



November 19, 2025

Children's Rights, Inc.
Attn: Daniele Gerard
88 Pine Street, Suite 800
New York, NY 10005
Email: NYMedicaid@childrensrights.org

RE: Class Action Settlement on Children's Behavioral Health

Dear Ms. Gerard:

On behalf of the NYS Council for Community Behavioral Healthcare (NYS Council), we appreciate the opportunity to provide comments on the class action lawsuit against James V. McDonald, the Commissioner of the New York State Department of Health (DOH) and Ann Marie T. Sullivan, the Commissioner of the New York State Office of Mental Health (OMH), related to the Medicaid provision of intensive home and community-based mental health services to Medicaid-eligible children in New York State under the age of 21 who have a mental or behavioral health condition.

The NYS Council is a statewide membership organization composed of 170 community-based organizations that provide recovery-focused mental health and/or substance abuse/chemical dependence and addiction treatment programs and services for New Yorkers in need. NYS Council members offer a broad array of behavioral health services designed to meet the unique needs of children and adolescents, individuals, and families seeking assistance. Our services are available in a variety of community settings including freestanding agencies, behavioral health divisions of general hospitals, and county mental hygiene programs.

The NYS Council strongly supports the settlement agreement.

The findings that resulted in this settlement reaffirm the long-standing experiences of children, youth, and families throughout the state who have struggled for years to access comprehensive, timely, home and community-based services, and as a result have been driven into emergency rooms, hospitals, and intensive inpatient settings.

The NYS Council supports the following elements of the lawsuit:

1. **Requirement that rates be set at amounts that ensure payments to providers are consistent with efficiency, economy, and quality care and are sufficient to enlist enough providers to meet the needs of eligible children on a timely basis in all regions and areas of New York State.**

The inadequacy of Medicaid reimbursement rates has contributed directly to widespread providers shortages and the waitlist crisis confronting children, youth, and families. For the past two years, the New York State Council has recommended an investment of \$200 million to shore up Article 31

clinic, Article 32 clinic, CFTSS, and HCBS rates. These reforms – detailed more extensively on the Healthy Minds Healthy Kids website – could add 1,300 additional professionals to the workforce and serve over 26,000 additional children and youth. As the State is considering solutions to meet the requirements of the settlement, we urge the State to act with haste to fund and implement these proposed reforms.

2. Robust stakeholder involvement.

We are highly supportive of provisions within the settlement requiring meaningful stakeholder involvement and stand ready to engage in future efforts to inform the direction of the implementation plan.

3. Inclusion of Quality Improvement Plan, yearly audit, and public access to data.

Each of these elements is critical for monitoring the impact of reforms and ensuring New York enhances access to services for children and families.

Additionally, we believe that the State must address the full continuum of children’s behavioral health services to comply with the settlement’s requirement that the state reduce unnecessary admissions to hospitals, emergency departments, and congregate settings. This necessitates investment in not only the home and community-based care services referenced in the settlement, but also in Article 31 and Article 32 outpatient clinical services that are critical for improving children’s long-term outcomes.

Finally, although not discussed in the Settlement Agreement, the NYS Council and 17 other membership associations and coalitions representing a broad group of system stakeholders to include groups that represent NY families and children, urge New York State to immediately remove OASAS and OMH services from the state’s Medicaid managed care system where the state currently permits mostly for-profit corporations to ‘manage’ scarce services for some of New York’s most vulnerable residents. New York State is throwing away a minimum of \$400M/year as it continues to pay insurers and their middlemen to gatekeep, delay and deny essential services to New York’s children, youth, and families, while they simultaneously delay and deny payment to providers. Returning all mental health and substance use disorder outpatient, rehabilitation, and residential services to reimbursement through the state’s Medicaid Fee-for-Service system is the only way to guarantee on demand access to care. Removing insurers that are focused on profit and not people from the mix, is the first and most critical step New York must take as it considers ways to open up access to care for all Medicaid members, while protecting and reinvesting scarce resources in the OMH and OASAS systems of care.

The NYS Council believes this settlement could offer an opportunity to transform New York’s behavioral health system into one that meets the needs of all children and families across the state, and we are eager to partner with the state as you develop a roadmap for implementing the terms of the settlement in the context of the overall children’s system of care.

The NYS Council appreciates the opportunity to provide these comments. Please contact me at 518-461-8200, or at lauri@nyscouncil.org with any questions. Thank you for your time and consideration.

Sincerely,



Lauri Cole
Executive Director
NYS Council for Community Behavioral Healthcare