NYS Council for Community Behavioral Healthcare

SFY 2024-25 BUDGET PRIORITIES

In August 2023, members of the NYS Council spent time fleshing out their 2024-2025 State Budget Priorities. These members include 130 organizations from across New York State that provide a range of mental health, substance use disorder / addiction prevention, treatment, recovery and harm reduction programs and services in a variety of settings including freestanding community-based agencies, counties, and general hospitals across the state, as well as federally qualified health centers.

There were five main areas of concern, most of which became the focus of a subsequent Member Survey to help us track the extent of the following long-standing issues:

- Workforce shortages up and down our organizations.
- Wait lists for care (statewide) in the OMH Article 31 and OASAS Article 32-Part 822 Outpatient Clinic system, and in the residential continuum of care.
- MCO failure to pay the correct rates in a timely manner, to appropriately adjudicate claims, and to comply with federal and state parity laws.
- State failure to adequately surveil, monitor and enforce the laws and contract provisions that govern the carve-in of behavioral health services.
- Commercial rates that are deeply inadequate and create disparate access to care for New Yorkers with commercial insurance benefits.
- Burdensome regulations that are often duplicative and steal time from actual client care.

As a result of our budget discussions, we developed our ***2024-2025 NYS Council Budget Priorities that include:***

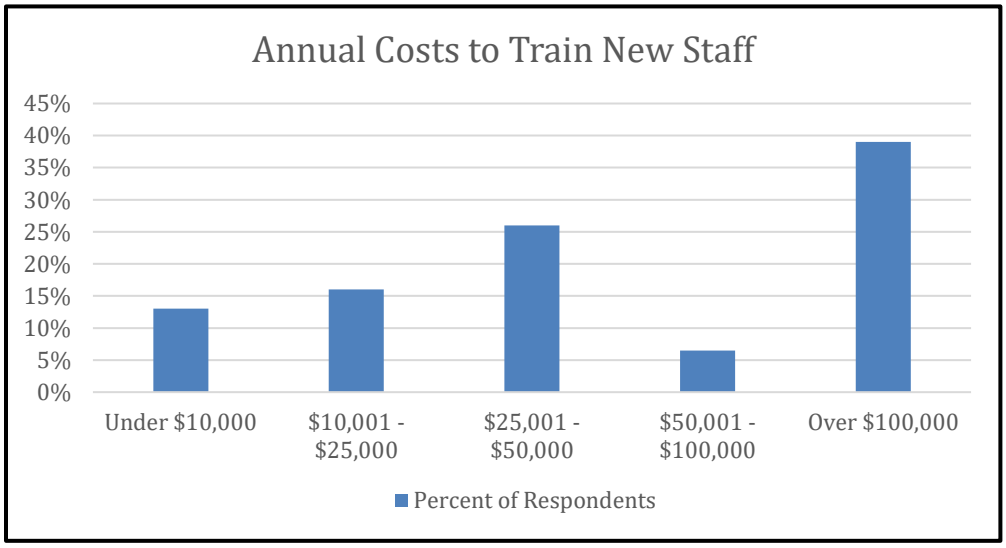
- COLA at CPI w/ re-establishment of statute linking COLA to CPI.
- Behavioral Health Workforce Investment of $500M in addition to expansion of Loan Repayment Programs and greater access for practitioners (e.g., social workers) working in our practice settings, and in the 1115 Waiver's Career Pathways initiative.
- Carve out behavioral health services from Medicaid managed care.
- OMIG Audit Reform (S5329A/A6813).
- Regulatory Relief.

In September 2023, 60 agencies representing 47% of all NYS Council member agencies completed a **66-question survey** circulated by the NYS Council. They did so out of an abundance of concern for their continued ability to provide access to timely services and to meet ever increasing demands for care by New Yorkers seeking assistance through the public mental hygiene system. Below are the results from that survey, in addition to other resources, that support our Budget Priorities.

