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Summary of Part P of HMH Article VII Executive Budget SFY 2023
Requires Competitive Bid Process for Medicaid Managed Care Plans

The SFY 2022-23 Executive Budget includes a proposal to change the way the State selects and contracts with Medicaid managed care plans including mainstream managed care plans (MMCs), managed long term care plans (MLTCs), Medicaid advantage plans (MAPs), and health and recovery plans (HARPs). Under this proposal the state would follow what is done in other states across the country by utilizing a competitive procurement process to select the plans that it contracts with to administer benefits to enrollees under Medicaid. The proposal projects out-year savings of $100 million state share ($200 million gross) in SFY 2024 if enacted.

Moratorium
The proposal states that effective April 1, 2022 and expiring on the date the Commissioner of Health publishes on the State Health Department (DOH) website a request for proposals (RFP), there shall be a moratorium on processing or approving new applications by managed care plans, including applications seeking authorization to expand the scope of eligible enrollee populations.

However, such moratorium will not apply to application submitted prior to January 1, 2022, applications seeking approval to transfer ownership or control of an existing plan, applications seeking authority to expand an existing plan approved service area, applications seeking authority to form or operate a plan through an entity certified under sections 4403-c or 4403g of public health law (comprehensive HIV special needs plans and developmental disability individual support and care coordination organizations, respectively), or applications demonstrating to DOH's satisfaction that it is appropriate to address a serious concern with care delivery (lack of adequate access to a plan in an area, or special needs services).

New Competitive Bid Process
The proposal requires the use of a competitive bid process based on an RFP and proposals submitted to DOH for the selection of qualified managed care plans to participate in the managed care program pursuant to a contract with DOH. The language applies to MMC, MLTC, MAP and HARP plans and notes that DOH is

authorized to contract directly with comprehensive HIV special needs plans (SNPs) without a competitive bid process.

The Governor's proposal includes additional criteria that must be considered as part of the new competitive bid process beyond the current standards in place. The current standards include:

- Designating the geographic areas, as defined by DOH in the RFP, to be served and the number of eligible participants in a designated area;
- Including a network of health care providers in sufficient numbers and geographically accessible to service program participants;
- Describing the procedures for marketing in program locations;
- Describing the quality assurance, utilization review and case management mechanisms to be implemented;
- Demonstrating the applicant's ability to meet data analysis and reporting requirements;
- Demonstrating financial feasibility; and
- Including other information deemed appropriate by DOH.

The new criteria includes:

- Accessibility and geographic distribution of network providers taking into account the needs of persons with disabilities and differences between rural, suburban and urban settings;
- Which major public hospitals are in the plan's network;
- Demonstrated cultural and language competencies for the population;
- The corporate organization and status of the bidder as a charitable corporation;
- The ability of a bidder to offer plans in multiple regions;
- The type and number of products the bidder proposes to operate;
- Whether the bidder participates in products for integrated care for dual eligible individuals;
- Whether the bidder participates in value based payment arrangements, including delegation of significant financial risk to clinically integrated provider networks;
- The bidder's commitment to participation in managed care in the state;
- The bidder's commitment to quality improvement;
- The bidder's commitment to community reinvestment spending (to be defined in the RFP);
- Past performance in meeting managed care contracts or other federal/state requirements for current or previously authorized plans, and if DOH has issued any statements of findings, deficiency, sanctions or enforcement, actions for non-compliance, and whether the bidder addressed and issues in a timely manner; and
- Other criteria deemed appropriate by the Commissioner of DOH, which is to be developed with the Commissioners of the Office of Mental Health (OMH), the Office of Addiction Services and Supports (OSAS), the Office for People

with Developmental Disabilities (OPWDD) and the Office of Children and Family Services (OCFS), as applicable.

The language also states that the Commissioner shall not be limited in evaluating proposal content or criteria on a pass-fail, scale, or other methodological basis, in consultation with other Commissioners referenced above.

RFPs/Contracts
DOH is required to post on its website the RFPs and a description of the proposed services, the criteria, the manner by which proposals should be submitted, the manner by which a managed care plan may continue to participate in the program pending awards through the competitive bid process and upon award, list the managed care plans DOH plans to contract with and later the final slate of contracted managed care plans.

The Commissioner of DOH is required to make awards for each product, for which proposals were requested, to at least 2 managed care providers in each geographic region defined by DOH in the RFPs (as long as at least 2 applied) and shall have the discretion to add more based on need for access up to 5 contracts in each region.

Contract term periods shall be determined by the Commissioner of DOH and may be renewed, or modified without a new RFP to ensure consistency with federal/state law changes, regulations or policies. The Commissioner is authorized to terminate awarded contracts for cause including violations of contract terms, state/federal laws or loss of necessary state/federal funding.

Within 60 days of DOH issuing the RFPs, a managed care plan previously approved to participate in the managed care program, shall submit its intent to complete such proposal. A plan that fails to do so, indicates its intent not to complete a RFP, fails to submit a proposal within the required timeframe, or is not awarded the ability to continue to participate in the program, shall upon the direction of DOH, terminate its services and operations in accordance with the contract with DOH and shall be required to maintain coverage for such a period of time as determined by DOH to ensure a safe and orderly transfer.

DOH is authorized to reissue RFPs if needed to ensure access to a sufficient number of managed care plans.

Special Needs Managed Care Plans
The proposal states that the Commissioner of DOH, shall jointly with the Commissioners of OMH and OASAS select a limited number of special needs managed care plans capable of managing the behavioral and physical health needs of Medicaid enrollees with significant behavioral health needs.

Managed Long Term Care Plans

A competitive bid process would also be required for selecting MLTC plans under this proposal pursuant to the existing criteria required for the approval of a plan application for a certificate of authority. The proposal includes additional criteria to be considered, similar to other plans as described above and a similar moratorium, RFP and award process. Specific to MLTCs, the moratorium on new plan approvals during the RPP process shall not apply to applications seeking to operate under the Program for All-Inclusive Care for the Elderly (PACE) model or to serve dual eligible individuals.

The proposal also states that for the period of April 1, 2022 until March 31, 2022, DOH shall establish and enforce by means of premium withholding equal to 3% of the base rate, an annual cap on total enrollment for each MLTC plan, based on a percentage of each plan's reported enrollment as of October 1, 2020.