



April 24, 2024

Adrienne A. Harris  
Superintendent  
New York State Department of Financial Services

James V. McDonald, MD, MPH  
Commissioner  
New York State Department of Health

Amir Bassiri  
Medicaid Director  
New York State Office of Health Insurance Programs

Dear Superintendent Harris, Commissioner McDonald, and Amir:

We are writing on behalf of the board of directors and members of the NYS Council for Community Behavioral Healthcare, a statewide membership organization representing the interests of 150 community-based mental health and substance use disorder/addiction providers situated in local communities across New York, and the Community Health Care Association of New York State, the State's primary care association for New York's 80+ federally-qualified health centers (FQHCs). Our members include freestanding nonprofit organizations, counties that provide direct services, diagnostic and treatment centers and general hospitals. Collectively, our members serve tens of thousands of vulnerable New Yorkers each day.

The members of the NYS Council and CHCANYS have been struggling with severe challenges related to the Change Healthcare cyber incident, which has significantly disrupted timely and full payment for services rendered. Since the incident's onset claims dating back to November 24 are affected, and our members are still facing uncertainties about billing for services provided today. They report that they are not receiving electronic remittances from Medicaid Managed Care (MMC) plans and private insurers, which prevents them from electronically posting payments as well as submitting crossover claims to secondary payors. This creates a huge administrative burden on providers who must manually reconcile thousands of transactions. The delay in claim submission caused by the cyber incident is likely to make these claims exceed the timely filing periods stipulated in their provider contracts. The inability to adjudicate MMC claims also results in the inability of FQHCs to receive their entitled supplemental Medicaid payments or payments for denials from the State.

We appreciate that the Department of Financial Services (DFS) issued Insurance Circular Letter No. 2 on March 8, 2024 that “strongly encouraged [MMC plans and private insurers] to work with providers to develop solutions to address these issues.” Under this guidance, DFS directs providers to submit a signed certification to MMC plans and private insurers that tolling of statutory and contractual timeframes to submit claims is needed because the cyber incident had an adverse impact on the provider’s ability to comply with these timeframes. Upon receipt of the form, DFS directs the MMC plan or private insurer to sign and acknowledge the suspension or tolling of the claim submissions timeframes and return the form to the provider.

Our members report that when they followed this suggested process, none of the MMC plans and private insurers had responded and returned the signed form to the provider. For example, one plan acknowledged receipt of the signed certification by email but replied that “[u]pon review, we have found that many providers are using the alternative methods and tolling certain activities is not necessary.” Quite frankly, it appears that MMC plans, and private insurers have ignored the Insurance Circular altogether, rendering it useless in regard to the suspension or tolling of claims deadlines.

We therefore request DFS and Medicaid take stronger action. In this extraordinary period, it does not seem unreasonable for DFS to require MMC plans and private insurers to toll or suspend claims processing deadlines. NYS Medicaid should follow suit for payments outside of the managed care system, specifically for FQHC claims that require the State to process supplemental wraparound payments or payment for denied claims. Doing so will not result in providers delaying submission of claims *en masse*. Providers have a financial incentive to submit claims as quickly as possible so that these claims are paid as soon as possible. If DFS and Medicaid fail to take more aggressive regulatory action as a result of the Change Healthcare cyber incident, then MMC plans and private insurers will deny these claims as untimely, and our members will never be paid for services, jeopardizing access to mental health and substance use disorder/addiction services.

We also request that DFS require all insurance plans, including MMCs, to provide electronic remittances for all payments / denials where the provider has submitted an electronic claim, including for claims that were paid or denied since the Change Healthcare cyber attack. Providers should not have to bear the burden of reconciling thousands of transactions manually when they have invested heavily in their electronic systems.

Thank you for your assistance and your leadership during this extraordinary time.



Lauri Cole  
Executive Director, New York State Council for Community Behavioral Healthcare



Rose Duhan  
President & CEO, Community Health Care Association of New York State

cc: John Powell, Deputy Superintendent, Health Bureau, Department of Financial Services  
Lisette Johnson, Chief, Health Bureau, Department of Financial Services  
Commissioner Anne Marie T. Sullivan, NYS Office of Mental Health  
Commissioner Chinazo Cunningham, NYS Office of Addiction and Support Services