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Medicaid Matters New York

Testimony to the Assembly Ways & Means and the Senate Finance Committees Joint Legislative Budget Hearing 2016-2017 Executive Budget on Health/Medicaid January 25, 2016

Thank you for the opportunity to testify. My name is Lara Kassel, and I am the Coordinator of Medicaid Matters New York (MMNY). MMNY is the statewide coalition of over 140 organizations representing the interests of Medicaid beneficiaries. Our membership is comprised of community-based organizations, health and human services providers, legal services agencies, and groups that work with specific constituencies (like people with disabilities, people who are homeless, etc.), all united around our mission: to represent the interests of Medicaid beneficiaries in any and all discussions and debates related to New York's Medicaid program.

In recent years, MMNY has focused attention on several key state policy initiatives that are aimed at redefining the way services are delivered and paid for in New York. Our work has concentrated on how consumers, the services they use, and the safety-net providers they rely on are impacted by implementation of "care management for all," an initiative designed to move all Medicaid beneficiaries and services into managed care or some other model of care management. Our members are also involved with the inception and implementation of payment and delivery system reform efforts, namely the Delivery System Reform Incentive Payment (DSRIP) program and Value Based Payment (VBP).

While the initiatives MMNY has focused on have been largely "off budget" administrative actions being taken by the Department of Health and other agencies, the State budget has also been an area where major reforms have taken shape. This year's Executive Budget does not make sweeping changes related to the way Medicaid is administered in New York, but rather makes several smaller proposed changes to find efficiencies to the program. Our job as consumer advocates is to highlight how we think proposed changes could impact real people and their access to services.

Changes to Managed Long Term Care

First, the Governor's budget would change the eligibility standard for Managed Long Term Care (MLTC) from needing 120 days or more of home- and community-based services to needing nursing home level of care. Though we do not object conceptually to prioritizing a higher-needs population in MLTC, MMNY is concerned about the people who would no longer be eligible under this new standard.

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The budget language does not specify which entity would administer long term care services for those not meeting the new nursing home standard so we are left to assume that it would be the local social services districts. We are concerned about increasing reliance on local districts to deliver these essential services. Many local districts no longer have the capacity to administer long term care services to a significant number of individuals, especially individuals who require coordination of multiple services. In addition, MLTC has provided benefits to people that are not available outside of the program, such as home modifications that allow them to live safely and independently at home.

Second, the Executive Budget removes transportation as a MLTC benefit. While we understand the utility of aligning the transportation benefits across programs, consumers already experience challenges accessing transportation services and understanding the benefits to which they are entitled. Transportation is a Medicaid benefit which means that beneficiaries are afforded due process rights when benefits are denied or discontinued. If transportation services are removed from MLTC, the State should ensure that beneficiaries are educated on how to access transportation services and informed of their rights to access transportation services.

There are ways the state could build additional consumer protections into MLTC to make the program stronger, protect people's rights, and make it more accessible to people, such as:

- Establish a high-need community rate cell to counteract the financial incentive to place people in nursing homes;
- Strengthen the community-based long term care workforce and address the workforce shortage in some areas by ensuring adequate wages and benefits;
- Provide the necessary funding to pay for the new overtime and travel requirements under MLTC, which includes providing managed care capitation rates that are sufficient to account for increased costs and requiring that any increased capitation rate be used to increase the availability of aide services; and
- Improve oversight and accountability of managed care plans, which should include:
    - Requiring plans to report any home care hour reductions so that the Department of Health can identify patterns of across-the-board reductions, as well as any new nursing home placements;
    - Requiring the Department of Health to publish detailed, specific data for every managed care plan on grievances, internal appeals, external appeals, complaints to the Department of Health and fair hearings annually; and
    - Holding managed care plans accountable for reaching the goals of the Governor's Olmstead Plan to ensure people are served in the most integrated setting possible.

New children's mental health services

MMNY is supportive of the Governor's proposal to add six new children's mental health services to the Medicaid benefit package. With the proper funding and planning, this could mean better access to services for children with mental health needs, including crisis intervention, psychosocial rehabilitation services, family peer supports, and more.

The Executive Budget includes some new funding for these benefits ($7.5 million), but our concern is that sufficient funding continue to be available to allow the potential scope of these new

services to be fully realized for beneficiaries. We will also be seeking the opportunity for the beneficiary and provider communities to be actively engaged by State agencies to ensure that their needs and expectations are considered in the establishment of these new benefits.

Elimination of "prescriber prevails"

The Governor has once again proposed to eliminate the provisions in the law that allow a person's physician to have the final word when it comes to disputes over whether a prescription is filled as the prescriber intended. This year's proposal to eliminate "prescriber prevails" makes exceptions only for atypical anti-psychotics and anti-depressants but no other psychiatric medications. It also does not provide exceptions for the anti-retroviral, anti-rejection, seizure, epilepsy, endocrine, hematologic and immunologic therapeutic classes that have been protected in the past.

