

State Of The Union:

A Critical Look At The Policy & Legislation Impacting U.S. Behavioral Health Care

Featured Speakers

Nathaniel Counts, JD

Senior Policy Director
Mental Health America



Nathaniel develops innovative federal and state policy solutions for issues regarding behavioral health, including alignment of incentives and sustainable financing, and improving population health. He is an expert member of the Forum on Promoting Children's Cognitive, Affective, and Behavioral Health at the National Academies of Science, Engineering, and Medicine, and he serves on the Board of Directors for the One Circle Foundation, CHADD (Children and Adults with ADD), and the Flawless Foundation. His most recent publication was "Promoting Mental Health and Well-Being in Public Health Law and Practice" in the Journal of Law, Medicine & Ethics.

Nathaniel received his J.D. cum laude from Harvard Law School, where he was a Petrie-Flom Center for Health Law Policy Student Fellow, and his BA in biology from Johns Hopkins.

Athena Mandros, BA

Director, Market Intelligence
OPEN MINDS



Athena has more than five years of experience as an *OPEN MINDS* subject matter expert in policy and financing of health and human services across all payers. She is responsible for development of all reports on special topics such as behavioral health, non-traditional Medicaid expansion, State Innovation Model (SIM) Grants, and permanent supportive housing. Athena is editor of the *OPEN MINDS* Behavioral Health System State Profile, an annual market intelligence report on mental health and addiction treatment financing in each of the fifty states.

Athena received her BA from Gettysburg College in Gettysburg, Pennsylvania.



This program is paid for by
Otsuka Pharmaceutical Development & Commercialization, Inc. (OPDC)
and Lundbeck, LLC.

Today's speakers are unpaid contributors.

PsychU Virtual Forum Rules Of Engagement

Otsuka Pharmaceutical Development & Commercialization, Inc. (OPDC) and Lundbeck, LLC. have entered into collaboration with *OPEN MINDS*, to explore new ways of bringing/increasing awareness around serious mental illness.

OPDC/Lundbeck's interaction with *OPEN MINDS* is through PsychU, an online, non-branded portal dedicated to providing information and resources on important disease state and care delivery topics related to mental illness. One of the methods employed for the sharing of information will be the hosting of virtual fora. Virtual fora conducted by OPDC/Lundbeck are based on the following parameters:

When conducting medical dialogue, whether by presentation or debate, OPDC/Lundbeck and/or its paid consultants aim to provide the viewer with information that is accurate, not misleading, scientifically rigorous, and does not promote OPDC/Lundbeck products.

No continuing medical education (CME) credits are available for any PsychU program.

OPDC/Lundbeck and/or their paid consultants do not expect to be able to answer every question or comment during a PsychU Virtual Forum; however, they will do their best to address important topics and themes that arise.

OPDC/Lundbeck and/or their paid consultants are not able to provide clinical advice or answer questions relating to specific patient's condition.

Otsuka and Lundbeck employees and contractors should not participate in this program (e.g., submit questions or comments) unless they have received express approval to do so from Otsuka Legal Affairs.

OPDC/Lundbeck operate in a highly regulated and scrutinized industry. Therefore, we may not be able to discuss every issue or topic that you are interested in, but we will do our best to communicate openly and directly. The lack of response to certain questions or comments should not be taken as an agreement with the view posed or an admission of any kind.

Objectives



- Understand The Importance Of Careful Examination Of Federal And State Health Care Policies
- Explore Federal & State Health Care Legislation & Policy Changes From 2018
- Discuss Anticipated Changes For The Upcoming Year

Federal & State Roles In Behavioral Health Policy



- **Federal Roles**
 - Regulate Systems & Providers
 - Protect Rights Of Consumers
 - Fund Services
 - Support Research & Innovation
 - Establish & Enforce Minimum Standards
- **State Roles**
 - Must Meet Federal Standards
 - May Expand Beyond Federal Regulations To Further Improve Services, Access, & Protections
 - May Tailor Services To Meet Needs Of Residents At State / Count Level; Freedom To Experiment

1. Mental Health America (MHA). (2018). The Federal and state role in mental health. Retrieved November 6, 2018 from [MentalHealthAmerica.net](https://www.mentalhealthamerica.net).

Why Is Behavioral Health Legislation & Policy Important?



