**NYS Council for Community Behavioral Healthcare**
**2025-2026 Budget/Legislative Priorities**

## OVERDOSE CRISIS

*The NYS Council calls on the Hochul Administration to make a **$1B** investment in prevention, treatment, recovery and harm reduction services in the OASAS system of care similar to the investment of $1B enacted several years ago to expand and address the needs of New Yorkers with serious mental health conditions.*

***Much has been made about relatively minor decreases in the overall number of overdoses in NYS and specifically, what appears to be a plateau in overdose rates in NYC. But the plateau is built on a widening disparity in fatal drug overdoses between white and non-white New Yorkers. And the death rate among residents of very high-poverty neighborhoods actually increased by 5 percent, according to the 2023 data. New York's focus on health equity must include a laser-like focus on addressing this growing divide in overdose rates that disproportionally impacts communities of color, the LGBTQ+ community and other underserved populations.***

A $1B investment should include funds for the following initiatives/expansions/gaps in care:

1. Create a Community Workforce Loan Repayment Program for Addiction Professionals (through OASAS) modeled after the Program available to practitioners in the OMH system of care.
2. Increase reimbursement rates across the OASAS continuum of care to ensure provider viability and to support innovation.
3. Invest in supportive housing and an expansion of the number of recovery community centers, along with a reimbursement mechanism for their services. Facilities like these decrease the chances of relapse for people in recovery.
4. Quickly assess which communities across NYS need additional OASAS residential beds of all types and expand capacity in these communities.
5. Implement an Overdose Protocol in all NYS hospital ERs.
6. Meaningfully fund community-based organizations that are a critical part of the safety net and serve as connective tissue in communities where they are assisting local residents in finding the care they need, to acquire supplies such as Naloxone, etc.
7. Increase salaries for family support workers, CRPAs and other critical staff who work in OASAS licensed/certified/regulated programs.

8. Invest in community prevention services and coalitions to include school-based and community-based preventions services that are evidence-based and proven to reduce risk factors and strengthen community protections.
9. Waive co-pays and deductibles beyond $500 for substance use disorder **and** mental health care recipients requiring or receiving treatment during the ongoing overdose epidemic and mental health crisis. Use a means test if necessary but make it possible for low-income New Yorkers to get the care they need without having to worry about choosing between treatment and getting dinner on the table.
10. Increase the number of Recovery Centers around the state to address needs of local communities, break isolation and create environments where people in recovery or those who are considering it, can share experiences and support one another.

## WORKFORCE

***COLA request = 7.8%*** *on all Medicaid reimbursable rates and contracts for mental health and substance use disorder services provided by eligible OASAS and OMH licensed, certified, or registered agencies.* ***Note: The 7.8% request is embraced by the entire NYS Human Services sector.***

- A 2024 MH and SUD provider survey revealed a 34% annual staff turnover rate and a job vacancy rate that hovers between 20-30% depending on program type.
- From 2007-2024, the states failure to keep up with COLA funding has resulted in over $500M being withheld from OASAS and OMH providers who are experiencing a serious ongoing workforce crisis. Stated differently, since 2007, our sector has experienced a shortfall of 34% (in COLA funding). During this same time period, the CPI has increased a total of 44%.
- The average annual premium for workers with insurance covered by their employer in 2024 was $8,951 for single coverage and $25,572 for family coverage. These averages were, respectively, 6 percent and 7 percent higher than in 2023.
- 1 in 9 New Yorkers (12% of all NYers) work in a Human Service-related job. Since 2000, Human Service wages have grown **3%** while all other private employee wages have grown **12%,** according to a recent survey by Forvis**.**
- Poverty wages drive down nonprofit recruitment and retention, which in turn reduces, even eliminates, services and access to care. Vulnerable communities, families, and individuals are at risk.

***(Proposed) MCO Tax***

*NYS recently applied to CMS for approval of an MCO Tax with anticipated revenue at $4B.*

- Set aside 25% of anticipated revenue from the MCO Tax for community-based behavioral health (mental health and substance use disorders). These funds must not be used exclusively to assist institutional healthcare settings that rely on a viable community-based system of care to receive discharged New Yorkers who need access to continuing care services through the public mental health and substance use disorder system.

