National Council for Behavioral Health

Association Executives Teleconference Summary Notes

Tuesday, April 7, 2020

1:30 – 2:30 p.m. ET

Participants:

Laura Aldinger, Jeremy Blair, Melanie Brown-Woofter, Gian Carl-Casa, Nadia Chait, Shelley Chandler, Ann Christian, Le Ondra Clark Harvey, Lauri Cole, John Coppola, Paul Curtis, Terry Dosch, Mark Drennan, Annette Dubas, Mark Fontaine, Doyle Forrestal, Eric Foster, Linda Grant, Shannon Hall, Lisa Henick, Kimberly Higgs, Lauren Grimes, Heather Jefferis, Julia Jernigan, Lee Johnson, Teresa Lampl, Mark LeVota, Marvin Lindsey, Scott Lutgenau, John Magnuson, Brent McGinty, Jim Palen, Carolyn Petrak, Michelle Ponce, Mary-Linden Salter, Flora Schmidt, Malory Shaughnessy, Adrienne Shelton, Andrea Summerville, Julie Tessler, John Tassoni, Ellyn Wilbur, and Mary Windecker

Staff in Attendance:

Chuck Ingoglia, Jeannie Campbell, Frankie Berger, Neal Comstock, Rebecca Farley-David, Tom Hill, Sophia Majlessi, Diane Millard, Joel Nepomuceno, Joe Parks, Michael Petruzzelli, Sarah Surgenor, and Reyna Taylor.

Guests:

Adam Falcone, Feldesman Tucker Leifer Fidell LLP; and

Noori Ali, Feldesman Tucker Leifer Fidell LLP

**Summary Notes:**

**COVID-19 Policy Update**

Presented by Reyna Taylor and Frankie Berger –

Reyna Taylor described the elements of our $38.5 billion request for support for behavioral health providers which we hope will be part of a fourth (Phase 4) piece of stimulus legislation to combat the effects of the COVID-19 pandemic. She stated that the National Council has worked together with 40 addiction and mental health advocacy organizations to pull together this request.

Doyle Forrestal stated that in addition to our immediate needs, we are also asking for funding for providers to deal with the long-term ramifications of the pandemic.

Chuck emphasized that data we get from member surveys is critically important to supporting this ask. He stated that many sectors are making requests for funding, so we need to help ensure our voices are heard. Chuck said that the Senate will be meeting this week to try to add to payroll protections. Reyna added that grassroots stories from our members are needed to support our ask for funding, especially on access to treatment by telehealth.

Frankie Berger stated that most states have had the Section 1135 waiver requests approved. However, she noted that we are hearing that Section 1115 waivers might be a better option for us to pursue. Chuck mentioned that 3 states have gotten approval for Section 1115 waivers and we will share information on them. Others have proposed Section 1115 waivers, but they have not yet been approved. Joe Parks stated that Section 1135 waivers grant relief from existing rules, while Section 1115 waivers can grant new authority.

Adam Falcone introduced his colleague Noori Ali who gave an overview of the definition of an excepted “health care provider” under the Families First Coronavirus Response Act (FFCRA). She described how the FFCRA requires private employers with fewer than 500 employees to provide employees with paid sick leave and/or expanded family and medical leave with an exception for health care providers including clinical psychologists and clinical social workers. Noori continued that the Department of Labor recently issued guidance and regulations with an expanded definition of “health care provider,” and that as a result, we believe that this exception includes behavioral health workers that provide direct care.

Flora Schmidt (IA) stated that just because the law says that employers of health care providers “may elect” to not to provide these staff with paid sick leave, that they could do so. She said that if they do provide paid sick leave to their provider staff then they could be penalized later. Flora also asked about unemployment vs. family and medical leave and what happens if non-working staff attempt to file for unemployment. Noori replied that this is different for exempt vs. non-exempt staff and that employers should document their decisions.

**COVID-19 Clinical Support for Behavioral Health Providers** –

Presented by Dr. Joe Parks

Joe Parks discussed that he and his colleagues are working on holding a wide range of interest group virtual meetings every week, including meetings: on self-help, for Chief Financial Officers, on substance use disorders, and on child, adolescent, and elderly adults. Joe asked for recommendations from the group on what else they should be focused on. Their overall goal is to help members keep the stress and anxiety of dealing with the pandemic from turning into trauma.

**Open Discussion** (Conversations grouped by topic. Not all conversations captured)

Shannon Hall (MD) asked if any states have had success in getting away from attaching reimbursement to encounters. Mallory Shaughnessy (ME) stated they can receive interim payments, but with guidance that it has to be fully reconciled and if it isn’t, then the payments have to be returned. She said that this will be disastrous under their Section 1115 waiver.

Heather Jefferis (OR) said she is working on getting lump sum payments based on previous months and that she is calling them “disaster preservation payments”. Shannon stated that they are considering asking for retainer payments which include the cost of moving members to telehealth. She said that this recalculation has improved members potential budgets tremendously and she asked if others are seeking past payments plus hazard pay. Jinny Palen (MN) asked if there has been any discussion around a “blanker waiver” from CMS. She also said that MN has submitted a Section 1135 and was told to submit a Section 1115 instead. Joe Parks replied that he had not heard of discussions about a blanket waiver. Andi Summerville (WY) asked how quickly funds from the $38 billion request will get to providers if it passes. Chuck reiterated that the funds we are now asking for will go straight to providers.

Mark Fontaine (FL) mentioned that they have providers who are volunteering to shelter in place with patients that have tested positive, so they have to be paid longer hours. He inquired if this has happened in the healthcare space in which this can be documented as an emergency. Mary Linden Salter (TN) mentioned that she is doing a webinar for members this month regarding FEMA grants which will include information on how to capture real cost, how to file the information, and that it has to be filed within 30 days of the date the President has declared an emergency.

Adam stated that there is a temporary period of non-enforcement of many regulatory requirements and if providers have made good faith efforts to comply with the rules, then they will not be penalized.

Paul Curtis (CA) recommended that the group stay aware of how this is affecting each us as an association. He also mentioned to keep in mind association can get help from the stimulus legislation, and to remember the employment retention tax credit. Paul stated that associations can go to the SBA site and apply directly. Mark asked how this crisis will affect membership dues. Chuck mentioned he has heard of associations cancelling their meetings for the remainder of the year. John Magnusson (MN) stated he has cleared the calendar for the rest of the summer but hope to keep their annual conference in October on. Lee Johnson (TX) stated that they have exponentially increased the number of member communications sent out and they have sent out a member resource page on their website. John Copolla (NY) stated they have a phone call seven days a week at 10:30 am with representatives from the state Medicaid agency and between 100 and 150 provider members.

**Next Association Executives Teleconference**

April 14, 2020 1:30 PM ET