CHAMBERHILLSTRATEGIES

MEMORANDUM

To: **American Society on Aging**

From: **Chamber Hill Strategies**

Date: **October 1, 2018**

Subject: **Summary of Senior-Related Provisions in H.R. 6, the SUPPORT for Patients and Communities Act**

This memorandum provides a summary of the final conference report for H.R. 6, the SUPPORT for Patients and Communities Act. The legislation is intended to address the opioid crisis primarily through changes to Medicare and Medicaid, and this summary concerns provisions in the bill that are relevant to seniors. For a complete look at all of the bill's provisions, please see the section-by-section summary. The bill was advanced by the House on September 28 by a vote of 393-8 and is awaiting a final vote in the Senate.

Section 1003. Demonstration project to increase substance use provider capacity under the Medicaid program. This provision requires the Centers for Medicare & Medicaid Services (CMS) to carry out a demonstration project to provide an enhanced federal matching rate for state Medicaid expenditures related to the expansion of substance use disorder treatment and recovery services. The demonstration project would allow for at least ten states to receive planning grants while five states would be selected for the enhanced federal matching rate portion of the project.

Section 1006. Medicaid health homes for substance-use-disorder Medicaid enrollees. This provision extends the enhanced matching rate for qualified activities for Medicaid health homes targeted towards Medicaid beneficiaries with substance use disorders from eight quarters to 10 quarters. This incentive is targeted at new SUD health home activities. Also includes a requirement for state Medicaid programs to provide coverage for medication-assisted treatment.

Section 1009. Medicaid substance use disorder treatment via telehealth. This provision directs CMS to issue guidance to states on options for providing services via telehealth that address substance use disorders under Medicaid. Requires guidance to cover state options for federal reimbursement for substance use disorder services and treatment using telehealth including, services addressing high-risk individuals, provider education through a hub-and-spoke model, and options for providing telehealth services to students in school-based health centers. Also directs GAO to evaluate children's access to Medicaid services to treat substance use disorders, including options to improve access through telehealth. Additionally, directs CMS to issue a report to Congress identifying best practices and potential

solutions to barriers to furnishing services to children via telehealth to compare services delivered via telehealth to in-person.

Section 1010. Enhancing patient access to non-opioid treatment options. This provision requires CMS to issue guidance on states' options for treating and managing beneficiaries' pain through non-opioid pain treatment and management options under Medicaid.

Section 1013. Securing flexibility to treat substance use disorders. This provision **c**larifies flexibilities around Medicaid's Institutes for Mental Disease (IMD) exclusion where, in some cases, managed care plans may provide alternative services in lieu of other services that are not permitted under the state plan. Codifies regulations permitting managed care plans to cover treatment in an IMD for a certain number of days in a month in lieu of other types of services.

Section 1014. MACPAC study and report on Medication-Assisted Treatment (MAT) utilization controls under State Medicaid programs. This provision directs the Medicaid and CHIP Payment and Access Commission (MACPAC) to conduct a study on utilization management controls applied to medication-assisted treatment options in both fee-for-service and managed care Medicaid programs.

Section 1017. Report on innovative State initiatives and strategies to provide housing-related services and supports to individuals struggling with substance use disorders under Medicaid.

This provision directs HHS to issue a report on innovative state initiatives and covered housing-related services that state Medicaid programs may use to provide supports to Medicaid enrollees with substance use disorders who are experiencing homelessness or are at risk of homelessness.

Section 1018. Technical assistance and support for innovative State strategies to provide housing-related supports under Medicaid. This provision develops and coordinates housing-related supports and services under Medicaid, either through state plans or waivers, and Directs HHS to provide technical assistance to states care coordination services, for Medicaid enrollees with substance use disorders.

Section 2001. Expanding the use of telehealth services for the treatment of opioid use disorder and other substance use disorders. This provision Expands the use of telehealth services by eliminating certain statutory originating site requirements for telehealth services furnished to Medicare beneficiaries for the treatment of substance use disorders and co-occurring mental health disorders, beginning July 1, 2019. It would allow payment for those services furnished via telehealth at originating sites, including a beneficiary's home, regardless of geographic location. A separate facility fee would not be provided if the originating site is the beneficiary's home.

