

Consensus on Broad Mental Health Bill Remains Elusive

By Melissa Attias, CQ Roll Call

A revamped version of broad mental health legislation that stalled in the last Congress hasn't won the support of some Democrats who backed a competing measure last year, with the holdouts poised to introduce targeted legislation on specific issues beginning Tuesday.

California Democrat [Doris Matsui](#) plans to drop a House bill designed to clarify what information health care providers can share with family members and caregivers of patients with mental illness, according to her office. The bill would require the Health and Human Services Department to issue regulations consistent with guidance released last year and launch education programs for providers, administrators and patients and families.

[Paul Tonko](#), D-N.Y., also said he plans to introduce legislation soon to address a 190-day lifetime limit for inpatient psychiatric hospital services under Medicare, and a Medicaid payment exclusion for certain treatment facilities.

All three issues are addressed in the wide-reaching measure ([HR 2646](#)) introduced last week by Pennsylvania Republican [Tim Murphy](#) with 18 bipartisan cosponsors, an updated version of legislation that stalled in the 113th Congress. Matsui and Tonko were among the 66 Democrats last year to endorse a rival bill by then-Rep. Ron Barber, D-Ariz., and both still oppose the revised Murphy measure.

Murphy said in an interview June 5 that he expects revisions he has made will bolster support. He also said he's working closely with the Energy and Commerce Committee on the measure. The previous version was examined in a Health Subcommittee hearing last April but never advanced.

Murphy highlighted adjustments such as clarifying the role of the assistant secretary for mental health and substance use disorders, a position the bill would create. He also noted revised provisions to encourage assisted outpatient treatment programs, under which some with serious mental illness receive court-ordered treatment while living in a community. Rather than require states to have laws authorizing those programs to receive mental health block-grant funding – a provision that received pushback – it creates a 2 percent funding bump for states with such laws.

The issue is not whether a law is on the books, Murphy said, but whether it is being implemented.

The revised bill also changes some language addressing privacy regulations for the Health Insurance Portability and Accountability Act (PL 104-191) by specifying criteria for information to be shared. And rather than slash funding for the protection and advocacy program for individuals with mental illness, which came under fire last Congress, Murphy said the new language restores the program to its original mission of protecting people from abuse and neglect. That includes requiring the programs to ensure patients can receive evidence-based care and adding an independent grievance procedure. "No one should be immune from accountability," Murphy said.

Mixed Reviews

The legislation has won praise from the American Psychiatric Association and the National Association of Psychiatric Health Systems, as well as from the Behavioral Health Information Technology Coalition for the way it would extend electronic health record incentive payments. Andrew Sperling, director of federal legislative advocacy for the National Alliance on Mental Illness, said his group is still reviewing the bill and likes what it sees.

While praising Murphy's attention to the issue, Tonko and Matsui said in separate statements that the measure would make "drastic cuts" to Substance Abuse and Mental Health Services Administration programs and expressed concern with the HIPAA language. Matsui said opening up the law will create privacy concerns and that last year's guidance "walks that fine line between protecting patients' privacy and encouraging involvement of family and caregivers in patients' care."

"Better understanding and awareness of the guidance will give providers the confidence to practice discretion in delicate situations, to best determine whether it is in an individual's best interest to share information with family members and caregivers on a case by case basis," she said.

Tonko said he is "perplexed" by Murphy's provisions addressing the Medicare and Medicaid policies, which he plans to tackle in his separate legislation, because the language implies they cannot take effect unless the Centers for Medicare and Medicaid Services certifies they will not boost spending.

"Both of these policies have been evaluated numerous times by budget analysts and would clearly imply billions of dollars in increased federal spending," he said. "Because of the 'no-increased spending' clause, it is unclear how these policies would ever be implemented under this legislation."

Susan Mosychuk, Murphy's chief of staff, said the language was drafted to indicate the bill will have an offset. His office fully expects to find cost savings within the system, she said, and the provisions will be paid for.

In the Senate, Connecticut Democrat [Christopher S. Murphy](#) and Louisiana Republican [Bill Cassidy](#) are working to write their own mental health bill.

"We look forward to a continued dialogue as we work to develop meaningful and comprehensive legislation with bipartisan support in both the House and Senate," they said in a joint statement.