



CHLPI & NVHR Applaud DOJ & HHS Letter Urging Access to Hep C Cure for Patients with Substance Use Disorder

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The Center for Health Law and Policy Innovation of Harvard Law School ([CHLPI](#)) and the National Viral Hepatitis Roundtable ([NVHR](#)) applaud the recent [joint letter](#) from the U.S. Department of Justice (DOJ) and the Department of Health and Human Services (HHS) to state Medicaid administrators explicitly affirming the right of Medicaid beneficiaries with both Hepatitis C (HCV) and substance use disorder (SUD) to access life-saving HCV medications, in accordance with the Americans with Disabilities Act (ADA).

The letter cites a settlement agreement in Alabama resulting from an [administrative complaint](#) that CHLPI and AIDS Alabama filed with the DOJ in 2022. Later that year, following a DOJ investigation, Alabama Medicaid withdrew its previous sobriety requirements for individuals seeking hepatitis C treatment and entered into an agreement that requires the state to remedy cases where coverage was previously denied because of a person's SUD.

The ADA requires that states, in administering their services, programs, and activities, avoid discriminating against individuals with disabilities, including individuals with SUD.

"Alabama Medicaid's policy meant that people with HCV and SUD (who also had evidence of recent use of alcohol and/or illicit drugs) were denied potentially life-saving medication," the DOJ/HHS letter states. "While states have the authority to manage their Medicaid programs in accordance with their state plans and have the flexibility to set prior authorization criteria based on their state program needs, those plans and criteria must be consistent with other applicable laws including the ADA."

In light of the Alabama investigation's findings, the DOJ and HHS are urging all state Medicaid administrators to review their policies, especially around HCV treatment, for ADA compliance and to make changes if necessary.

"We applaud the joint letter by the DOJ and HHS," Suzanne Davies, Senior Clinical Fellow at the Center for Health Law and Policy Innovation, said. "There is still much work to be done to ensure equitable access to care for hepatitis C and SUD patients. We urge state Medicaid administrators, and all other health care entities subject to the ADA, to review their policies and practices and

bring them in line with federal law.”

Arkansas remains the only state that still imposes a strict, months-long abstinence requirement for SUD patients. Nebraska and North Dakota recently updated their policies to remove the abstinence requirement. As of [January 2023](#), Alaska, Arkansas, Iowa, Nebraska, North Dakota, Minnesota, Mississippi, Montana, and West Virginia, continue to burden prescribers and patients by imposing additional substance use-related criteria prior to approving care. Several states also still deny retreatment to people with a history of substance use.

“For too long the substance use requirement interfered with providers’ ability to offer patients with hepatitis C the medical standard of care,” said Adrienne Simmons, director of programs at NVHR. “Ensuring that people who use drugs have access to lifesaving therapy will help stem the tide of rising hepatitis C infection rates and health inequities in the U.S.”

The DOJ/HHS letter comes against the backdrop of [recent data](#) released by the Center for Disease Control (CDC) showing alarmingly low rates of hepatitis C treatment — especially among Medicaid beneficiaries. A proposal from the White House to broaden access to treatment through a [National Hepatitis C Elimination Initiative](#) awaits Congressional action.

Prior authorization remains a huge barrier to eliminating hepatitis C as a public health threat. More than half of all state Medicaid programs have already taken action to remove prior authorization for most patients. CHLPI and NVHR urge remaining states not only to review their Medicaid policies on coverage of HCV medications for compliance with the ADA but also to remove blanket prior authorization for HCV treatment.

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