- Defines a vision for the future
- Helps to establish benchmarks for prevention, treatment, and rehabilitation of mental disorders
- Coordinates interrelated mental health services and programs
- Promotes optimized mental health outcomes
- Provides critical knowledge – in the form of market intelligence – for payers, providers, and clinicians

1. World Health Organization (WHO). (n.d.). Mental health policy. Retrieved November 6, 2018 from WHO.int/mental_health.

Market Intelligence

Defined

Market intelligence is a systematic and ethical program for gathering, analyzing, and managing external information that can affect plans, decisions, and operations.

It's a complete and continuing awareness of all facets of a marketplace.



Market Understanding



Customer Intelligence



Competitor Intelligence



Product Intelligence

1. Mandros, A. (2018). [Presentation Slides] Addressing the challenges of the complex consumer market: A market intelligence update. *OPEN MINDS*: Gettysburg, PA. Retrieved November 16, 2018 from OPENMINDS.com.

Market Intelligence

The Value In It, Who Uses It, & For What?

VUCA



Executive Teams

- Strategic planning process
- New service line development
- Managing risk
- Educating the board

Business Development

- Trends for the next “big” service line
- Understanding what payers are looking for in a proposal
- Positioning self as different than the competition

Clinical Staff

- New evidence-based practices
- New service delivery models
- Changing customer preferences and challenges
- Education and engagement of staff

Finance Team

- Changes in billing and reimbursement models
- Changes in reporting requirements
- Threats to non-profit status, i.e. “community benefit”

1. Mandros, A. (2018). [Presentation Slides] Addressing the challenges of the complex consumer market: A market intelligence update. *OPEN MINDS*: Gettysburg, PA. Retrieved November 16, 2018 from OPENMINDS.com.

Federal Policies

Nationwide Impacts



Health Care & Costs Are **STILL** Important

Congress Expresses Concern Over The Future Of Health Care Payment



1. **Patient Protection & Affordable Care Act**
2. **Health Care Innovation Caucus (May 2018)**

Sponsored By 4 Bipartisan U.S. Representatives

- U.S. Representatives Mike Kelly (R-PA), Ron Kind (D-WI), Markwayne Mullin (R-OK), and Ami Bera, M.D. (D-CA)

Promote The Legislative Agenda To Explore & Advance:

- Successful, innovative payment models
- Technologies needed to support the models

Supported By A Nationwide Group Of Health Care Organizations

1. U.S. Representative Mike Kelly. (201). Press Release: Rep. Kelly launches bipartisan health care innovation caucus. Retrieved November 6, 2018 from Kelly.House.gov.

21st Century CURES Act – Continued Implementation

Parity Reporting & Enforcement



- **Recent Activity**

- In FY 2017, DOL's Employee Benefits Security Administration (EBSA) conducted 187 investigations related to MHPAEA and cited 92 violations

- **Planned Activity**

- DOL will devote resources to review employer sponsored health plans, including the re-adjudication of improperly denied claims
- EBSA is establishing MHPAEA enforcement teams to conduct investigations of behavioral health organizations and insurance companies

DOL = Department Of Labor; MHPAEA = Mental Health Parity & Addiction Equity Act

1. U.S. Department of Health and Human Services (DHHS). (n.d.). 21st century cures act: Section 13002 action plan for enhanced enforcement of mental health and substance use disorder coverage. Retrieved November 6, 2018 from HHS.gov.

21st Century CURES Act – Continued Implementation

Parity Consumer & Compliance Tools



- **Recent Activity**

- DOL and SAMHSA issued three joint publications to assist consumers seeking to understand how MHPAEA affects their coverage

- **Planned Activity**

- HHS will continually update the Parity Portal (www.hhs.gov/parity) for consumers to determine if they have experienced a parity violation

DOL = Department Of Labor; HHS = Health & Human Services; MHPAEA = Mental Health Parity & Addiction Equity Act; SAMHSA=Substance Abuse & Mental Health Services Administration

1. U.S. Department of Health and Human Services (DHHS). (n.d.). 21st century cures act: Section 13002 action plan for enhanced enforcement of mental health and substance use disorder coverage. Retrieved November 6, 2018 from HHS.gov.

21st Century CURES Act – Continued Implementation

Selected NIH Health Innovation Grants Of Interest To Behavioral Health



- **Precision Medicine Initiative**
 - \$1.455 billion (10 years)
 - Study individual differences in people’s biology, environments, and lifestyles to address disease prevention, diagnosis, and treatment
- **BRAIN Initiative**
 - \$1.511 billion (10 years)
 - Better understand the human brain through technology
 - Discover new ways to treat/cure/prevent brain disorders

BRAIN = Brain Research Through Advancing Innovative Neurotechnologies; NIH = National Institutes Of Health

1. National Institutes Of Health (n.d.). Implementation of funding plan for the NIH innovation projects under the 21st century cures act. Retrieved November 6, 2018 from NIH.gov.