***NYS 1115 Waiver Career Pathways Initiative***

- The new 3-year 1115 Waiver Program sets aside $643M over 3 years for recruitment and training for thousands of new healthcare workers across New York however at the present time there are just 3 eligible practitioner types (MSW, CASAC, LMHC) targeted

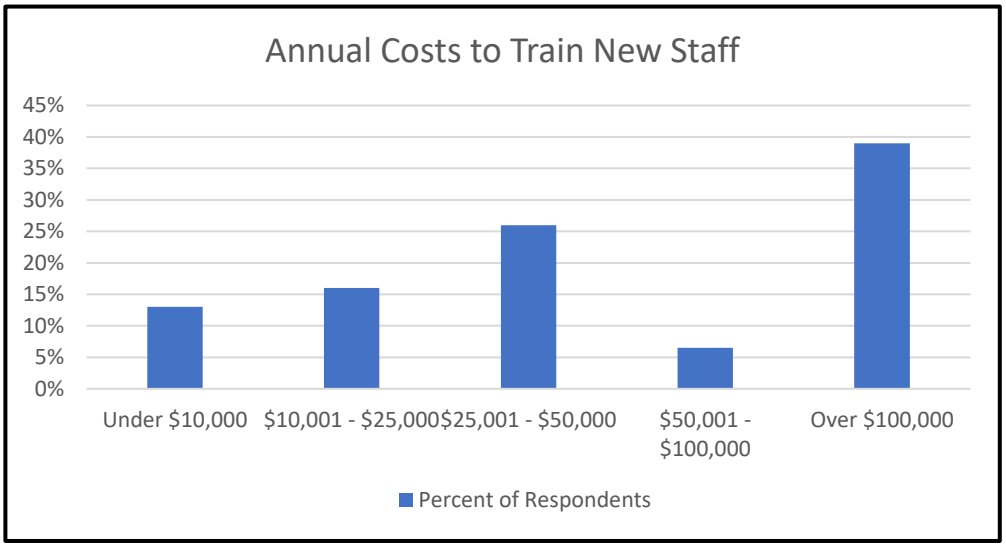
for this new Initiative. *Additional titles **beginning with peer** should be added to the Program to address existing job vacancies that result in bottlenecks in emergency rooms, lengthy wait lists and delayed access to care, based on our historically high staff turnover and job vacancy rates in community-based settings.*

***SED Scope of Practice***

- MH and SUD providers are now experiencing significantly more obstacles than before due to scope of practice changes that restrict valued practitioners from practicing at the top of their scope. New York State must address these additional barriers and make statutory or administrative changes that will increase the availability of services throughout the public mental hygiene system including:
  1. Immediately improve turnaround times at SED/OP for processing of applications for licenses, permits including the new Diagnostic Privilege credential.
  2. Contract with several regional colleges that can offer the course work some LMHCs must now obtain to practice at the top of their scope.
  3. Designate certain existing CEU courses as acceptable for purposes of LMHCs obtaining the additional credit hours they need to practice at top of their scope and satisfy the educational requirements for 'old' LMHCs.
  4. Allocate funding that subsidizes the expenses associated with LMHCs having to enroll in and complete additional coursework per new regulation.

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

- 39% of respondents reported it costs **over $100,000 annually** to train new staff, and when you add in all costs (not just training) associated with constant turnover, the average is $400k/year.



# ACCESS TO CARE

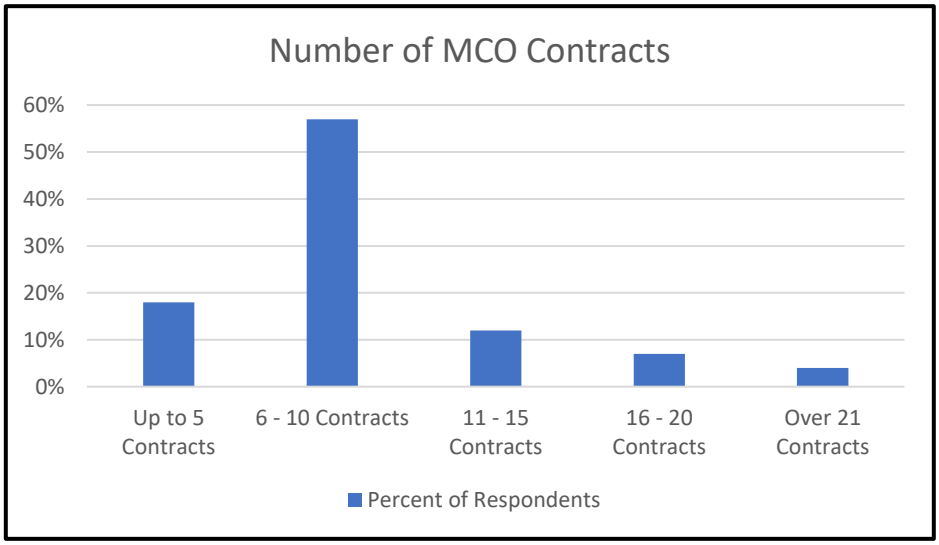
***CCBHC Demonstration Program***
*Permit any eligible OMH / OASAS clinic to become a Demo Clinic.*
*Permanently carve out CCBHC Demo Clinic services and whatever comes next (if/when the federal demo expires) from Medicaid managed care.*

