Discriminatory Sobriety Restrictions Undermine Public Health Efforts to Eliminate Hepatitis C

A new progress report details the changes to hepatitis C treatment access in Medicaid programs.

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The Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) and the National Viral Hepatitis Roundtable (NVHR) today released a new progress report detailing the changes to hepatitis C treatment access in Medicaid programs since first publishing an analysis in 2017. The Hepatitis C: State of Medicaid Access May 2021 National Progress Report (Progress Report) demonstrates that while there is better access to hepatitis C (HCV) treatment today, discriminatory practices persist in some state Medicaid programs. In particular, sobriety restrictions continue to undermine public health efforts to eliminate hepatitis C in the U.S.

The State of Hepatitis C has since 2017 assessed and graded Medicaid programs in all 50 states plus Puerto Rico and Washington, D.C. according to its overall "state of access" for HCV treatment. The State of Hepatitis C focuses on three of the most significant restrictive criteria that Fee-for-Service Medicaid programs use as methods of rationing access to the HCV cure: 1) fibrosis (liver damage or disease progression required prior to treatment); 2) sobriety (periods of abstinence from alcohol and/or substance use required); and 3) prescriber (prescribing eligibility limited to certain categories of specialist practitioners).

The Progress Report shows that advocacy and litigation have driven improvement to treatment access. Since 2017:

- 32 states have either eliminated or reduced their fibrosis restrictions;
- 21 have loosened their sobriety restrictions;
- 25 have scaled back their prescriber restrictions; and
- Seven states have removed all restrictions and removed prior authorization for treatment entirely: Washington, Louisiana, New York, California, Indiana, Wisconsin, and Michigan.

The improvement to patient access for hepatitis C treatment is also evident in the fact that there are now 27 states that have an A grade, improved from only 5 states in 2017. In addition, only 4

states currentlyhave a D or F grade, decreased from 27 states with a D or F grade in 2017.

“State Medicaid programs have made tremendous progress in five years in removing barriers to treatment, particularly with fibrosis restrictions. However, discriminatory restrictions remain in several states, and continue to undermine our collective efforts to address both hepatitis C and the growing opioid epidemic,” said Phil Waters, Staff Attorney at CHLPI. “In order to move towards elimination of viral hepatitis, we call on states to drop all remaining restrictions and urge the federal government to hold states accountable for providing non-discriminatory coverage of HCV treatment in the Medicaid program.”

“The sobriety restrictions remain the most pressing and widespread barrier to accessing HCV treatment at a time when the opioid crisis has fostered a new wave of HCV infections among younger people who inject drugs and whose needs are ill-served by sobriety restrictions,” said Adrienne Simmons, Director of Programs at NVHR. “A generation struggling to survive the overdose crisis will face long-term health consequences from HCV if Medicaid policies are not revised to facilitate access to treatment now.”

The State of Hepatitis C continues to hold state Medicaid programs accountable and drive advocacy urging the removal of all treatment restrictions in line with guidance from the U.S. Centers for Medicare and Medicaid Services and the standard of care established by the AASLD/IDSA guidelines. Increasing access to hepatitis C treatment is especially vital as the COVID-19 pandemic has interrupted prevention and treatment services, driving increased urgency around the need to remove barriers to treatment.

For more information about hepatitis C treatment access barriers and to read the full report, please visit www.stateofhepc.org.

The National Viral Hepatitis Roundtable, an initiative of HEP, is a national coalition fighting for an equitable world free of viral hepatitis. NVHR seeks to eliminate viral hepatitis in the United States and improve the lives of those affected through advocacy, education, and support to national, state and local partners. For more information, visit www.nvhr.org

The Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) advocates for legal, regulatory, and policy reforms to improve the health of marginalized populations, with a focus on the needs of low-income people living with chronic illnesses and disabilities. CHLPI works with consumers, advocates, community-based organizations, health and social services professionals, government officials, and others to expand access to high-quality health care; to reduce health disparities; to develop community advocacy capacity; and to promote more equitable and effective health care systems. CHLPI is a clinical teaching program of Harvard Law School and mentors students to become skilled, innovative, and thoughtful practitioners as well as leaders in health and public health law and policy. For more information, visit http://www.chlpi.org.

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