

December 1, 2023

The Honorable Daniel Tsai  
Deputy Administrator and Director, Center for Medicaid and CHIP Services  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Deputy Administrator Tsai,

On behalf of Nemours Children's Health, we thank you for the opportunity to provide comments on this request for information (RFI) for assessing compliance with mental health parity and addiction equity in Medicaid and the Children's Health Insurance Program (CHIP). We appreciate CMS' attention to addressing barriers impeding access to mental health and substance use disorder (MH/SUD) services and ensuring such services provided through managed care are on par with access to medical and surgical services in compliance with federal regulations.

Nemours Children's Health

than 70 primary and specialty care practices. Nemours Children's seeks to transform the health of children by adopting a holistic health model that utilizes innovative, safe, and high-quality care, while also caring for the health of the whole child beyond medicine. Nemours Children's also powers Nemours KidsHealth.org, a pioneer and leader in pediatric health content. The Nemours Foundation, established through the legacy and philanthropy of Alfred I. duPont, provides pediatric clinical care, research, education, advocacy, and prevention programs to the children, families and communities it serves. For more information, visit [Nemours.org](https://nemours.org).

As you are aware, Medicaid is the single largest payer of behavioral health services in the US and, alongside CHIP, covers more than [40 million children](#). Yet, in 2018, [only about half](#) of non-institutionalized youth enrolled in Medicaid or CHIP who experienced a major depressive episode received mental health treatment. In addition, according to the [Medicaid and CHIP Payment and Access Commission](#), the Mental Health Parity and Addiction Equity Act (MHPAEA) does not appear to have increased access to behavioral health services for individuals with Medicaid and CHIP, likely in part due to how parity compliance is assessed and documented. This RFI is an important step in ensuring equitable access to mental health treatment and has the potential to prevent insurers from imposing treatment limitations that impede access to needed MH/SUD services. Accordingly, it is important for CMS to take swift and meaningful action to align parity enforcement requirements for commercial payers with those for Medicaid and CHIP to the extent possible.

As CMS contemplates responses to this request, it is critical to underscore that the experiences and needs of children and youth are different from those of adults, and







should provide detailed examples, information about how states must address MHPAEA noncompliance, and the mechanisms by which states and plans will be held accountable. As part of this effort, we encourage CMS to include guidance on enforcement options related to plans that are not appropriately covering mental and behavioral health services, including codes for Health Behavior Assessment and Intervention services that are incorporated into care plans for patients with chronic medical conditions.

- o CMS should also be prepared to provide technical assistance and best practices as states implement changes to their parity compliance reporting and seek to remedy existing parity violations.
- CMS should require insurers to consider services for children and youth independently from services for adults, rather than conducting aggregate analysis without this distinction. Many networks, especially for children's mental health services, are insufficient, and insurer-maintained directories are often out-of-date or incomplete. This creates a significant barrier to children and youth accessing needed MH/SUD care.
- Providers should have a more streamlined and simplified process of reporting complaints. This would allow pediatric providers, including those from children's hospitals, to highlight key issues that contribute to noncompliance in pediatric MH/SUD parity, which would give states more accurate information in their parity assessments. CMS should also provide guidance to health care providers and families