***Carve out BH services from state's MMC Program***
Employing 16 MCOs (the majority of which are for-profit corporations beholden to stockholders rather than beneficiaries) all of which have different requirements for providers and who consistently demonstrate an unwillingness to process payments in a timely manner is both inefficient and a breach of responsibility by NYS. Regulators do not appropriately oversee the BH Medicaid managed care program. As a result, we have a system of care in which third party vendors driven by profit erect barriers to access to care and severely constrict provider ability to serve clients in need by failing to reimburse in a timely manner for services rendered sometimes years ago.

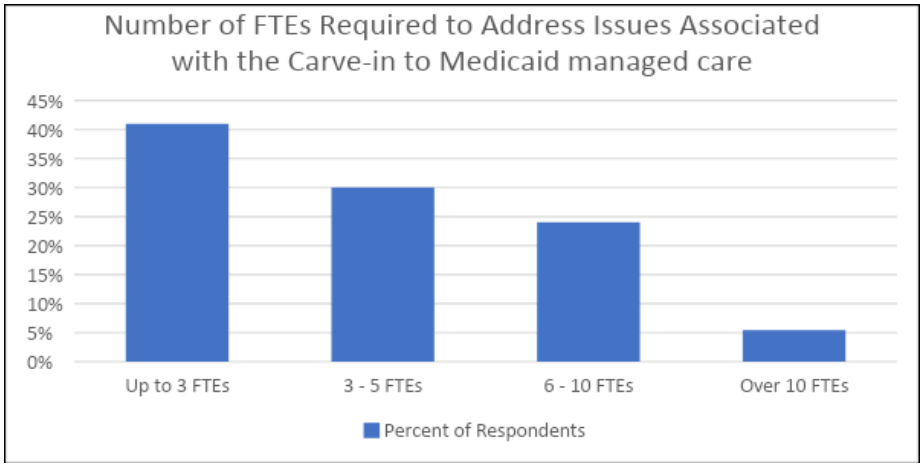
- Over 220 citations against various MCOs have been issued by OHIP since 2019 **however very few have resulted in any type of meaningful enforcement action.** Plans have learned this is simply the cost of doing business. There are no real protections for providers in terms of timely payment for services rendered and often MCOs are months if not years behind in making payments.
- MCO delay and deny tactics are overwhelmingly responsible for current claims denial rates approaching **60%** annually.
- MCOs clear a minimum of 11% of the $3-4B NYS spends annually providing mental health and substance use disorder services through OASAS and OMH agencies and to pay third parties to 'manage' benefits with no value add and serious threats to provider viability due to MOC tactics that delay or deny care.
- **Carving out BH services would yield over $400M/minimum in savings to the state that could be reinvested in OMH and OASAS systems of care to address workforce crisis and rate inadequacy.**
- In 2022, NYS Council advocacy resulted in the OHIP finally enforcing a contract requirement (between the state and the MCOs) that was designed to hold them to a high threshold for how much of the funds they are paid are spent on **actual services for Medicaid beneficiaries**. MCOs were holding on to money they had not earned due to their failure to meet these requirements, *and the state had failed to recoup the funds.* Finally in 2022 the state agreed to begin enforcing the contract provision on the MCOs. To date, over $500M has been recouped from MCOs that are failing to meet expenditure targets that benefit Medicaid recipients. These funds have been returned to OASAS and OMH and most have been used to implement rate increases and to address service delivery system gaps.
- Waive co-pays/high deductibles for MH and SUD episodes of care (after first $500) during ongoing opioid overdose epidemic and increased rates of suicide.

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

- 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 of providing any type of assistance/responding to provider questions/concerns in a timely manner.

