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# MACPAC Makes Recommendations to Strengthen Medicaid Drug Rebate Program; Address Opioid Epidemic

## Commission would close loopholes in Medicaid Drug Rebate Program and support integration of substance use disorder treatment

Washington, DC—The Medicaid and CHIP Payment and Access Commission (MACPAC) today released its [June 2018 Report to Congress on Medicaid and CHIP](#), with recommendations to change statutory provisions that prevent state Medicaid programs from paying the lowest price for certain drugs and clarify regulations on protecting the privacy of patients with substance use disorder (SUD) to support integration of care.

“With high rates of growth in Medicaid prescription drug spending and Medicaid beneficiaries accounting for roughly half of opioid-related overdose deaths in some states, these issues are front and center in the national health policy debate,” said MACPAC Chair Penny Thompson. Chapter 1 of the June 2018 report focuses on the Medicaid Drug Rebate Program—the primary lever the federal government and the states have to reduce spending on outpatient prescription drugs. Chapters 2 and 4 discuss barriers to SUD treatment, including privacy rules that may impede information sharing. Chapter 3 of the report examines a third important national policy issue—the growing trend among states to deliver long-term services and supports (LTSS) through managed care.

Although the rate of growth in prescription drug spending has slowed since 2015, the sector is still expected to experience the fastest average annual spending growth among major health care goods and services over the next 10 years. In [Chapter 1](#), the Commission makes two targeted recommendations to help ensure Medicaid receives proper drug rebates:

- close a loophole in current law that allows a manufacturer to sell its authorized generic at a low price to a corporate subsidiary, reducing the rebate obligation for its brand drug; and
- give the Secretary of the U.S. Department of Health and Human Services clear authority to impose intermediate financial sanctions on manufacturers that misclassify a brand drug as a generic to lower their rebate payments.

In [Chapter 2](#), the first of two June chapters on barriers to SUD treatment, the Commission makes two

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recommendations to support information exchange among health care providers under the federal SUD confidentiality regulations known as Part 2. Part 2 has been criticized as confusing, restrictive, and challenging to implement; according to the Commission, additional guidance, education, and technical assistance to clarify



these regulations would be a meaningful step to help providers, payers, and patients understand their legal rights and obligations and opportunities for information sharing that would facilitate integration of care.

[Chapter 3](#) reflects on Medicaid's role as the nation's largest payer for LTSS and the growing trend to deliver these services through managed care. While states typically adopt managed LTSS (MLTSS) after gaining experience with managed care for acute care, the complex needs of people who receive LTSS and the wide range of services they use make implementation of MLTSS more complex. The Commission observes that adoption of new quality measures and efforts to improve encounter data have potential to improve evaluation and oversight activities.

[Chapter 4](#), the second chapter on barriers to SUD treatment, builds on MACPAC's June 2017 analysis, [Medicaid and the Opioid Epidemic](#). The new analysis finds that although states already can cover many clinical SUD services, only 12 states pay for the full continuum. And while the institutions for mental diseases (IMD) exclusion often is cited as a barrier to paying for residential services, states can cover residential services under some conditions now through Section 1115 demonstrations and managed care. Eliminating the IMD exclusion would not address other coverage gaps or low participation of SUD treatment providers in Medicaid.

Download the [June 2018 Report to Congress on Medicaid and CHIP](#) and each of its chapters—[Improving Operations of the Medicaid Drug Rebate Program](#), [Substance Use Disorder Confidentiality Regulations and Care Integration in Medicaid and CHIP](#), [Managed Long-Term Services and Supports: Status of State Adoption and Areas of Program Evolution](#), and [Access to Substance Use Disorder Treatment in Medicaid](#)—at [macpac.gov](http://macpac.gov).

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## ABOUT MACPAC

The Medicaid and CHIP Payment and Access Commission is a non-partisan legislative branch agency that provides policy and data analysis and makes recommendations to Congress, the Secretary of the U.S. Department of Health and Human Services, and the states on a wide array of issues affecting Medicaid and the State Children's Health Insurance Program (CHIP). For more information, please visit [www.macpac.gov](http://www.macpac.gov).