Section 2002. Comprehensive screenings for seniors. This provision increases screening for opioid use disorder and other substance use disorders among Medicare beneficiaries, during Medicare wellness and preventive care visits, facilitating early detection and treatment. It would require that the Medicare Initial Preventive Physical Examination (also known as the "Welcome to Medicare" visit) and annual wellness visits include a review of the beneficiary's current opioid prescriptions and screening for potential substance use disorders, including a referral for treatment as appropriate.

Section 2004. Requiring prescription drug plan sponsors under Medicare to establish drug management programs for at-risk beneficiaries. This provision accelerates the development and use of drug management programs for at-risk beneficiaries within the Medicare program by mandating that all

prescription drug plans use such a program by plan year 2022. Using a drug management programs for at-risk beneficiaries is currently voluntary.

Section 2005. Medicare coverage of certain services furnished by opioid treatment programs. This provision expands Medicare coverage to include Opioid Treatment Programs (OTPs) for the purposes of delivering Medication-Assisted Treatment (MAT) to expand access to treatment options for Medicare beneficiaries. Currently, OTPs are not recognized as Medicare providers, meaning that beneficiaries receiving MAT at OTPs for their opioid use disorders must pay out-of-pocket. In 13 states, the highest rate of opioid-related inpatient stays is among the over 65 population. Under the provision Medicare will pay the outpatient OTPs through bundled payments made for wholistic services, including necessary medications, counseling, and testing.

Section 2006. Encouraging appropriate prescribing under Medicare for victims of opioid overdose. This provision requires that CMS identify beneficiaries enrolled in Medicare Part D with a history of opioid-related overdose and include them in the definition of beneficiaries potentially at-risk for prescription drug abuse under the Part D Drug Management Program.

Section 2007. Automatic escalation to external review under a Medicare part D drug management program for at-risk beneficiaries. This provision requires that a beneficiary enrolled in Medicare Part D who is identified as potentially at-risk for prescription drug abuse (or who is subsequently identified as at-risk) can automatically escalate an appeal of such designation to an entity external to the prescription drug plan if the plan affirms its own decision at the initial appeal level.

Section 4001. Promoting value in Medicaid managed care. This provision provides an incentive for states to voluntarily adopt a medical loss ratio (MLR) requirement for their Medicaid managed care organizations (MCOs) of 85 percent by allowing them, for a period of time, to keep a larger share of the remittances states collect from MCOs than under current law.

Section 5001. Mandatory reporting with respect to adult behavioral health measures. This provision requires state Medicaid programs to report on behavioral health measures included in CMS' Core Set of Adult Health Care Quality Measures for Medicaid.

Section 5012. MACPAC exploratory study and report on institutions for mental diseases requirements and practices under Medicaid. This provision directs the Medicaid and CHIP Payment and Access Commission (MACPAC) to conduct a study, due no later than January 2020, on institutions for mental disease (IMD) that receive Medicaid reimbursement. The study must report on the requirements and standards that state Medicaid programs have for IMDs. MACPAC, considering input from stakeholders, is instructed to summarize the findings and if appropriate, make recommendations on improvements and best practices and data collection.

Section 5052. State option to provide Medicaid coverage for certain individuals with substance use disorders who are patients in certain institutions for mental diseases. This provision provides state Medicaid programs with the option to cover care in certain Institutions for Mental Diseases (IMD), which may be otherwise non-federally-reimbursable under the IMD exclusion, for Medicaid beneficiaries aged 21 to 64 with a substance use disorder for fiscal years 2019 to 2023. By allowing for payment in IMD's for eligible individuals, state Medicaid programs may receive federal reimbursement for up to 30 total days of care in an IMD during a 12-month period for eligible individuals. In order to qualify for the state option, state Medicaid programs must meet certain requirements including covering certain outpatient and

inpatient levels of care, maintaining certain state spending requirements, and abiding by other reporting and notification rules. Nothing in the provision would otherwise prevent a state from conducting or pursuing an approved section 1115 demonstration project to improve access to and quality of substance use disorder treatment for eligible populations.

