

House Energy and Commerce Committee Health Subcommittee Hearing
Combating the Opioid Crisis: Improving the Ability of Medicare and Medicaid to Provide Care for Patients
April 11, 2018

On April 11, the House Energy and Commerce Committee Health Subcommittee held the first day of a two-day hearing on proposals in Medicare and Medicaid to address the opioid misuse and overdose epidemic.

Kim Brandt, Principal Deputy Administrator for Operations at the Centers for Medicare and Medicaid Services (CMS) was the only witness at the first portion of the hearing.

On April 12, the following witnesses will testify:

- Michael Botticelli, Executive Director, Grayken Center for Addiction at Boston Medical Center
- Toby Douglas, Senior Vice President for Medicaid Solutions, Centene Corporation
- David Guth, CEO, Centerstone America
- John Kravitz, CIO, Geisinger Health System
- Sam Srivastava, CEO, Magellan Healthcare

Full witness statements are available [here](#).

During Member opening statements, there were some complaints from the minority regarding the number of bills noticed by the majority. In his [opening remarks](#), Ranking Member Pallone (D-NJ) voiced concerns that given the number of bills being considered and the tight timeframe laid out by the chairman, that the Committee's work is more of an "opioids media blitz" than a thoughtful deliberative process. He added that many of the proposals have merit and would address policy problems, but that he would oppose any bill that does not have anything to do with opioids and could make the problem worse. He noted that there is legislation being considered to repeal the IMD exclusion for a 5-year period, but said the bill needs to be thoughtfully addressed as states are already making changes through waivers. He also specifically cited concerns with the bill that would add a pain assessment to the "Welcome to Medicare" physical as he said this could exacerbate the problem similar to what happened after the Joint Commission made pain the 5th vital sign.

Subcommittee Ranking Member Burgess (R-TX) noted that the Committee is breaking a record by examining 34 bills and full Committee Ranking Member Walden (R-OR) stated, "This [the 34 bills under consideration] marks the largest number of bills noticed in a legislative hearing before this committee. But the number and scope of bills helps underscore how important this topic is to all of us and how many good ideas there are to help patients. While considering this many bills requires some extra work from members and staff, I think we should see this not as an inconvenience, but as an opportunity."

In his [opening remarks](#), Dr. Burgess said that physician workforce shortages are an issue that is coming up frequently; Burgess stated, "One issue area that repeatedly comes up is our physician workforce. Congress can pass bills that increase access to evidence-based treatment, but if we do not have enough physicians equipped with proper tools and training, we will not have sufficient capacity to provide effective treatments for individuals suffering from substance use disorder." Burgess noted that he is working on draft legislation that would result in more transparency about how Graduate Medical Education (GME) dollars are used. He also referenced two other bills on the docket – The Medicaid PARTNERSHIP Act, which would require state Medicaid programs to integrate Prescription Drug

Monitoring Programs (PDMPs) usage into Medicaid providers' and pharmacists' clinical workflow while establishing basic criteria for qualified PDMPs, and the Medicaid Pharmacy Home Act, which would require states to have a provider and pharmacy assignment program that identifies at-risk Medicaid beneficiaries and sets limits on the number of prescribers and dispensers they can utilize.

Chairman Walden reiterated at the hearing that while they need and welcome the input of the Congressional Budget Office (CBO) and stakeholders on the proposals they are considering, he wants the Committee to move quickly. He stated, "But our aim remains the same – moving through committee in regular order to advance legislation on the House Floor before the Memorial Day recess."

Some of the specific bills and issues that were discussed at the hearing included:

- **IMD exclusion.** Rep. Blackburn (R-TN) said that in almost every meeting she has with providers, they bring up the Institutions of Mental Disease Exclusion (IMD). Ms. Brandt said that CMS' goal is to ensure that the right treatment is available for the individual in the right setting and they have implemented IMD demonstration waivers in 5 states – Louisiana, New Jersey, Utah, Indiana and Kentucky.
- **Naloxone.** In Ms. Brandt's statement she said that CMS is promoting access to naloxone by requiring that it appear on all Medicare Part D drug formularies and said that Medicaid programs in a number of states include forms of naloxone on their Medicaid Preferred Drug Lists.
- **Non-opioid alternatives for pain treatment.** Rep. Latta (R-OH) asked Ms. Brandt about CMS' efforts to increase access to non-opioids for pain management and she said they are looking very aggressively at this area, including looking at naloxone. Later in the hearing, Rep. Bucshon (R-IN) also raised this issue and said CMS Administrator Seema Verma discussed it at a meeting with the Doctors Caucus this morning. Bucshon said some congressional authority may be needed in this area regarding coverage for non-opioids and said that coverage decisions are often a barrier to access. Ms. Brandt also noted later in the hearing that CMS cannot interfere in negotiations regarding what plans cover under current statute.
- **Physician Education.** Rep. McMorris-Rodgers (R-WA) asked how existing dollars can be leveraged to train providers on pain management and substance use disorders. Ms. Brandt said they want to work with states and accrediting organizations to make sure that is part of medical education.
- **Criminal Justice.** Rep. Cardenas (D-CA) referenced the At Risk Youth Medicaid Protection Act, which would prevent youth from losing their Medicaid coverage if they come into contact with the criminal justice system. Additionally, later in the hearing Rep. Tonko (D-NY) raised the issue of individuals losing their Medicaid coverage and Ranking Member Burgess said he was aware of people who were charged, found not guilty and lost their Medicaid benefits and said that this issue needs to be remedied legislatively.
- **Neonatal abstinence syndrome (NAS).** Rep. Guthrie (R-VA) said he will be introducing legislation with Rep. Lujan (D-NM) regarding NAS and Rep. Latta asked Ms. Brandt about 1115 Medicaid demonstration waivers in this area. Ms. Brandt said that they are using the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirements in Medicaid, which require states to offer a comprehensive array of services, to address this issue.

- **Individuals with chronic pain.** Rep. Shimkus (R-IL) expressed concerns about making sure individuals with chronic pain can continue to access opioids. Ms. Brandt said that CMS' efforts focus on identifying individuals who may be at high risk of abuse or misuse and cited an example of what they would be looking for - a large prescription or multiple prescriptions over a long period of time from multiple doctors and/or pharmacies. Ranking Member Burgess also referenced making sure individuals with chronic pain can receive their pain medications as he said they will start to seek out illicit drugs if their access becomes otherwise limited.
- **Pharmacy lock in.** Several Members referenced pharmacy lock in and the Medicaid Pharmacy Home Act. Ms. Brandt said that CMS was very appreciative of previous legislation passed by Congress to give CMS this authority in Medicare Part D and noted it will be voluntary for plan sponsors to have lock-in requirements next year when the provision goes into effect, but that President's budget proposed making it mandatory.
- **Methadone.** Rep. Bucshon raised Methadone with Ms. Brandt and she said they are looking at different ways where it is appropriate. Ranking Member Burgess referenced Mr. Bucshon's comments later in the hearing and said that he spent some time at a methadone clinic during medical school in the 1970s and he found the process to be very hard on people and made it difficult for individuals to maintain employment because they had to spend so much time at the clinic. Burgess said there needs to be some thought about how it is being administered.