Substance Abuse & Mental Health Services Administration

Focusing Efforts Nationwide To Improve Quality



- **Evidence-Based Practices Resource Center¹**
 - A new comprehensive approach to identify and disseminate clinically sound/scientifically based policies, practices and programs for mental health and substance use
 - An online collection of resources (e.g. treatment improvement protocols, toolkits, resource guides, clinical practice guidelines, and other science-based resources)
- **Clinical Support System For SMI²**
 - APA (Grantee) will offer online training, webinars, and classroom education on evidence-based approaches to serious mental illness
 - Topics to include pharmacotherapy for SMI, assisted outpatient treatment

APA = American Psychiatric Association; SAMHSA = Substance Abuse and Mental Health Services Administration; SMI = Serious Mental Illness

1. SAMHSA. (2018). Evidence-Based practices resources center. Retrieved November 6, 2018 from SAMHSA.gov.
2. McCance-Katz, E. F. (2018). SAMHSA: New directions. Retrieved November 6, 2018 from PsychiatryOnline.org

Centers For Medicare & Medicaid Services

Encouraging Systems To Address Other Impacting Factors



- **Accountable Communities Model¹**
 - Funded Under Center For Medicare & Medicaid Innovation (CMMI)
 - Section 1115A; Five-Year Program (Began May 1, 2017)
 - 32 Community Bridge Organizations Selected
 - Link Beneficiaries To Needed Housing, Food, Utilities, Safety, Transportation Services
 - Two Tracks
 - Assistance: Provide person-centered navigation services
 - Alignment: Provide navigation services + encourage community partnerships to deliver services

1. CMS. (2017, April 6). CMS' accountable health communities model selects 32 participants to serve as local 'hubs' linking clinical and community services. Retrieved November 6, 2018 from CMS.gov.