Section 6021. Medicare opioid safety education. This provision requires that the annual Medicare & You handbook for Medicare beneficiaries include references to educational resources on opioid use and pain management; a description of categories of alternative, non-opioid pain management treatments covered by Medicare; and a suggestion that beneficiaries talk to their physicians about opioid use and pain management.

Section 6032. Action plan on recommendations for changes under Medicare and Medicaid to prevent opioids addictions and enhance access to medication-assisted treatment. This provision establishes an action plan, including studies, HHS-authored reports to Congress, and meetings with stakeholders, for the purpose of addressing the opioid crisis.

Section 6042. Opioid use disorder treatment demonstration program. This provision creates a demonstration project to increase access to comprehensive, evidence-based outpatient treatment for Medicare beneficiaries with opioid use disorders. Requires demonstration participants to provide both medication as well as psychosocial supports, care management, and treatment planning for opioid use disorders for eligible beneficiaries. The model also includes the development of measures to evaluate the quality and outcomes of treatment, and rewards participants for performance on such quality measures.

Section 6062. Electronic prior authorization for covered Part D drugs. This provision requires the Secretary of HHS to establish a standard, secure electronic prior authorization system no later than January 1, 2021. Fax, proprietary payer portals that do not meet standards defined by the Secretary, and electronic forms will not be treated as an electronic submission for the purpose of electronic prior authorization.

Section 6063. Program integrity transparency measures under Medicare parts C and D. This provision requires the Secretary of HHS, no later than two years after the date of enactment, to establish a secure web portal that allows for secure communication between the Secretary, Part D and MA plans, and the Medicare Drug Integrity Contractor (MEDIC) regarding certain program integrity activities. Beginning on or after January 1, 2021, plans are required to submit to the Secretary information on investigations or other actions taken by such plans related to providers who inappropriately prescribe opioids.

Section 6064. Expanding eligibility for medication therapy management programs under part D. This provision requires beneficiaries at risk for prescription drug abuse to be eligible for the Medication Therapy Management (MTM) Program beginning January 1, 2021.

Section 6065. Commit to opioid medical prescriber accountability and safety for seniors. This provision requires the Secretary of HHS, no later than two years after the date of enactment, to annually notify prescribers that they have been identified as an outlier prescriber of opioids compared to other prescribers in their specialty and geographic area. The Secretary may exclude the following individuals and prescribers from the analysis: (1) individuals receiving hospice services; (2) individuals with a cancer diagnosis; and (3) prescribers who are subjects of an investigation by the Inspector General. The Secretary

may expand notifications to concurrent prescriptions used in combination with opioids that are considered to have adverse side effects when used in such combination.

Section 6072. Medicare Payment Advisory Commission report on opioid payment, adverse incentives, and data under the Medicare program. This provision requires the Medicare Payment Advisory Commission to submit a report to Congress on: (1) how Medicare pays for opioid and non-opioid pain management treatments in inpatient and outpatient hospital settings; (2) current incentives for prescribing opioid and non-opioid treatments under Medicare inpatient and outpatient prospective payment systems, along with recommendations to address any identified adverse incentives; and (3) how opioid use data is currently tracked and monitored through Medicare claims data, while identifying any areas in which further data and methods are needed for improving data and understanding of opioid use.

Section 6082. Review and adjustment of payments under the Medicare outpatient prospective payment system to avoid financial incentives to use opioids instead of non-opioid alternative treatments. This provision requires the Secretary of HHS to review payments made through the Outpatient Prospective Payment System (OPPS) and payments to ambulatory surgery centers (ASCs) to ensure there are no financial incentives to use opioids instead of evidence-based non-opioid alternatives. If the Secretary identifies financial incentives to use opioids instead of evidence-based non-opioid alternatives, the Secretary will make revisions to OPPS and ASC payments through rulemaking. The Secretary may also review payments through a demonstration.

