

Behavioral Health Law Ledger | June 2024



Welcome to the Ledger

The June 2024 issue of Greenberg Traurig’s quarterly Behavioral Health Law Ledger discusses the 10 states that have newly entered the CCBHC Medicaid Demonstration Program, providing funding for community mental health clinics and services, as well as the 12 leaders who mentioned the importance of mental health and substance-use disorder interventions and services in their 2024 State of the State or Territory addresses.

CMS Adds 10 States to CCBHC Medicaid Demonstration Program

On June 4, 2024, the U.S. Department of Health and Human Services (HHS), the Centers for Medicare & Medicaid Services (CMS), and the Substance Abuse and Mental Health Services Administration (SAMHSA) welcomed 10 more states into the **Certified Community Behavioral Health Clinic (CCBHC) Medicaid Demonstration Program** (the Program). The new states in the Program are Alabama, Illinois, Indiana, Iowa, Kansas, Maine, New Hampshire, New Mexico, Rhode Island, and Vermont, each joining after developing necessary state-level infrastructure and working with providers in each state to meet CCBHC standards.

The CCBHC system provides sustainable funding for robust community outpatient mental health treatment. The Program also provides enhanced Medicaid reimbursement for the full cost of services provided by the CCBHC, ensuring CCBHCs in participating states can provide a comprehensive range of services, rather than services determined solely by billing code.

For context, Medicaid first began funding CCBHCs in 2017, with 67 clinics operating in eight states. The Bipartisan Safer Communities Act (BSCA) authorized HHS to add 10 new states to the Program every two years. For a state to join the Program, it must first receive a CCBHC planning grant from SAMHSA. These grants assist states in certifying clinics as CCBHCs, establishing prospective payment systems for those

clinics, and assisting the state in preparing an application to participate in a four-year demonstration program, where the CCBHCs in each state receive enhanced Medicaid reimbursements.

In March 2023, SAMHSA used BSCA funding to award CCBHC state planning grants to 15 states and announced the 10 states selected for the Program. Following these additions, 18 states now participate in the Program: Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, and Vermont.

This summer, HHS and SAMHSA will publish a Notice of Funding Opportunity to award planning grants to 15 additional states in spring 2025.

State Governors Emphasize Behavioral Health in 2024 State of the State Addresses

Earlier this year, 12 state governors emphasized the importance of mental health and substance-use disorder (SUD) services and interventions during their 2024 State of the State or Territory addresses.

In their addresses, the governors of Guam, Idaho, New York, Tennessee, Virginia, and Wisconsin focused on investing greater state resources into mental and behavioral health concerns, including addressing suicide rates among first responders, promoting the national 988 suicide prevention hotline, and increasing funding for school advisors to better address youth and adolescent mental health in public schools.

The governor of Guam noted that the territory has set aside special Child Care Development Funds to better provide services for children with autism. Similarly, in Wisconsin, Gov. Tony Evers stated that his administration is “creating an Interagency Council on Mental Health and directing Wisconsin state agencies to work together to reduce barriers and address gaps in mental health services.”

The state governors of Arizona, Iowa, Kentucky, New Hampshire, North Dakota, Tennessee, and Washington also focused on the ongoing opioid epidemic and the challenges of providing access to SUD services on a state level. These governors called attention to the importance of protecting patients in long-term care and sober living facilities, providing greater access to SUD services with better facilities, and reducing overdose deaths through state-level initiatives.

In other states, government agencies offer mental health and SUD services to populations with historically higher barriers to accessing quality care, such as adolescents and incarcerated individuals. For example, Oklahoma lawmakers recently set aside \$4.1 million to settle allegations of failing to provide mental health services to incarcerated people.

Let's Stay in Touch

GT's Behavioral Health Law Ledger keeps behavioral health and integrated health providers current on behavioral health legal and regulatory developments. Each quarter we highlight recent legal developments, including but not limited to audit risks, significant litigation, enforcement actions, and changes to behavioral-health-related laws or regulations such as health privacy, confidentiality, and/or security issues, consent issues, data-sharing allowances, and other cutting-edge arrangements and issues facing behavioral and integrated health care providers.

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