Accountable Health Communities Model Example

Community Health Network Foundation: Indianapolis, IN



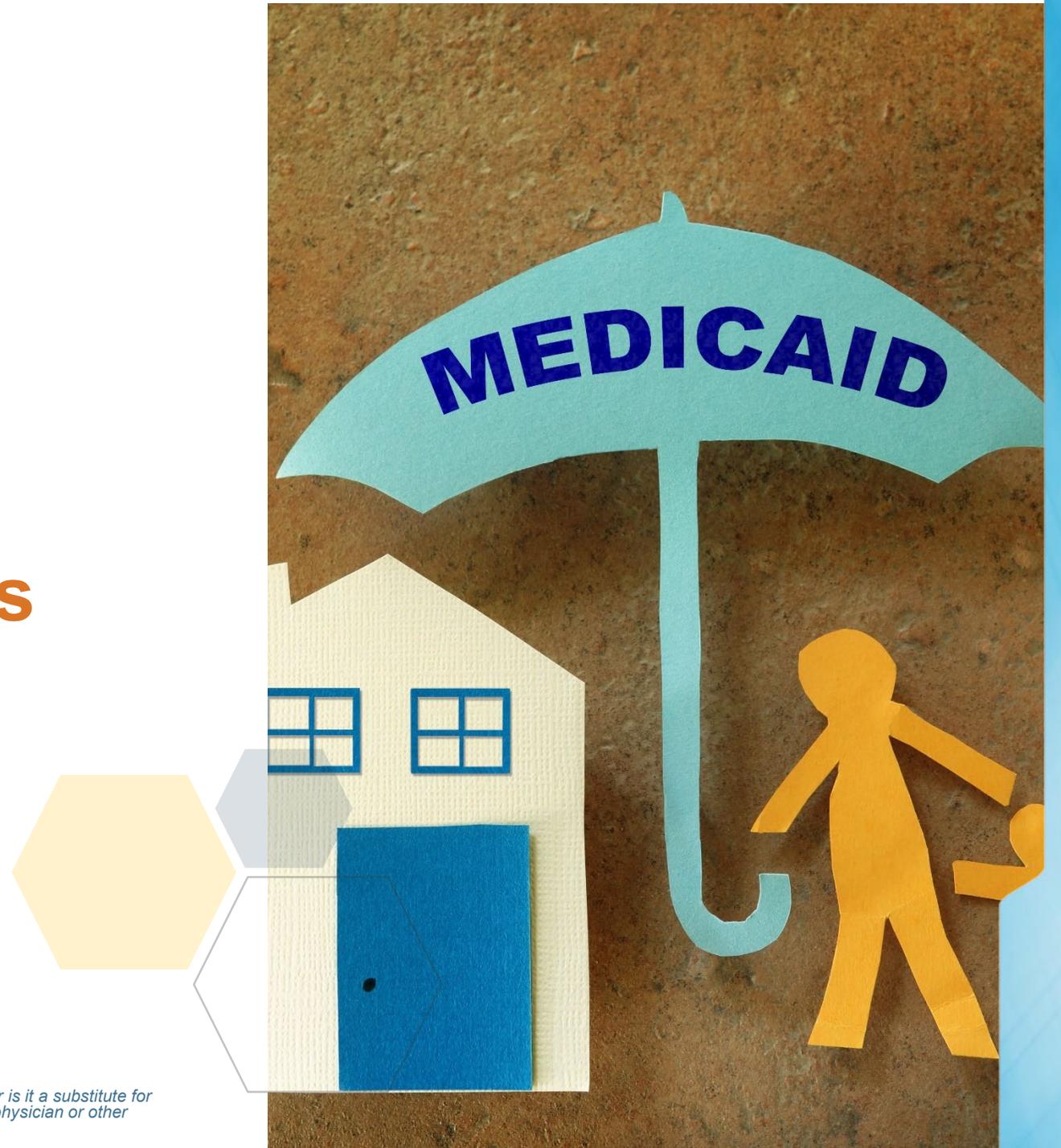
- **Community Health Network Foundation Received \$2,560,494 CMS Grant (2017)**
- **Partnered With The Eastside Redevelopment Committee**
 - Represents 50 businesses & community-based organizations focused on improving health through high-quality support services, educational programs, and workforce development.
- **Goals For Beneficiaries Living On The East Side Of Indianapolis**
 - Screen high-risk beneficiaries
 - Identifying social needs that may impact their health
 - Connect them with the right community resources
- **Expects To Assist 70,000 Individuals**

CMS = Centers For Medicare & Medicaid Services

1. Schlabach, J. (2017, April 10). Community Health Network receives more than \$2 million grant to address unmet health-related needs. Retrieved 11/6/18 from WISHTV: www.wishtv.com

Medicaid Changes

State-By-State Impacts



The Medicaid IMD Exclusion

Loosening Regulations To Increase Access To Care^{1,2}



- **What Are IMDs?**
 - Primarily Inpatient Diagnosis, Care, & Treatment For People With Mental Illness
 - > 16 Beds
- **What Is The Exclusion?**
 - Congress Has Prohibited States From Using Medicaid Funds For IMD Services For Non-Elderly Adults
- **Most States Are Seeking Authority To Alter The IMD Payment Exclusion**
 - Section 1115 Demonstration Waivers
 - Medicaid Managed Care “In Lieu Of” Authority
 - DSH Payments

IMD = Institutions For Mental Disease; DSH = Disproportionate Share Hospital

1. Musumeci, M. (2018). Key questions about Medicaid payment for services in 'institutions for mental disease'. Retrieved November 6, 2019 from KFF.org.

2. OPEN MINDS. (2018). CMS to allow state Medicaid plans to cover residential addiction treatment. *OPEN MINDS*: Gettysburg, PA. Retrieved November 16, 2018 from OPENMINDS.com.

Considered Changes To The IMD Exclusion

- **IMD Care Act – H.R. 5797¹**
 - Would create a five-year state plan option for states to receive federal Medicaid payments for IMD services only for adults ages 21 to 64 with opioid use disorder
- **SUPPORT Act – Signed October 24, 2018²**
 - Provision directing CMS to end the Medicaid exclusion on addiction treatment at IMDs
 - Starting in federal fiscal year 2019, SPA option to cover care in eligible IMDs for 21-64 year olds with at least one addiction / substance use disorder through 2023
 - Eligible IMDs meet the following qualifications
 - Follows reliable Evidence-Based Practices
 - Offers at least two forms of MAT for SUDs on site