Section 6083. Expanding access under the Medicare program to addiction treatment in Federally qualified health centers and rural health clinics. This provision provides grants to Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) to help offset the cost of training providers to dispense medications for treatment of opioid use disorder.

Section 6084. Studying the availability of supplemental benefits designed to treat or prevent substance use disorders under Medicare Advantage plans. This provision directs the Secretary of HHS to evaluate the extent to which MA plans offer MAT and cover non-opioid alternative treatments, not otherwise covered under traditional Medicare, as part of a supplemental benefit. This section also directs the Secretary to evaluate potential barriers to these plans using their supplemental benefits to cover these types of services.

Section 6085. Clinical psychologist services models under the Center for Medicare and Medicaid Innovation; GAO study and report. This provision directs the Secretary, under CMMI, to educate patients on the availability of psychologist services and explore the use of hotlines to reduce unnecessary hospitalizations in Medicare. It also mandates the Comptroller General of the United States to issue a report on mental and behavioral health under the Medicare program with information about services offered by psychiatrists, clinical psychologists, and other professionals.

Section 6086. Dr. Todd Graham pain management study. **T**his provision requires the Secretary of HHS, in consultation with relevant stakeholders, to submit a report to Congress on how to improve reimbursement and coverage for multi-disciplinary, evidence-based non-opioid chronic pain management. The report also includes options for improving treatment strategies and case management for various high-risk patient populations and options for improving and disseminating pain management education tools. This report is due no later than one year after the date of enactment of this Act.

Section 7021. Establishment of substance use disorder information dashboard. This provision Directs the Department of Health and Human Services (HHS) to establish a public information dashboard linking to HHS programs and publicly available data related to opioid and other substance use disorders.

Section 7031. National recovery housing best practices. This provision requires HHS to issue best practices for entities operating recovery housing facilities, to assist those recovering from an opioid use disorder with housing. This provision also requires HHS to identify or facilitate the development of common indicators that could be used to identify potentially fraudulent recovery housing operators.

Section 7051. Inclusion of opioid addiction history in patient records. This provision requires HHS to develop best practices for prominently displaying substance use disorder treatment information in electronic health records, when requested by the patient.

Section 7052. Communication with families during emergencies. This provision requires the Secretary to notify providers annually regarding sharing of certain health information with family members, caregivers, and health care providers during an emergency such as an overdose.

Section 7053. Development and dissemination of model training programs for substance use disorder patient records. This provision requires HHS to identify model programs and materials to better train and educate providers, patients and families regarding the permitted uses and disclosures of patient records related to treatment for substance use disorders.

Section 7121. Comprehensive opioid recovery centers. This provision authorizes a SAMHSA grant program for entities to establish or operate comprehensive opioid recovery centers that serve as a resource for the community. These entities may utilize the ECHO model, which supports care coordination and services delivery through technology.

Section 7151. Building communities of recovery. This provision reauthorizes and modifies the Building Communities of Recovery program to include peer support networks. This program provides funding for community organizations providing long-term recovery support services.

Section 7182. Report on investigations regarding parity in mental health and substance use disorder benefits. This provision requires the Assistant Secretary of Labor of the Employee Benefits Security Administration, in collaboration with the CMS Administrator and the Secretary of the Treasury, to provide additional information in annual reports to Congress on mental health parity compliance, including information on which agencies are conducting investigations and information about any coordination with State regulators.

Section 8041. Addressing economic and workforce impacts of the opioid crisis. This provision authorizes the Department of Labor to award dislocated worker grants to states through the Workforce Innovation and Opportunity Act to support local workforce boards and local partnerships in tackling shortages in substance use disorder and mental health treatment workforce. Grants are targeted to provide coordinated job training and treatment services to individuals in affected communities with opioid or substance use disorder, and to support the treatment workforce in significantly impacted areas.

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We hope you found this summary useful. Please feel free to contact us should you have any questions.