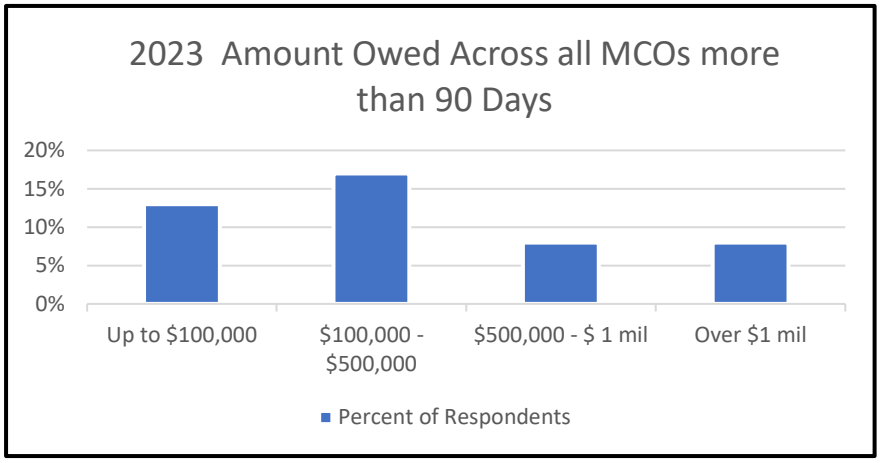



- In August 2023, 84% of respondents said they employed **numerous staff** (measured in FTEs) for the sole purpose of addressing issues associated with the carve-in of mental health and substance use disorder services to Medicaid managed care.

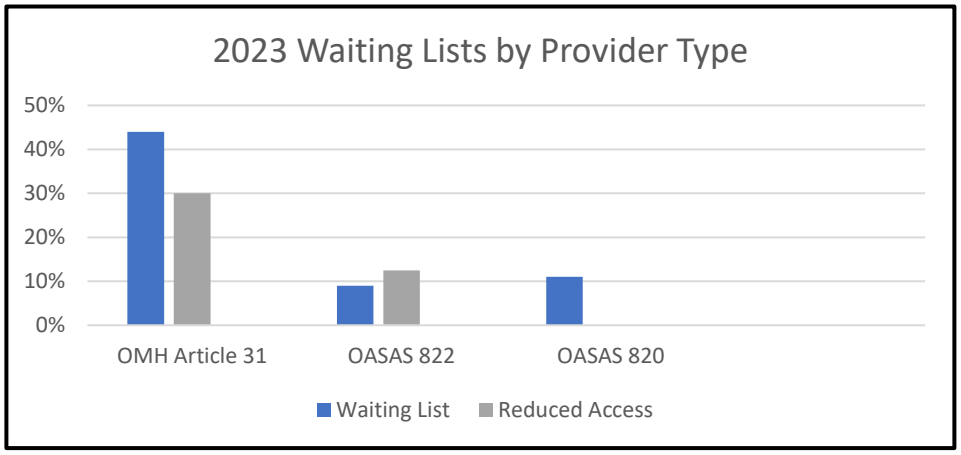



- In 2023 the total outstanding payments due to providers from MCOs outstanding for more than 90 days was over $10 million. The minimum amount owed was $80,000 and the maximum amount owed was $3 million. *In 2024, the amounts owed to providers are considerably higher as the result of the CHANGE Healthcare cyber-attack and New York's failure to require MCOs to pay claims caught up in the cyber-attack where the*

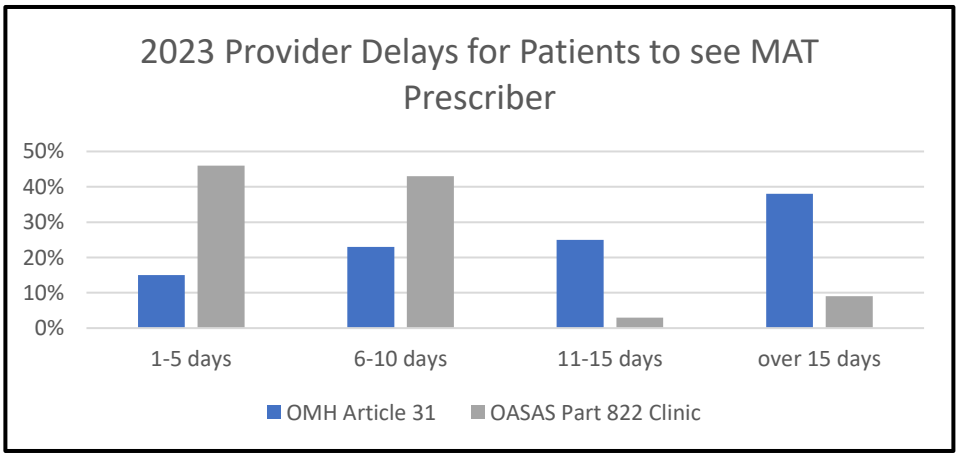
*claim was denied for timely filing despite the fact the provider did not receive electronic remittances, or where the claim was denied for another reason using a denial code that is inaccurate.* Use of inaccurate denial codes is commonplace.




