

Contact:

Lauri Cole, MSW
Executive Director, New York State Council for Community Behavioral Healthcare
(518) 461-8200
lauri@nyscouncil.org

Allegra Schorr, MS
President, COMPA
917-647-2291
Aschorr@compa-ny.org

For Immediate Release

46 Organizations Representing Medicaid Providers from Across the Healthcare Service Delivery System Call on Governor Hochul to Sign Legislation Ensuring Fairness in Medicaid Audits

-- A7889A, Gottfried/ S4486B, Harckham passed both houses unanimously in June 2022 --

-- Providers look for balance and reasonableness in the audit process used by the NYS Office of the Medicaid Inspector General (OMIG) and urge Governor Hochul to sign legislation to provide it --

(Albany, New York – August 19, 2022) – 46 organizations representing a broad range of providers and consumers across New York State’s healthcare service delivery system wrote to Governor Kathy Hochul to urge her approval of A7889A/ S4486B, a bill that is critical to infuse balance and fairness into the audit process utilized by the Office of the Medicaid Inspector General (OMIG). The bill, sponsored by Assembly Health Committee Chair Richard Gottfried, and Chair of the Senate Committee on Alcoholism and Drug Abuse Senator Pete Harckham, passed unanimously in both chambers of the NYS Legislature in June. **The OMIG Group Sign-On Letter is attached.**

Importantly, the legislation does not impair the OMIG’s ability to continue to conduct audits, root out fraud and abuse or require the correction of administrative errors or deficiencies by providers. Rather, the bill would provide statutory guardrails for how audits are conducted to ensure transparency and fairness in the process for all parties involved.

“While all of the provisions of this legislation are essential to finally provide due process in the OMIG audits of New York providers, the provision which prohibits OMIG from making a recovery based on an administrative or technical defect in procedure or documentation made **without intent to falsify or defraud**, is critical to afford the provider an opportunity to correct the defect and resubmit the claim,” said **Lauri Cole, Executive Director of the NYS Council for Community Behavioral Healthcare.**

“Current auditing practices are crippling providers and have led some agencies to close or discontinue or reduce services. In these instances, there is no fraud or waste, merely administrative errors, or other minor oversights, which are often the result of a lack of clear regulatory guidance. Our health care system is in a very fragile state. We are faced with significant health, behavioral health and human service worker shortages, the continued challenges and effects from the COVID-19 pandemic, and worsening opioid, suicides, and gun violence epidemics. New York State should be taking all necessary steps to invest in and ‘shore up’ its system of care (its providers), not breaking them down with unfair and excessive auditing practices,” said Cole.

“This legislation would implement several new due process protections for physicians or other health care providers who are audited by the Office of the Medicaid Inspector General” stated **Dr. Parag Mehta, President of the Medical Society of the State of New York.** “While we support efforts to place much stronger statutory restrictions on the often unfair use of extrapolation in audits of medical care providers, the bill would provide for a number of important new steps protecting against severe consequences arising from what are very often technical, non-intentional errors in the submission of claims. We urge Governor Hochul to sign this bill into law.”

“This bill would allow the OMIG to continue its important work to root out fraud and abuse while protecting health centers and other Medicaid providers who are acting in good faith to fix unintentional technical errors that, while not fraudulent, can end up causing providers thousands of dollars in audit findings and untold hours of extra work, threatening access to care at centers that are already understaffed and financially struggling”, said **Rose Duhan, President & CEO of The Community Healthcare Association of New York State (CHCANYS)**

Allegra Schorr, President of The Coalition of Medication-Assisted Treatment Providers and Advocates of New York State (COMPA) stated, “Opioid Treatment Programs (OTPs) are on the frontlines, providing lifesaving treatment to more than 43,000 New Yorkers, battling opioid addiction and the overdose epidemic. But our ability to do this vital work is in jeopardy. One example of OMIG’s draconian audit extrapolation methodology resulted in the imposition of over \$7 million in disallowances for only 12 audit findings worth a grand total of \$407.90. OMIG’s over-zealous pursuit of recoveries from providers for technical errors led to program closure, the disruption of patient care and reduced access to critical health care services, in 2020, without regard to the impact of the COVID-19 pandemic. We urge Governor Hochul to sign this bill into law to provide a long overdue reevaluation of OMIG’s audit process and statutory protections.”

“On behalf of community pharmacies across the State, we strongly urge Governor Hochul to sign this critical measure in law. Our priority is to ensure that New Yorkers continue to receive high quality pharmacy care and we need clear ground rules surrounding OMIG audits to enable pharmacies to continue to do so,” said **Jermaine Smith RPh, Vice President of the Community Pharmacy Association of NYS.**

“New York’s home care providers recognize the need to eliminate waste, fraud, and abuse from the Medicaid system. Every dollar lost is a dollar that was intended to help keep New York’s aging and disabled in their homes and communities. The provider protections in this legislation go a long way toward fostering a cooperative, less punitive environment. We believe the increased transparency and due process protections in this legislation will allow home care providers to continue serving those who rely on us, while alleviating fears that honest errors may potentially put us out of business,” said **Kathy Febraio, President/CEO of New York State Association of Health Care Providers, Inc.**

Michael Alvaro, President & CEO, Cerebral Palsy Associations of NYS, said, “The viability of New York’s fragile safety net system of care has been compromised from OMIG audit practices that recoup millions and penalize quality providers and services for clerical errors. We have long sought for simple procedural and documentation errors to generate a simple repayment for those errors and that errors not potentially decimate needed community providers through an ill-conceived extrapolation process. This legislation is an important first step in ensuring an equitable and fair process for Medicaid oversight, and we hope additional protections against unreasonable extrapolations will be added in the future.”

Organizations representing providers and consumers across the healthcare and mental hygiene sectors are unified in calling on Governor Hochul to take action to put these important protections in place now by signing this legislation into law. [See attached Sign-On Letter.](#)

###