WORKFORCE

According to the *NYS Council's September 2023 Member Survey*, over the last year:

- 30% of respondents had to reduce access to OMH Outpatient Clinic services because of the inability to recruit and retain staff.
- 93% of respondents have multiple client-facing staff vacancies in their mental health and substance disorder programs. (A larger survey administered by a group of 12 behavioral health associations found the client-facing job vacancy rate to be 21%).
- 94% of respondents have seen an **increase in the acuity level of individuals they serve.**
- 56% of respondents do not or sometimes do not have the diversity of staff to provide culturally competent care.
- 39% of respondents reported it costs **over $100,000 annually** to train new staff.



Based on a September 2022 *Office of Mental Health Article 31 Clinic Workforce Data Survey:*

- 43% of statewide clinics reported at least one prescriber vacancy.
- 78% of statewide clinics reported one or more vacant therapist positions.
- To fill all the vacancies, **Article 31 clinics need roughly 1,200 therapists and 300 prescribers combined.**

According to a *National Council of Nonprofits 2023 Nonprofits Workforce Survey*:

- In New York, 73.8% of respondents identify budget constraints as a factor in their workforce shortages.
- Nonprofits in certain states report greater strains causing workforce shortages due to challenges with government grants/contracting. The states with the highest percentage reporting workforce shortages attributed in part to government grants and **contracting practices** are Connecticut (40.9), **New York (31.8%)**, Pennsylvania (30.2%), Vermont (26.9%), and New Jersey (24.3%).

A recent study published in *JAMA* (9/26/23) found that annual standardized suicide rates per 100,000 people in the general population were 10.1% higher for **behavioral health workers.**

Central Question

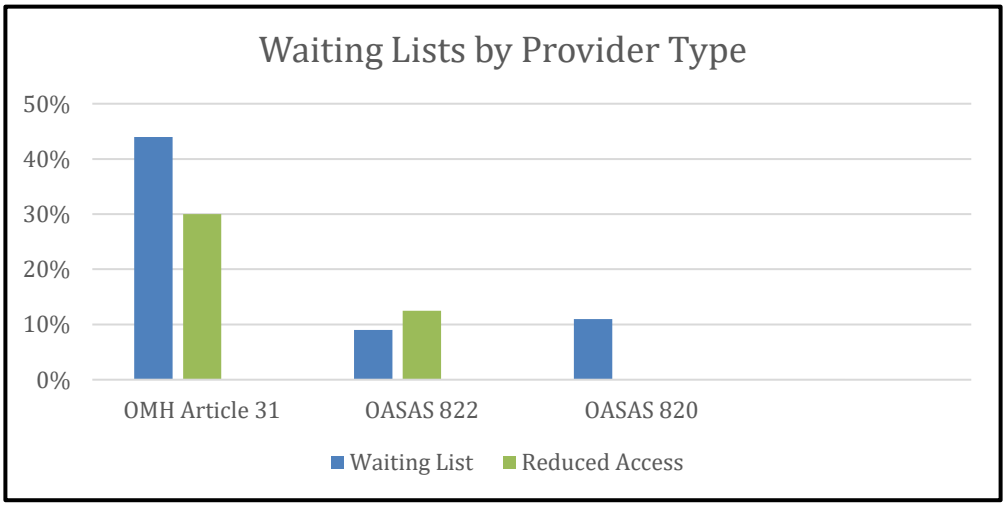
As overdose rates continue to rise and we continue to see an increase in suicide rates among black men and other underserved populations, and since we know that health plans are making 11% (profit and admin) as a result of their participation in the carve-in of BH services, we MUST ask ourselves:

Are MCOs and health plans earning their keep? Could the scarce resources paid to these vendors be put to better use? We say YES!