- In 2023, **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 Medication Assisted Treatment prescriber.



## CHILDREN AND YOUTH

NYS children and families with commercial insurance do not have access to many OMH and OASAS children and youth services that are available through New York's Medicaid Program. This lack of parity must be addressed to ensure ALL of New York's children and youth can receive the care they need and deserve. The NYS Council calls on the Hochul administration to continue its historic track record of implementing groundbreaking policy reforms on behalf of our children and youth (including the soon-to-be-enacted commercial insurance rate mandate) by mandating that all of the OMH and OASAS services available to children/youth and their families in the Medicaid Program are also available to children/youth/families with commercial insurance.

Critical Data Points:

- In NYS in 2023, 11.7% of youth with private insurance had insurance that did not cover mental or emotional problems, ranking it 41st among other states (https://mhanational.org/sites/default/files/2023-State-of-Mental-Health-in-America-Report.pdf)
- In NYS in 2023, 53% of youth with major depression did not receive mental health services in the past year (https://mhanational.org/sites/default/files/2023-State-of-Mental-Health-in-America-Report.pdf)
- In NYS in 2023, 11% of youth are experiencing severe major depression and 16% of youth had at least one major depressive episode in the last year (https://mhanational.org/sites/default/files/2023-State-of-Mental-Health-in-America-Report.pdf
- 3,065 children and young people age 0-24 for hospitalized for self-harm in 2019, and 6,545 were admitted to an Emergency Department for self-harm (https://nyshc.health.ny.gov/web/nyapd/suicides-in-new-york)

## REGULATORY REFORM

**Telehealth Access and Rate Equity**

Current NYS regulations currently permit telehealth services to remain widely available to New Yorkers who choose to receive care utilizing this modality by ensuring providers can afford to offer care that is person-centered and that addresses health inequities through the use this modality. The law must be made permanent to preserve access to care and to address barriers to care (travel costs, time away from work, childcare responsibilities, cultural taboos associated with visiting a community-based clinic for care) that limit so many New Yorkers from receiving the services they need and deserve.

- Current NYS regulations ensure adequate reimbursement for mental health and substance use disorder services at face-to-face reimbursement rates however this policy is set to expire in April, 2025. This policy must be made permanent to ensure access to

care and continuity of care for individuals and families who prefer their services be offered via telehealth.

**Access to Primary Care/BH Care** (Integrated Care)

- Establish adequate rates for physical health services provided in Article 31/32 settings.
- Streamline regulatory process for eligible providers to acquire an Integrated Licensed.
- Simplify and streamline physical plant requirements required of agencies seeking to provide integrated care.

**Prompt Payment Statute Reform**

- Implement mandatory sanctions on state and MCOs for missing timely payment and related laws/regulations.
- Implementation of commercial rate mandate must include robust state surveillance, monitoring and enforcement.
- Mandatory financial sanctions on MCOs and commercial insurance plans that fail to pay on time and in full.
- Prompt Payment Statute reform.
- Prohibit pre-payment reviews by plans.
- Prohibit retroactive payment reviews and takebacks after 1 year has elapsed.

**OMIG Audit Reform**

- Legislation has been perfected; providers are still being forced to not appeal due to potential punishment associated with losing appeal. Human beings make mistakes and providers are entitled to correct technical errors, and the state should establish a 50% or more threshold for errors to trigger extrapolation. Protocols are not complete and now cover COVID period.

**Regulatory Flexibility**

- Regulatory Flexibility: OASAS and OMH intake standards should conform with federal standards which are far less aggressive than NYS requirements.
- OMH Part 551 draft regs – there should be no requirements for providers in good standing to be required to notify state re: census changes and seek approval prior to expanding access to care.

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