

## Back to Better Behavioral Health

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**Introduction:** To best address the daunting challenges that stem from the traumas of COVID -19, racial injustice, poverty and rising overdose and suicide rates, the Biden Administration should look to new leadership at SAMHSA that is uniquely skilled to lead the way in helping our nation to heal by implementing evidence-based policies that advance the principles of recovery, resilience, peer support and trauma informed care.. For example, people with lived experience of mental illness and trauma should be placed in high leadership roles to bring back meaning and morale to an agency that evidenced “considerable turnover and declining morale’ during the Trump Administration, ranking 413 out of 415 agencies.<sup>1</sup>

### Overarching Recommendations for the Biden Administration

- The Administration should create the position of **Lead Coordinator for Behavioral Health in the White House**, similar to the role for Persons with Disabilities that was adopted under the Obama Administration
- It should set up a **Recovery and Resilience task force**, consisting of at least 50% of persons with lived experience to develop national policies supporting recovery, peer support and trauma informed responses to COVID- 19.
- **The HHS Assistant Secretary for Mental Health and Substance Use should play a critical role in bringing the voice of persons with lived experience and their families to all federal agencies** including HHS (SAMHSA, CMS, HRSA, ACL, CDC, ACF), HUD, DOL,D0D/VA, and DoED, which will ensure that policies tied to promoting recovery, wellbeing and community integration that address the social determinants of health are essential components of major federal policy.
- It should **ensure that all federal agencies use a trauma informed approach that addresses issues of racial injustice and discrimination** based on gender, ethnicity and disability, in recognition of the unanimous bipartisan trauma-informed care resolutions that were approved in 2018 that endorsed this approach to understanding, service provision, and healing.

### Actions related to the Substance Abuse and Mental Health Services Administration

The Substance Abuse and Mental Health Services Administration (SAMHSA) should:

- Empanel an **Advisory Council of persons with lived experience of mental health and/or substance use-related conditions** (also known as consumers, survivors, or peers) that would play a fundamental role in the creation and review of all SAMHSA initiatives.
- Ensure that a **majority of the members of all State Mental Health Planning Councils** be persons with lived experience of mental health and/or substance use-related conditions, and that they meaningfully participate in the allocation of state Mental Health and Substance Abuse Block Grant funds.
- Reduce reliance on institutional care by **allocating a minimum of 20% of mental health block grant funding to peer-run respites, to reduce reliance on intuitional care and criminal justice involvement.**
- Establish a **medical care advisory committee in each state** “to advise the Medicaid agency,” ensuring that that at least 51% of committee members be persons with a mental health or other disability
- **Expand federal funding for the national peer-run technical assistance centers** to cover five regional centers, each responsible for developing advocacy in their region of the country. Resume funding of the groundbreaking Alternatives Conference.

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<sup>1</sup> Labor union Accuses SAMHSA of Illegal Practices, Politico September 5, 2020

- **Expand federal funding of statewide peer-run advocacy organizations** to ensure the presence of one such organization per state and providing the inclusion of consumer/survivor/peer voices in the development of state policies.
- **Protect federally mandated Protection and Advocacy programs.**
- **Promote the use of voluntary, peer-driven alternative means** of engaging individuals in need and also **promote and fund an array of prevention and diversion services that foster alternatives to avoidable hospitalizations and incarceration.**
- **Promote public education** about mental health and trauma related issues and the hope for recovery through peer support and empowerment
- In this period of COVID-19, **promote workforce development of peers to** extend behavioral health capacity to address the pandemic of isolation, anxiety, depression and trauma.
- Meet SAMHSA’s legislatively required mandate to **reduce or eliminate seclusion and restraint.**
- **Restore the consumer subcommittee for the Center for Mental Health Services (CMHS) National Advisory Council.**

#### **COVID and the Americans with Disabilities Act**

- Approximately 40% of COVID-19 deaths nationally have been individuals in institutions, such as nursing and adult homes, psychiatric hospitals, assisted living facilities and group homes. While the pandemic has created an urgent need to accelerate discharges from these facilities, the opposite has occurred. Accordingly, **SAMHSA, CMS, DOJ, HUD, FEMA and other agencies should act collaboratively and quickly to ensure that states receive technical assistance and guidance** concerning steps that they can take to safeguard people with physical and mental health disabilities in congregate living settings, including reducing facilities' census by equipping the community service system to handle accelerated discharges.

#### **Actions Related to HHS, CMS and CDC**

- CMS should issue guidance stating that the Medicaid IMD rule cannot be waived under Section 1115. This long-standing rule prevents Medicaid to be used to further expand institutional care while dramatic gaps in community services remain. Existing law supporting community integration is being undermined by the Trump Administration’s encouragement and approval of waivers allowing state “demonstration” projects that avoid the IMD rule.
- Direct CMS to work with the states to establish policies for self-directed budgeting initiatives for Medicaid and Medicare beneficiaries.
- Direct CMS to adopt ‘Medicaid Re-Entry’ policies that restore Medicaid to individuals 30 days before release from a prison or jail, to ensure that discharge planning and coordination
- Designate behavioral health providers as essential workers who should be considered as a- priority group to receive COVID related vaccines and PPE.
- Direct CMS to reject efforts that would weaken HIPAA privacy and confidentiality rights protection.
- The Administration should reverse the Trump Administration CMS guidance allowing and encouraging states to impose work requirements for Medicaid recipients.

#### **Actions Related to the Department of Justice**

- The new Administration’s Department of Justice Civil Rights Division should issue a guidance that should explain the application of the Olmstead decision to the needless institutionalization and incarceration of people with psychiatric disabilities as a result of the failure to provide sufficient community-based services.

- **DOJ should work with Congress in support of legislation ensuring adherence to the Olmstead Decision** that requires states to provide people with disabilities with the choice and supports to “live, work, and receive services in integrated settings”
- **HHS, SAMHSA and DOJ should collaborate and provide guidance on alternatives to police responses to people in emotional distress** that include peer and other mental health responders and emergency medical technicians, as well as the kinds of voluntary community-based mental health services to which people should be linked.

#### **Contact Information**

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