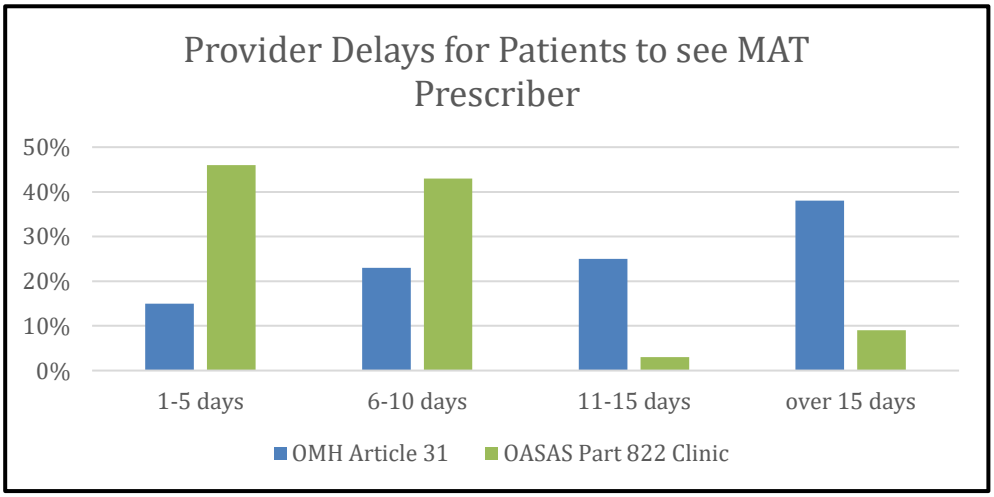
CURRENT ACCESS TO CARE IN THE PUBLIC MENTAL HYGIENE SYSTEM

According to a September 2023 *NYS Council Member Survey*:

- **44%** of providers operating an OMH Article 31 clinic note they have a waiting list/s for services, with **33%** **of them having to pause new intakes** during the preceding year.



- 86% of providers operating an OMH Article 31 clinic and 55% of OASAS Part 822 clinics have delays of over 5 days for patients to see a MAT prescriber.



According to a Crain's article published in November 2022, more than 1,000 New Yorkers living with a serious mental illness were on waiting lists for government-funded community programs designed to help people who need comprehensive and frequent mental health and social services, according to recent data obtained by the media outlet. That included about 800 people awaiting a spot on one of the city's 65 assertive community treatment teams, according to the mid-November data, which was shared with *Crain's* by the city Department of Health and Mental Hygiene. Of those, 122 were on the waiting list for specialized assertive community treatment teams that serve people who are involved with the criminal justice system. Forty-one individuals were on the list for teams that work with homeless individuals in certain mental health shelters.

According to the *Commonwealth Fund,* more than one-third of adult's report having a mental health condition or substance use disorder, but less than half of adults receive treatment for their condition because of provider shortages, high out-of-pocket costs, and *gaps in coverage and reimbursement for behavioral health services.*

BEHAVIORAL HEALTH SERVICES MUST BE CARVED OUT OF MEDICAID MANAGED CARE

The carve in of behavioral health services is a failed experiment that the previous administration initiated however it has not resulted in the types of efficiencies and high-quality care envisioned for Medicaid beneficiaries prior to these services being carved into Medicaid managed care. Specifically, the stated goals of the carve-in of our services included:

- to expand access to integrated care,
- increase clinical innovation,
- enhance and expand access to timely care and ensure seamless continuity of care, and
- increase the likelihood of recovery for individuals impacted by a serious MH or SUD condition.

However, the following is true eight years after the carve-in of behavioral health services was first implemented:

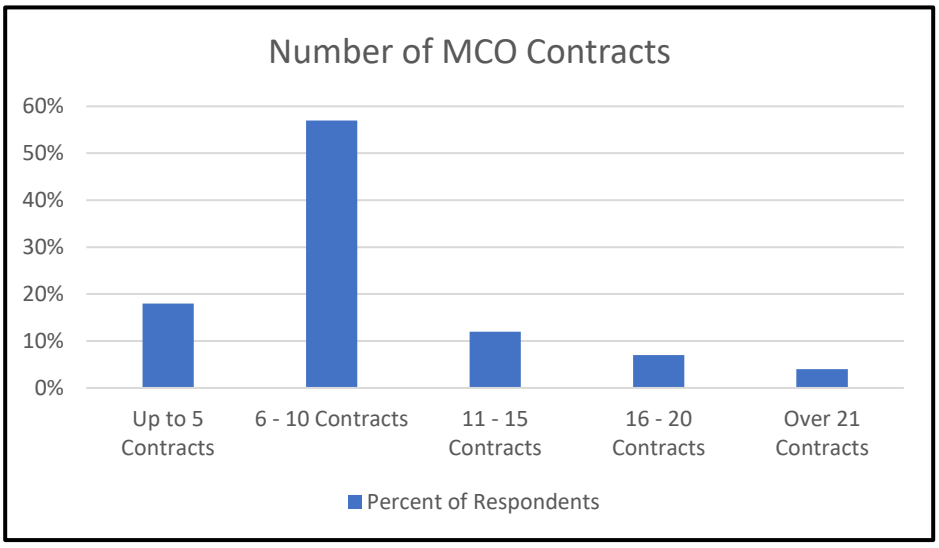
- MCOs fail to pay providers timely and in full. As such, providers are constricted in their ability to pay competitive salaries and attract workers.
- Annual costs associated with provider participation in Medicaid managed care is a very significant expense with no tangible value add. (See chart below.)
- Wait lists around the state are considerable with no end in sight. (See chart above.)
- Providers are in worse financial shape now than before the carve-in of our services. To be precise, ***52% of survey respondents note they are in worse financial shape than before the carve in of BH services to Medicaid managed care.***
- MCOs fail to abide by the laws and regulations governing the carve-in and the state's appetite to enforce these provisions is anemic.
- The NYS Council spent two years pleading with the state to enforce a contract requirement in which some MCOs failed to meet Medicaid expenditure targets. As a result, our systems of care were denied hundreds of millions of dollars the plans were permitted to keep and earn

