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Behavioral Health Advocates Support & Recommendations for the Health and Mental Hygiene Insurance Proposals in the Executive 2023-24 Budget

On behalf of the hundreds of thousands of New Yorkers who currently receive mental health and/or substance use disorder services through the state's public mental hygiene system, as well as the increasing number of New Yorkers who are unable to access care, please see our positions below on Health and Mental Hygiene insurance proposals in the Executive's 2023-24 budget.

SUPPORT WITH RECOMMENDATIONS

Network Adequacy *(HMH, Article VII, Part II, Subpart F)*

Recommendation #1: We request language be added that would require the state to robustly enforce all applicable laws and contract provisions associated with the availability of behavioral health services in Medicaid managed care. The language bulleted below was submitted to the Health and Mental Hygiene Chairs by the NYS Council for Community Behavioral Healthcare in early February (For further information on language, contact Lauri Cole, lauri@nyscouncil.org):

- The state must perform a quarterly analysis of Provider Network Data Set (PNDS) data without fail. DOH must analyze the data which should be aggregated by MCO and also by service type.
- If the plan fails to meet Network Adequacy (NA) standards per the Model Contract, this should automatically trigger regulatory action by the state, without exception. Regulatory action must begin with fines of no less than $10,000 per instance of non-compliance.
- If the plan fails to meet NA standards 3 times in one year, the state must prohibit the MCO/plan from enrolling new insureds for a period of no less than 6 months.
- Results of the NA analysis as well as the methodology used to calculate NA, and the immediate action taken by the state must be published on DOH website and be easily accessible to the public. Insurers should be listed by name rather than anonymously.

Recommendation #2: As introduced in S.3524 (Fernandez) we must ensure that "all health maintenance organizations and commercial insurance plans maintain a network of health care providers adequate to meet the comprehensive health needs, including mental health services, substance use disorder treatment services, including but not limited to opioid treatment programs and medication assisted treatment options, and recovery support services, of its enrollees and to provide an appropriate choice of providers sufficient to provide the services covered under its enrollee's contracts by determining that (i) there are a sufficient number of geographically accessible participating providers, including all opioid treatment programs in all counties of the state and in the city of New York and all authorized buprenorphine prescribers in all counties of the state and in the city of New York."

It is essential that all licensed SUD and mental health facilities participate in managed care networks of all commercial insurance plans. All too often people with commercial insurance seek treatment and discover that although the service is covered, the insurer does not have any providers in its network.

SUPPORT WITH RECOMMENDATIONS

1. Coverage Expansion

- Requiring coverage of school-based mental health clinic services will open up access to thousands of students across the state who, despite having behavioral health services available right in their schools, have been unable to receive services because of their insurers.
- Requiring coverage of crisis services, care coordination, assertive community treatment, and other outpatient services is an important step toward parity and will hopefully offer more families the services they need when they need them.
- Child and Family Treatment and Support Services (CFTSS) and Home and Community Based Services (HCBS) as required services to be covered by commercial health insurance policies. These services were added to the State's Medicaid Plan under the MRT I initiative, and they have been added to Child Health Plus as of this year. These services provide support for children and their

families with mental health and substance use needs in their homes and communities, often preventing the need for more intensive (and expensive) out-of-home services and dramatically improving quality of life. These services should be available to all children, not just children eligible for Medicaid and CHP.

2. Rates

Recommendation: Language was previously submitted to the Chairs by the NYS Council for Community Behavioral Healthcare that would require commercial insurance plans to pay in-network and out of network behavioral health services at the Medicaid Government/APG rate (or a more favorable rate). This language is necessary to address the ongoing disparity that exists in the reimbursement rates between the Medicaid APG/government rate that is set by the state, and rates commercial insurers are permitted to pay for the same exact services provided by the same level of staff. Commercial rates are, on average, just 50% of the Medicaid APG government rate. As such, many providers are unable to provide care due to extremely low commercial reimbursement rates. This creates an access to care problem for New Yorkers with commercial insurance. (For further information on language, contact Lauri Cole, lauri@nyscouncil.org)

3. Commercial Insurance Coverage for Maintenance and Detox Treatment: *(HMH Article VII, Part II, subpart E)*

This proposal would assure state-regulated commercial insurance coverage for detox or maintenance treatment of SUDs including all buprenorphine products, methadone, long-acting injectable naltrexone, or medications for opioid overdose reversal, without prior authorization for initial or renewal of such treatments. We recommend that these provisions specify coverage for the administration and dispensing of methadone and include coverage with no prior authorizations for all treatment visits related to prescribing and/or administration and dispensing of all medications for the treatment of substance use disorder. While it is unfortunate that we have to go to this length to ensure commercial insurance covers life-saving detox and maintenance treatment of SUDs, we support the intent of this proposal for its focus on access to care for commercial insurance beneficiaries.

SUPPORT THE FOLLOWING

SUPPORT: Access to Care Expansions: *(Article VII, Health/Mental Hygiene proposals)*

Commercial insurance would be required to cover:

1. OMH Residential (medically monitored, not community residences)
2. Crisis Residential
3. OCD/Eating Disorders residential services
4. Residential Treatment Facilities (RTFs)
5. *Mobile Crisis Intervention
6. Care Coordination
7. Critical Time Interventions
8. ACT

SUPPORT: Telehealth Parity: *(HMH, Part II, Subpart E)*

This proposal would ensure that telehealth services provided by licensed facilities are reimbursed at the same rate as services delivered in person.

SUPPORT: Preauthorization and Concurrent Review Proposals: *(HMH, Part II, Subpart E)*

This proposal would prohibit insurers from performing preauthorization or concurrent reviews for the first 30 days of mental health treatment for adults in an in-network inpatient hospital or crisis residence licensed or operated by OMH, except where the insured meets designated clinical criteria or is receiving care in a facility designated by OMH in consultation with DFS and DOH.

OPPOSE

Prescriber Prevails Elimination: *(HMH, Article VII, Part D)*

The Budget proposes to repeal the "prescriber prevails" provision in Medicaid fee for service. Prescriber prevails is a crucial patient protection that allows patients and their health care providers to have the final say over medication decisions. Without it, Medicaid patients could be left without protection in a time when accessing the right health care is more important than ever.

As experts in the fields of mental health and substance use disorders/addictions care, we know that the elimination of prescriber prevails language would be detrimental to New Yorkers who have often spent years working with prescribers to find the correct medications/combination of medications that will successfully address symptoms associated with serious mental illnesses and substance use disorder. Prescribers are the individuals best positioned to determine the most appropriate medication for their patients. **Therefore, there is no valid health-related reason to change this practice.**