

**Advocates Urge NYS Legislature to Include Proposal to
Competitively Procure Managed Care Organizations (MCOs) in their One House Bills**

February 28, 2022

The undersigned associations wish to convey our robust and vigorous support for the Executive Budget proposal (HMH, Article VII, Part P) that would require NYS to move to a competitive bid process to select Managed Care Organizations (MCOs) to participate in Medicaid managed care.

Our associations work each day to protect and enhance access to and continuity of care for New Yorkers that need behavioral health services. Ensuring they can get the right level of care in the appropriate setting in a timely manner is a top priority. We believe the passage of this provision will serve to enhance the efficient and effective delivery of high-quality care to the tens of thousands of New Yorkers who need services.

Background: Behavioral health services for adults were ‘carved in’ to Medicaid managed care in 2015, and for children and youth in 2019. Since that time, care providers and the individuals they serve have been subjected to numerous inefficient, unethical, and sometimes unlawful practices by numerous MCOs that are paid by New York State to manage behavioral health benefits. The result of these practices is reduced access to care and undue financial strain on providers at a time when demand for mental health and addiction services has never been greater. When providers are forced to hire armies of employees whose primary responsibility is to chase payments from and respond to the ever increasing and often competing demands of MCOs they work with, resources that would be better spent enhancing availability and quality of care are squandered.

It’s time for a change.

Fear Mongering by MCO Representatives: Lawmakers are being told that if insurers are forced to compete for contracts to manage Medicaid benefits, this will disrupt continuity of care for consumers. In addition, MCO representatives continue to state that market competition will disrupt care and limit access to equitable service delivery. The reality is that MCO participation without competition and accountability has restricted services to vulnerable New Yorkers. It has also lowered the bar for those MCOs that are currently managing these benefits while maximizing their profits. At the present time, of the 40 states that have implemented some form of managed care, 37 of these states employ a competitive bid process to identify MCOs. So, ask yourself this: where else are vendors permitted to manage \$60B worth of state and federal dollars without competing for the right to do so?

Medicaid beneficiaries deserve competition.

The Current Situation: Most MCOs have failed to uphold the requirements that were added to the rules governing the carve-in of behavioral health services by a workgroup appointed by the state before the implementation began. The guardrails added to the State Model Contract that governs the carve-in of behavioral health services were put in place to ensure recipients of services would be protected and providers would be able to transact business efficiently and to focus on the job at hand – providing care to hundreds of thousands of New Yorkers with significant behavioral health challenges. But this is not what, in fact, has occurred. The state has issued over 150 citations to many of the MCOs participating in the carve-in for two primary reasons: 1) failure to comply with federal and state parity laws, and 2) inappropriate claims denials. Unfortunately, without a competitive bid process, the state’s hands are largely tied and its’ ability to remove “bad actors” in a timely way is a steep uphill climb fraught with legal complications.

We Need Accountability.

In addition to the citations (mentioned above), the following ongoing problems are examples of MCO behavior which continues to restrict access to services and impede timely care transitions:

- Many MCOs narrow their provider networks and **drop contracted providers** utilized by members seemingly arbitrarily and often without adequate notice to the insured.
- MCOs often delay or **withhold reimbursement** to providers, increasing financial strain in the system and forcing a reduction in overall availability of care.
- Numerous MCOs have **failed to meet expenditure targets** that were included in their contracts to ensure that most fees paid by the state are spent on **actual care for beneficiaries**. (see HMH, Article VII, Part FF)
- MCOs often fail to respond in a timely manner, and sometimes they **fail to respond at all**, to provider inquiries for assistance or clarification, delaying the process by which providers can expedite intake and care transitions.
- Many MCOs **fail to follow federal Administrative Simplification requirements** and continue to make demands of providers that are prohibited such as requiring providers to transact claims submission via paper rather than utilizing electronic transactions.
- Many MCOs continue to add phrases and clauses to contracts with providers that **violate State requirements**.

Our Request: This Executive budget proposal to competitively procure MCOs will have the effect of increasing the ability for providers to efficiently provide services to people with behavioral health needs. Contrary to the narrative that MCOs will deploy to convince lawmakers that competition will reduce quality and coverage, this Proposal will enhance the state's ability to uphold quality of care and safeguards for some of New York's most vulnerable Medicaid recipients. In addition, it would require MCOs that are selected to invest in the communities they serve and improve their practices or risk losing future opportunities to participate in the carve-in of our services.

The opportunity to manage Medicaid benefits for New Yorkers should not be an entitlement – it is a privilege that should be earned. We respectfully urge the members of the NYS Legislature to support this proposal and specifically, to include it in your one house budget bills. **Thank you.**

NYS Council for Community Behavioral Healthcare
Mental Health Association in New York State (MHANYS)
New York Association of Psychiatric Rehabilitation Services (NYAPRS)
The Federation of Mental Health Services
The Coalition for Behavioral Health
Healthy Minds, Healthy Kids Campaign
Legal Action Center
Citizen's Committee for Children of New York
New York State Coalition for Children's Behavioral Health
Coalition of Medication-Assisted Treatment Providers and Advocates (COMPA)
National Alliance on Mental Illness - NYS (NAMI-NYS)
Association for Community Living (ACL)
New York Association of Alcoholism and Substance Abuse Providers (ASAP)
New York State Care Management Coalition
Families Together in New York State
Supportive Housing Network of New York (SHNNY)