interest on while our system of care struggled to address the Opioid Epidemic, increasing suicide rates and COVID-19.

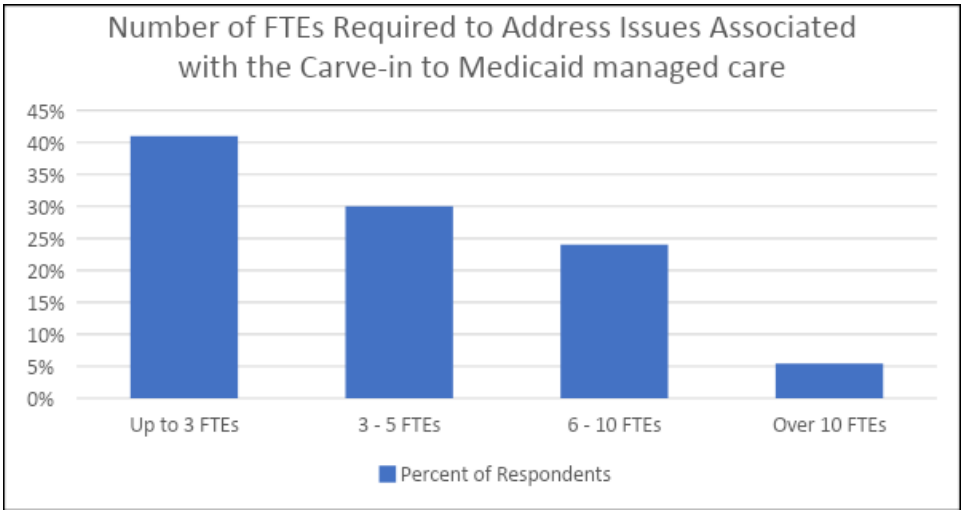
- MCOs do not meet basic customer service and communication standards as required. MCO representatives fail to reply in a timely manner to provider inquiries, their technology systems are ancient and cannot handle rate increases and coding changes.

According to a September 2023 *NYS Council Member Survey*:

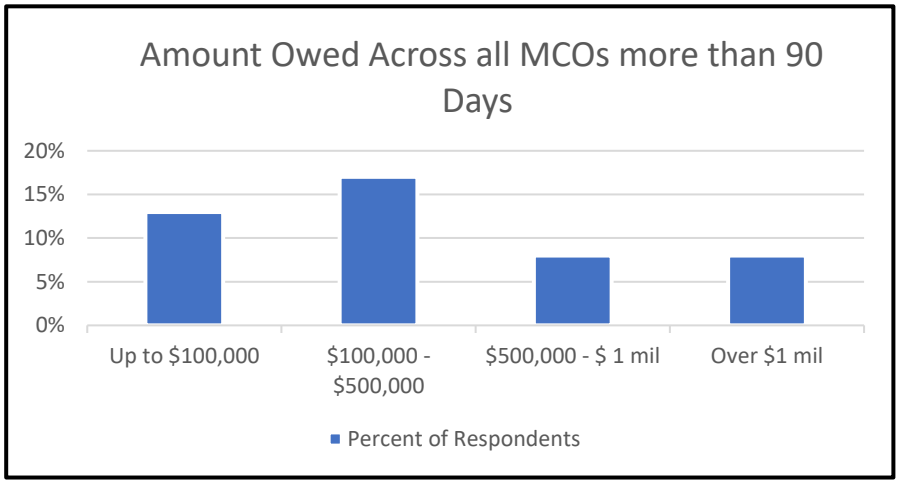
- 65% noted that the **investments they were required to make for MMC have not paid for themselves.**
- 57% of respondents have between 6-10 **Medicaid managed care contracts**. All MCOs have their own paperwork requirements, and most have a poor track record providing technical assistance or even responding to provider questions/concerns in a timely manner.



