



## SFY 2023-24 NYS Council Budget Priorities

Directly below please find 3 requests from the NYS Council for legislative adds/changes. Please include these changes in your one-house budget bill, and the final enacted state budget.

The second part of this document lists executive budget proposals we support, and one we oppose.

### **Legislative Requests:**

- 1) **8.5% COLA PLUS \$500 million for rate increases – HMH Article VII Part DD:**  
The mental health and substance use disorder systems in NYS are in crisis. We cannot recruit and retain anywhere near the staff we need to meet the urgent and growing needs for these critical behavioral health services. We are asking the SFY 2024 state budget to build on and increase the COLA for Human Services agencies provided last year.  
We are seeking an **8.5% COLA AND \$500M for rate increases**, to recruit and retain a workforce to meet increased demands for care, and to help us manage ever-increasing operating expenses. Lawmakers should note that the **5% Medicaid rate proposal included in the Governor's budget for hospitals, nursing homes and assisted living agencies, does NOT include mental health and substance use disorder agencies. We must not be left behind.**
- 2) **Network Adequacy** (HMH Article VII Part ii subpart F): We support this proposal that would explicate Network Adequacy standards across

**Medicaid and commercial insurance.** Having said this, the current proposal does nothing to ensure robust surveillance, monitoring and enforcement of Network Adequacy standards by DoH/OHIP, and robust enforcement that sends a message to insurers that they must follow ALL relevant laws and contract requirements or face steep fines and the possibility of having their new enrollment frozen.

**Please add the following elements that step-up enforcement of Network Adequacy (NA) standards, to the proposal:**

- The state must perform a quarterly analysis of Provider Network Data Set (PNDS) data without fail. DoH must analyze the data which should be aggregated by **MCO** and also by **service type**.
- If the plan fails to meet Network Adequacy standards per the Model Contract, this should automatically trigger regulatory action by the state, without exception. Regulatory action must begin with fines of no less than \$10,000 per instance of non-compliance.
- If the plan fails to meet NA standards 3 times in one year, the state must prohibit the MCO/plan from enrolling new insureds for a period of no less than 6 months.
- Results of the NA analysis as well as the methodology used to calculate NA, and the immediate action taken by the state must be published on DoH website and be easily accessible to the public. Insurers should be listed by name rather than anonymously.

**3) Commercial Insurance Reimbursement for mental health and substance use providers must be on par with the Medicaid APG Government Rate**

In 2013, New York State concluded that the reimbursement rate for behavioral health services provided to New Yorkers with mental health and/or substance use disorder conditions with Medicaid must be consistent and actuarially sound. At the present time, providers serving clients with Medicaid benefits are paid at a vastly higher rates for services than what is typically paid by commercial insurance plans for the exact same services. The result is that many providers cannot afford to serve these individuals

when the average rate of reimbursement is approximately half of the state prescribed Medicaid rate. This seriously reduces access to care for New Yorkers covered by commercial insurance. We often refer to this problem as state sanctioned discrimination against equal access to care for New Yorkers with commercial/private health insurance.

*The NYS Council has submitted language (attached) that would result in reimbursement parity between Medicaid APG government rates and commercial insurance rates for both in network and out of network services.*

### **NYS Council supports the following executive budget proposals:**

#### **SUPPORT: CCBHC Demonstration Program Expansion (DoH Aid to Localities Budget (S4003/A3003))**

We vigorously support the proposed expansion of the **CCBHC Federal Demonstration Program** here in NYS that is included in the Governor's executive budget. The proposal would expand the number of CCBHC Demonstration Clinics in NYS from 13 to 39 agencies statewide. The Demo has vastly expanded access to care – primarily **in communities where Demo agencies are located**. Expansion of the program improves access to care, enhances quality outcomes and returns scarce resources to the state in the form of savings associated with reduced utilization of more acute MH and SUD services. The Demo expands access to Medication Assisted Treatment and Demo Clinics must maintain 'open access' which means any New Yorkers can seek an appointment regardless of ability to pay. The Demo requires the Clinic agency to have a formal relationship with other service providers in order to ensure continuity of care across a broad spectrum of services. Congress continues to invest heavily in this model of care and NYS should expand it to include many more Outpatient Clinic agencies.

**SUPPORT: Indigent Care; Uncompensated Care Health/MH Article VII, Part HH**  
The executive budget requires the state to file a SPA to CMS to establish an Indigent Care Pool for CCBHC-Demo agencies (referenced above). Demo agencies

that provide significant amounts of Indigent Care are not reimbursed for these services. This perpetuates the disparity in access to care that already exists between the avail that exists between Medicaid and commercial for New Yorkers with commercial insurance. We support this proposal.

**SUPPORT HMH Article VII – Part P:** Creates a new \$1 billion Statewide V program with at least \$500 million award to health care providers for various projects, and up to \$500 million for critical health care information technologies and telehealth capacity.

**SUPPORT HMH Article VII Part BB:** Adds fentanyl analogs to the list of controlled substances and adds new crimes for “imitation of a controlled substance” which creates a new misdemeanor and felony for knowingly possessing an imitation controlled substance.

**Support and EXPAND Interstate Licensure Compact HMH Article VII Part W, Sections 30 & 31** The NYS Council supports this proposal and would suggest that the Legislature expand the titles that it applies to, to include LCSWs, LMHCs, CASAC and LMFT.

**SUPPORT HMH Article VII Part GG:** Mental Health Associate Credentialing to expand the mental health and substance use disorder workforce.

**SUPPORT HMH Article VII, Part II, subpart E:** Would ensure state-regulated commercial insurance coverage for detox or maintenance treatment of SUDs including all buprenorphine products, methadone, long-acting injectable naltrexone, or medications for opioid overdose reversal, without prior authorization for initial or renewal of such treatments.

**SUPPORT: Article VII, Part HH:** Joint Licensure for CCBHC Demo Clinics

**SUPPORT: HMH, Article VI, Part ii**

(NOTE: Please see our requested changes to the Network Adequacy portion of this proposal in the first part of this memo).

**SUPPORT: Access to Care Expansions (Article VII, Health/Mental Hygiene proposals)**

Commercial insurance would be required to cover:

1. OMH Residential (medically monitored, not community residences)
2. Crisis Residential
3. OCD/Eating Disorders residential services
4. Residential Treatment Facilities (RTFs)
5. \*Mobile Crisis Intervention
6. Care Coordination
7. Critical Time Interventions
8. ACT
- 9.

\*Mobile Crisis services must be covered just like ambulance services - no Prior Auth, no limits as to which Mobile Crisis provider can be called.

School-based MH clinics will be paid at no less than Medicaid rate or (if provider prefers) a negotiated rate, by commercial insurers. If the school-based clinic is out of network, the family will be held harmless for in-network cost sharing, and there will be no balance billing permitted.

***SUPPORT ARTICLE VII, Part II HMM proposals as follows:***

-Creates a Private Right of Action for Parity Violations

-Requires insurers to use clinical review criteria that are DESIGNATED by OMH (current requirement is that OMH “approves” the criteria). No concurrent review for adults first 30 days of inpatient/residential MH treatment unless in a designated hospital.

**SUPPORT: Telehealth Rate Parity in commercial insurance**

**HMM Article VII Part ii subpart c**

Proposal requires commercial plans to pay the same as Medicaid for telehealth services provided by Article 31, 32 and Article 36 (crisis stabilization centers that are jointly licensed by OASAS and OMH) regardless of where the practitioner or the client is located for the appointment.

**OPPOSE:**

The NYS Council strenuously opposes the proposal to Eliminate Prescriber Prevails in the Medicaid Program: Health/MH Article VII, Part D