recipients) participating in Medicare and Medicaid under a value-based or capitated payment arrangement, has increased during the grant program
  - Extent to which eligible behavioral health care providers that received a grant are able to electronically exchange patient health information with local partners, including primary care physicians, medical specialty providers and acute care hospitals, psychiatric hospitals, hospital emergency departments, health information exchanges, Medicare Advantage plans under part C of title XVIII of the Social Security Act, Medicaid managed care organizations (as defined in section 1903(m)(1)(A) of such Act), and related entities

    - Extent to which eligible behavioral health care providers that received a grant are measuring and electronically reporting patient clinical and non-clinical outcomes using common quality-reporting metrics established by CMS, such as the child and adult health quality measures published under sections 1139A and 1139B of the Social Security Act and quality measures under section 1848(q)
    - Impact and effectiveness of the grants on advancing access to care, quality of care, interoperable exchange of patient health information between behavioral health and medical health providers, and recommendations on how to use health information technology to improve such outcomes
- ***Voluntary standards for Behavioral Health IT***
    - Not later than 1 year after the date of enactment of the Behavioral Health Information Technology Coordination Act, the National Coordinator and the Assistant Secretary for Mental Health and Substance Use, acting jointly, in consultation with appropriate stakeholders, shall develop recommendations for the voluntary certification of health information technology for behavioral health care that does ***not*** (emphasis added) include a separate certification program for behavioral health care and practice settings.
    - Recommendations shall take into consideration issues such as privacy, minimum clinical data standards, and sharing relevant patient health data across the behavioral health care, primary health care, and specialty health care systems.
- ***Timeframe***
    - The National Coordinator to issue a Notice of Funding Opportunity (NOFO) no later than 18 months after enactment of the legislation
- ***Guidance on other BHIT funding***
    - The Secretary shall require the Administrator of CMS, the Assistant Secretary for Mental Health and Substance Use, and the National Coordinator to develop joint guidance on how States can use Medicaid authorities and funding sources (including waiver authority under section 1115 of the Social Security Act (42 U.S.C. 1315), directed payments, enhanced Federal matching rates for certain expenditures, federal funding for technical assistance, and payment and service delivery models tested by the Center for Medicare and Medicaid Innovation under section 1115A of the Social Security Act (42 U.S.C. 1315a)) and other Federal resources to promote the adoption and interoperability of certified health information technology.

Netsmart Advocacy
Netsmart collaborated with the National Association for Behavioral Health, Acadia Healthcare and the BHIT Coalition on introduction of the bill and will continue play a lead advocacy role toward passage.

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