- 84% of respondents employ **numerous staff** (measured in FTEs) for the sole purpose of addressing issues associated with the carve-in of mental health and substance use disorder services to Medicaid managed care.

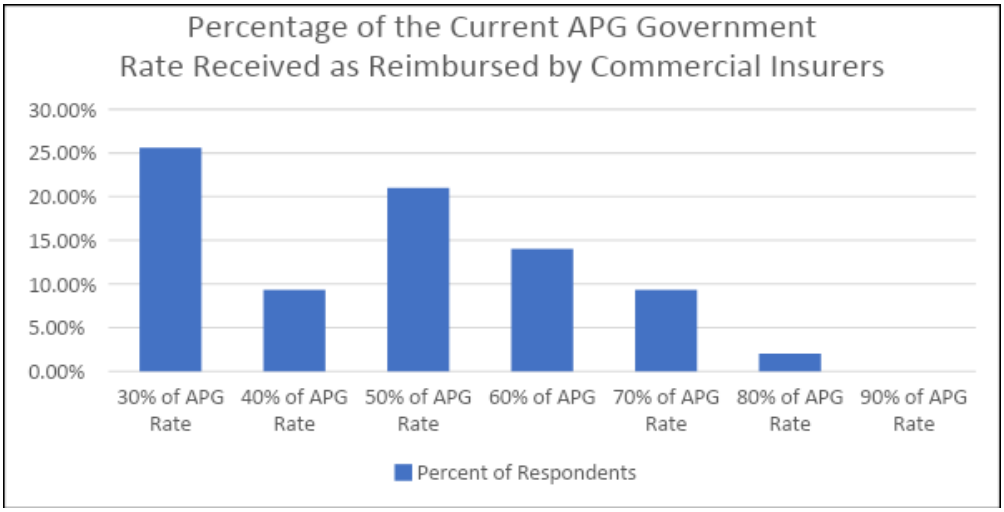


- **Total outstanding claims from MCOs owed for over 90 days – over $10 million. The minimum amount owed is $80,000 and the maximum amount owed is $3 million.**



- 43% of respondents noted that total costs associated with participation in the Medicaid managed care program are between **$100,000 - $250,000**.

- 90% of respondents provide care to New Yorkers with commercial/private health. Of those, 56% **receive less than half** of the **APG government rate** from the commercial insurers.



Citations and Enforcement

A Root Cause Analysis was performed by the state due to numerous complaints filed by behavioral health providers about MCOs. The Root Cause Analysis resulted in significant findings in three categories: 1) failure to pay government rates, 2) failure to oversee the vendor, and 3) inappropriate administrative claims denials. As a result of this:

- Over 200 **citations** have been issued by DOH/OMH/OASAS against various MCOs participating in the carve-in of behavioral health services.

CONCLUSION

It is time for New York State to address what was clearly a mistake when NYS carved in behavioral health services to Medicaid managed care. Sub delegation, inadequate payment to providers, and deficient health information infrastructure pose particularly serious threats to achieving anticipated outcomes and further limit patient access to essential behavioral healthcare. The State should ask what it is getting by paying the managed care plan for behavioral health services under Medicaid. The plans can keep 11% of all funds paid for administration and profit. That funding should instead be used directly to bolster our behavioral healthcare system for critically needed patient care.

For more information about this document and the NYS Council Budget Priorities, please contact Lauri Cole, Executive Director, at 518-461-8200.

October 2023