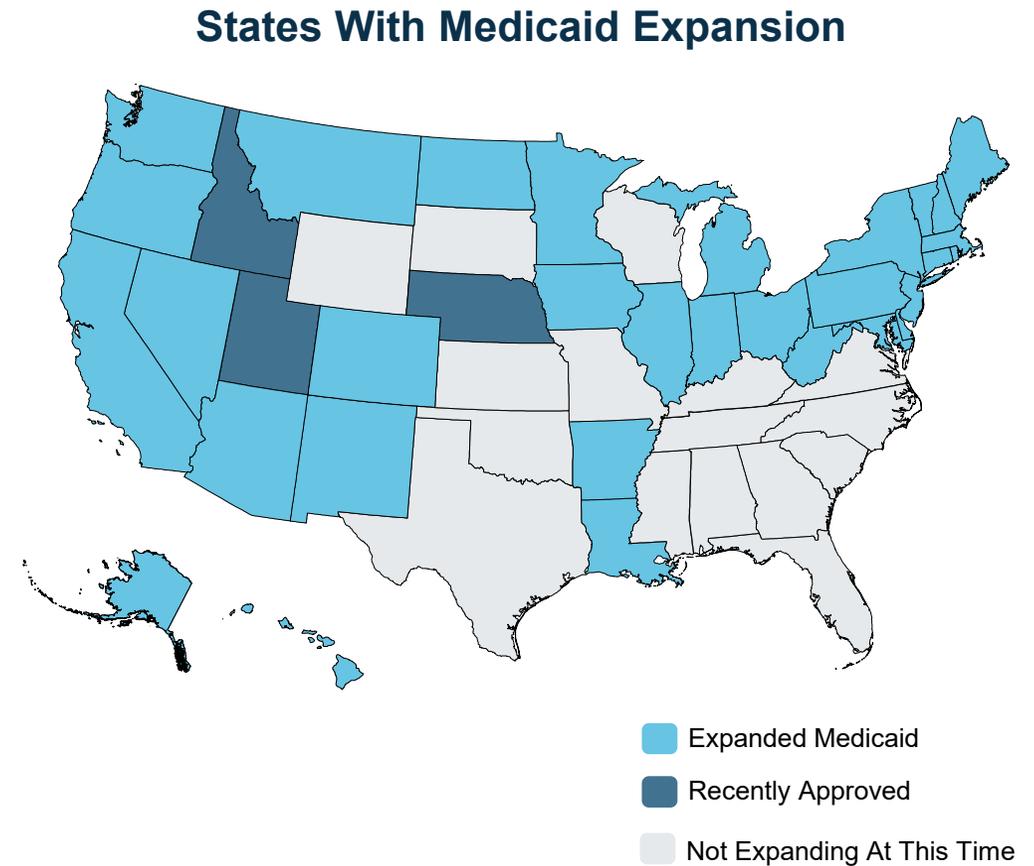
IMD = Institution For Mental Disease; MAT = Medication Assisted Treatment SUD = Substance Use Disorder; SUPPORT = Substance Use Disorder Prevention That Promotes Opioid Recovery & Treatment For Patients & Communities; SPA = State Plan Amendment

1. Musumeci, M. (2018). Key questions about Medicaid payment for services in 'institutions for mental disease'. Retrieved November 6, 2019 from KFF.org.

2. OPEN MINDS. (2018). CMS to allow state Medicaid plans to cover residential addiction treatment. *OPEN MINDS*: Gettysburg, PA. Retrieved November 16, 2018 from OPENMINDS.com.

Medicaid Expansion

- **31 States & DC Expanded Medicaid Under The ACA¹**
- **Expansions Via Citizen-initiated Ballot Referendums**
 - Maine expanded Medicaid in 2017¹
 - Nebraska, Idaho, Utah voters approved expansion via November 2018 ballot²
- **Montana Efforts To Permanently Reauthorize The State's Medicaid Expansion, Scheduled To Sunset In 2019, Failed On The November 2018 Ballot³**



ACA = Affordable Care Act

1. Moulds, D. (2018). A new group of states looks to expand Medicaid. Retrieved November 6, 2018 from CommonwealthFund.org.
2. Goodnough, A. (2018). Idaho, Nebraska and Utah vote to expand Medicaid. Retrieved November 9, 2018 from NYTimes.com.
3. Whitney, E. (2018). After midterm defeat, advocates for Montana's Medicaid expansion turn to legislature. Retrieved November 9, 2018 from NPR.org.

