

Many provider and consumer organizations in NYS support Executive Budget proposal Part P to require a competitive bid process for Medicaid Managed Care Plan Procurement. Jointly, we wish to correct the record regarding some of the false assertions, debated below, being made by opponents of the Proposal.

Our Position: The Governor's Budget proposal, Part P in the HMH Article VII bill, will address serious problems in NY's Medicaid managed care program where Managed Care Organizations (MCOs) hired by the state to oversee service delivery for more than 5 million beneficiaries do not have to compete for the privilege to do so. ***Medicaid managed care is a \$60 Billion/year program however the state does not utilize a competitive RFP process to identify its' vendors.*** As a result, care recipients routinely lose their preferred providers, are denied necessary services, and are forced to go through complicated processes just to advocate for their own rights. Providers must deal with as many as 9 health plans that are permitted to outsource their responsibilities and that routinely deny reimbursement, fail to meet required expenditure targets for spending on care, and require mountains of unnecessary paperwork. ***Competitive procurement is the best way to infuse real accountability, because plans will have to recognize that there may be real consequences if they fail to meet pre-set standards.***

Assertion by Opponents: Plan changes means care recipients will lose their provider / practitioner

Our Response: Plans change their networks all the time, often without adequate warning to plan members, and with only minimal oversight by state regulators. Part P proposes requirements for selected vendors including that plans expand their networks regionally and requires transition periods for continued coverage while changes are being made pursuant to the new competitive bid process. So not only will consumers largely be able to retain their preferred providers, but beneficiaries will have more choices and likely more opportunities for better care management.

In the behavioral health services carve-in to Medicaid managed care, the state has issued over 150 citations against various MCOs for two primary reasons: 1) failure to comply with federal and state parity regulations, and 2) inappropriate claim denials. Importantly, Part P would require the state to consider the track record of current MCOs. Past behavior is an indication of future performance. Medicaid beneficiaries deserve this level of scrutiny. Part P would consider a plan's not-for-profit status and commitment to community reinvestment as criteria for selection, ensuring that our communities (rather than for-profit plans, their shareholders, and bottom lines) are the priority.

Assertion: Procurement will limit choices available to the state's most vulnerable residents

Response: When New York carved in behavioral health services to Medicaid managed care, it needlessly employed 18 MCOs that offer 18 versions of the same product; consumers do not have any meaningful choice between insurers, because each plan must oversee the same requirements. MCOs are taking record profits during a pandemic and they are denying care. Healthcare practitioners should be deciding care, not insurance companies. Fewer vendors in this space will create more robust networks and save scarce resources eliminating needless overhead and providing a more streamlined process by reducing the number of MCOs in the market. We can find no evidence from any insurance marketplace that indicates competition limits choice or negatively impacts vulnerable people. Too many poor actors in the Medicaid managed care market have been allowed to operate. It is our responsibility to remove the bad actors and poor performers from this market so that individuals on Medicaid have access to quality care.

Assertion: Individuals enrolled in Medicaid Managed Care need health plans to coordinate care between physical and mental health practitioners, and they need health plans to coordinate social services, such as housing, employment, and education

Response: The argument that because some beneficiaries have complex care needs and therefore any administrative disruption would potentially be catastrophic is a red herring – it's fearmongering that representatives of health plans are using to try to convince legislators that the health plan is the key component to good healthcare outcomes when the truth is that *providers, family members, and community supports are the people who deliver services, not insurance companies.* Care recipients have deep relationships with providers, not with their insurer. Health plans currently provide minimal (if any) coordination of social services such as housing and employment.

Assertion: The DOH is understaffed, and executing a procurement would be a disaster

Response: The State plans to add additional staff at DoH **and** to subcontract with outside experts to implement and support the procurement. To make change we must begin by adding meaningful accountability and consumer protections. The overwhelming majority of states with Medicaid Managed Care programs use this type of procurement process for selecting plans. Millions of people in the Medicaid program experience prolonged care disruptions, service and cost cutting, regulatory confusion, and inefficient management of complex care products. It's time for a sea change in the way New York manages these benefits.

Assertion: Procurement will lead to lengthy, costly lawsuits brought by plans which lose business

Response: The procurement process must be implemented in a way that centers **on** integrity and fairness. *States that have upheld transparency during procurement have not incurred damaging litigation.* The threat associated with multi-billion-dollar companies suing NYS because they can no longer extract enormous wealth from taxpayers isn't a reason to avoid procurement.

Assertion: NYS should have procured plans initially if that's what it wanted – it will be too disruptive and difficult to procure now that plans are in place

Response: In 2021, Ohio embarked on just this process; they transitioned a non-competitive managed care system to a competitive procurement process. In doing so, the state improved provider contract efficiency, created robust standards for claims adjudication and member satisfaction, and engaged the public in decisions to include health equity measurements in contract. It's not only possible to go through such a transition, but NYS is poised to incorporate lessons learned from the past decade and from other states to move us to the "next generation" of managed care.¹

Assertion: The State already has broad authority to make changes to the program

Response: Many MCOs regularly fail to meet contractual and regulatory expectations, and in some instances, they violate state laws. They deny care, restrict funds, use restrictive networks and/or change their networks without notice, and refuse to compensate providers for needed care provided. Censuring MCOs for failure to uphold contract standards is a lengthy process, held up by insurance companies and their lawyers, with only minor if any consequences or mandatory improvement plans. We need to correct the situation at the front end, through a competitive process and strong criteria and standards that selected MCOs will be held to, or risk losing this business.

On behalf of New York consumers and providers we strongly urge you to include Part P in the Final State Budget this year.

NYS Council for Community Behavioral Healthcare
Mental Health Association in New York State (MHANYS)
New York Association of Psychiatric Rehabilitation Services (NYAPRS)
Families Together in New York State
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 State Care Management Coalition
Supportive Housing Network of New York (SHNNY)

¹ <https://managedcare.medicaid.ohio.gov/managed-care/managed-care-procurement>