Proposal to Carve Out Mental Health and Substance Use Disorder Outpatient Services from Medicaid managed care

Managed behavioral healthcare in New York's Medicaid system is a failed experiment that has cost New Yorkers dearly. The carve in of these services in 2015 has led to waiting lists, strained cash flows, and hundreds of millions of dollars lost to the system of care, crippling providers, and inhibiting system improvements. Promised care improvements haven't materialized, but payment delays, ballooning administrative demands that are disconnected from program quality, and exacerbations of an already exploding workforce crisis have.

The money lost to managed care administration has led to a contraction in services at a time of increasing demand for both mental health and addiction services. This has made accessing care harder for New Yorkers and their families.

The impact of managed Medicaid:

- *Lengthy payment delays* – In a recent NYS Council survey, 60 providers reported over $10m in outstanding reimbursement from insurers that is at least three months late
- *Ballooning administration costs* – more than half of providers have a staff of at least four just to deal with managed care administrative demands and providers are in contract with an average of more than nine plans
    - Providers report an average of nearly $400,000 annually just to comply with the requirements of managed care plans
- Numerous plans have *failed to meet required expenditure* targets that require them to spend the vast majority of premiums on actual care for Medicaid beneficiaries. The State's failure to collect these overpayments was the subject of NYS Council advocacy that resulted in over $222 (federal and state share) being returned to OASAS and OMH for a two-year period. The funds were used to increase rates across the OASAS and OMH continuum of care.

The New York State Council has advocated for the state to significantly increase surveillance, monitoring and enforcement of the laws, regulations and contract provisions that govern the carve in. We began our advocacy efforts just 6 months after the implementation, and today, the issues we brought to state leaders in 2016 have not been addressed – in fact the list of serious concerns has grown significantly.

The New York State Council conducted a survey of our members to ascertain their experience with managed care. Our survey results, combined with the experiences of over 100 billers, coders, and revenue cycle management staff we have been meeting with on a weekly basis for close to four years, confirms a chaotic and deeply inefficient process for claiming and reimbursement, filing complaints, and lengthy waits for return phone calls from plan representatives that often never come.

MCO Conduct

Since 2019, the New York State Department of Health (SDoH), in conjunction with the Office of Mental Health (OMH) and the Office of Addiction Services and Supports (OASAS) has issued over 200 citations against various MCOs for a variety of reasons including:

- inappropriate claims denials
- failure to oversee the vendor hired by the insurer to manage the benefits/process claims
- failure to pay the APG government rate, as required by law.

Even after being cited by the state numerous times, some MCOs have refused to correct their performance. Recently the state levied over $2.5 million in fines against 5 MCOs. That may just be the cost of doing business to some plans, but it's costly business for people who need behavioral healthcare.

NYS Council Carve Out Proposal

- Scarce resources should not be paid to vendors who do not meet minimum contractual requirements and who fail to comply with state laws. The NYS Council implores state leaders to carve out OASAS and OMH Outpatient Services that are currently included in the state's MMC benefit package and reimburse for services rendered through the state's Medicaid Fee for Service Program.
    - The FFS Program has a less than 10% denial rate whereas denial rates in MMC care are massively higher.
    - Providers spend on average @$400k/year to participate in Medicaid managed care.
- Funds used for managed care must be reinvested in the OASAS and OMH systems of care to assist the individuals we serve and to address a lethal Overdose Epidemic and increased rates of suicide.
- For OMH CORE and OASAS Part 820 Programs, the state could submit a state plan amendment (SPA) to make these services reimbursable through FFS, or leave them in managed care if necessary.
- **Under no circumstance should the requested carve out of services jeopardize the continuation or expansion of any OASAS or OMH Program or Service that cannot be billed through Fee for Service Medicaid.**

NYS Council Carve-Out Proposal Notes

A return to reimbursement of BH services through the Medicaid Fee for Service Program **will not** require a significant expenditure of resources by the state. Additional staff were hired by the state agencies to implement the carve-in of behavioral health services and can be repurposed for a variety of functions including implementing and overseeing the carve out.

Carving out BH services from MMC will result in a significant **net savings** for the state similar to the savings that are anticipated with the recent carve-out of Medicaid pharmacy benefits.

The vast majority of BH services that are currently carved-in to the MMC program are also reimbursable through the state's FFS system. Providers are currently billing FFS as required - they were doing so long before the transition of behavioral health services to Medicaid managed care.

Another executive budget proposal to Competitively Procure insurers will not work. In states where Competitive Procurement has been tried, health plans have litigated, and it has taken years to get anything accomplished.

Reducing the number of MCOs participating in BH MMC will not change the fact that the state does not adequately surveil, monitor, and enforce the laws, regulations, and contract provisions for the Medicaid managed care program. NYS Council member agencies report having to contract with an average of 8 different MCOs, each with their own paperwork requirements, credentialing demands, and track records for failing to reimburse on time and in full.

Regulations and guidance governing billing, use of rate codes, etc. are already in place - we do not need to reinvent the wheel to move back to Fee for Service reimbursement.

OMH and OASAS have assumed a significant role in the day-to-day management of eMedNY billing for mental health and substance use disorder services, as well as many additional oversight and surveillance functions including administration of routine surveillance surveys, data collection, etc. The Offices are more than capable of continuing in this role.

For questions regarding this proposal please contact Lauri Cole, Executive Director, NYS Council for Community Behavioral Healthcare at 518 461-8200 or lauri@nyscouncil.org