Work & Community Engagement Requirements¹



- **CMS Will Support State Efforts To Require Beneficiaries To Participate In Work Or Other Community Activities To Gain Or Maintain Eligibility**
 - Under 1115 Waivers
 - Waiver program must promote better mental, physical, and emotional health
 - Program may be designed to help individuals and families rise out of poverty and attain independence
 - Only for adults, non-elderly, non-pregnant, not disabled
- **Rationale:** Social, Economic, & Behavioral Factors Can Have A Major Impact On An Individual's Health & Wellness

CMS = Centers For Medicaid & Medicaid Services

1. Neale, B. (2018). Opportunities to promote work and community engagement among Medicaid beneficiaries. Retrieved November 6, 2018 from Medicaid.gov.

Example: AR Works Program

Background



- Arkansas was the first state to implement a Medicaid 1115 Waiver requiring beneficiaries to meet work and reporting requirements as a condition of eligibility¹
- Effective June 1, 2018¹
- Beneficiary Requirements¹
 - Must engage in 80 hours of work or other qualifying activities each month
 - Must report their work or exemption status using an online portal each month
 - Failure to comply for three months means the individual will lose coverage for the remainder of the calendar year
 - May reapply the following January
- Once fully implemented will affect 167,000 of 265,000 enrollees in Medicaid expansion plan²

AR = Arkansas

1. Rudowitz, R. (2018). A look at state data for Medicaid work requirements in Arkansas. Retrieved November 6, 2018 from KFF.org.
2. Wilson, J. C. (2018). Nation's first Medicaid work requirement sheds thousands from rolls in Arkansas. Retrieved November 9, 2018 from HealthAffairs.org.

Example: AR Works Program

Preliminary Results: July 8 – September 9, 2018¹

- **60,012 Subject To Work Requirement (2018: Phase-In Of Enrollees Ages 30-49)**
 - 1,218 Satisfied Reporting Requirement
 - 2,247 Reported An Exemption Since Receiving Notice
 - 16,357 Did Not Satisfy Reporting Requirement
 - 40,190 Already Met Requirement Due To Work, Training, Or Other Activity
- **4,353 People Lost Coverage Due To Non-Compliance With The Work Requirement**

AR = Arkansas

1. Arkansas Department of Human Services. (2018). Arkansas works program. Retrieved November 7, 2018 from [HumanServices.Arkansas.gov](https://www.human-services.gov).

Looking Forward

Where Do We Go From Here?



Mental Health America

Mission & Priorities For Policy Change¹



- **Prevention For All**
- **Early Identification & Intervention For Those At Risk**
- **Integrated Health, Behavioral Health, & Other Services For Those Who Need It**
- **Recovery As The Goal**

MHA = Mental Health America

1. MHA. (2018). Policy & advocacy. Retrieved November 6, 2018 from 11/6/18 from MentalHealthAmerica.net.

Thoughts On The Behavioral Health Landscape

- **Addressing Social Determinants Of Health**
- **Continued Changes To IMD Exclusion**
- **Continued Shift Toward Value-Based Care & Alternative Payment Models**
- **Potential Changes To ACA, Medicaid Expansion, & Medicaid Work Requirements**

ACA = Patient Protection & Affordable Care Act; IMD = Institution For Mental Disease

1. Zablocki, A. (2018). *Medicare advantage to address social determinants of health: An important step for value-based care*. Retrieved November 6, 2018 from SheppardHealthLaw.com



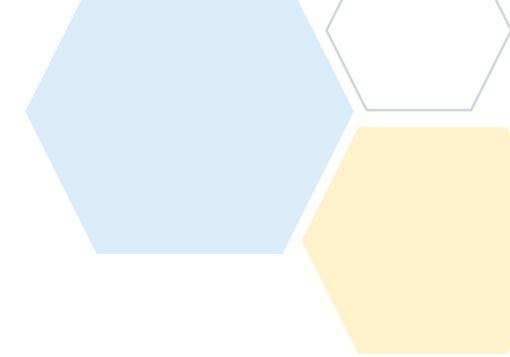
Questions

Closing

Upcoming Virtual Fora*

Event	Speaker(s)	Date	Time
Shared Decision Making In Psychiatry: Fostering The Therapeutic Alliance In The Digital Age	<ul style="list-style-type: none">• Susan Bergeson• Jason Caplan, MD, FAPA, FACLP	January 10, 2019	12:00pmET

*Register for these programs at <https://www.PsychU.org/events>



State Of The Union:

A Critical Look At The Policy & Legislation Impacting U.S. Behavioral Health Care