"Prescriber prevails" is a major consumer protection. We thank the Legislature for securing it year after year, and we urge you to do the same this year.

Elimination of spousal/parental refusal

The Governor's budget once again proposes to eliminate the longstanding right of "spousal/parental refusal" for children with severe illness, low-income seniors who need Medicaid for home care and other services excluded by Medicaid, and other vulnerable populations. Under the proposal, the "refusal" would be honored and Medicaid granted only if a parent lives apart from a sick child, or the well spouse lives apart from or divorces a spouse with long-term needs.

MMNY opposes denying Medicaid to these vulnerable groups; the projected cost savings from this action are small and not worth the impact on spouses and families. In fact, the increased insecurity of these consumers and their families may incur further health care and social costs that have not been adequately understood or included in predictive budget assumptions.

Funding for consumer assistance

The Community Health Advocates (CHA) program is the state's consumer assistance program that helps 30,000 individuals and small businesses each year (including Medicaid beneficiaries) understand, use, and keep their coverage. CHA also helps those not eligible for insurance access affordable care. The CHA program was funded at $2.5 million in the Governor's budget but needs a total of $4 million to maintain services at its current level.

The Independent Consumer Advocacy Network, or ICAN, is the ombuds program that provides individual, independent consumer assistance services for people in MLTC and the Fully Integrated Duals Advantage (FIDA) program and anyone in mainstream Medicaid managed care receiving long term services and supports. The Governor's budget provides base funding for the ICAN. The State has committed to making sure this program is expanded to provide services to anyone in Medicaid, and our understanding is that the intent is to expand the program incrementally. We encourage you to make sure this vital program is funded at sufficient levels to keep it operational and allow it to expand, particularly as more people transition to Medicaid managed care.

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Expand the Essential Plan to cover income-eligible immigrants

The Essential Plan (formerly referred to as the Basic Health Program), which officially launched on January 1st, is a huge step forward in making health insurance much more affordable for people who are just above Medicaid income eligibility. At a cost of $20 or less per month, this program will make an enormous difference for low-income New Yorkers who could not previously afford health insurance, even with federal subsidies and cost-sharing assistance.

While the Essential Plan promises affordable health insurance to many low income New Yorkers, others, including those with deferred action for childhood arrivals (DACA) status, continue to be left without access to affordable health coverage. Another small subset of individuals (approximately 5,500) permanently residing under color of law (PRUCOL) with incomes between 138 and 200% of the federal poverty level are excluded from the Essential Plan and other Marketplace products under federal rules. Because their incomes are too high to qualify for state-only Medicaid they have no affordable insurance options. We therefore urge the Legislature to allocate $10 million to extend the Essential Plan to all PRUCOL immigrants.

Support for community based providers

Over several years, the state has provided billions of dollars to the hospital industry in the name of Medicaid systems transformation. Commensurate support has not been provided to community-based safety-net providers to allow them to participate in a transformed payment and delivery system. This is antithetical to the administration's own stated goals of emphasizing care and services in the right setting, namely community-based settings where they are more accessible and more efficient.

MMNY urges the Legislature to ensure that existing pools of funding for health facility transformation as well as any new funding be made available to community-based safety net providers as well as safety-net hospitals. We also urge that new funding for facility transformation be provided specifically for safety-net providers.

There is tremendous need for attention to how community-based organizations that provide non-medical, non-Medicaid services (such as peer supports, food security, vocational training, and much more), will participate in and contribute to the success of the DSRIP program and the Value Based Payment (VBP) initiative. MMNY, our members and our colleagues have worked with the Department of Health and the various DSRIP and VBP workgroups to shed light on the role community-based organizations must play if these initiatives are to achieve the targets and goals set out by the federal government. The State must recognize the importance of these community-based organizations by providing technical assistance and financial support to allow them to effectively participate in new models of care. We ask the Legislature to monitor these activities to ensure that the full scope of services remains available to beneficiaries as DSRIP and VBP continue to be implemented, and consider including funding in the enacted budget for community-based organizations.

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Minimum wage impact

The Governor has announced his intention to raise the minimum wage in New York State to $15 per hour. While he proposes to do this in a phased approach, the proposed budget does not include increased reimbursement or funding for providers, community-based organizations and other state contractors that will have to comply with the wage increase. The Medicaid consumer advocacy community is very concerned that the lack of funding could impact service delivery and program budgets in ways that have not yet been considered or calculated by the State. Providers and community-based organizations that serve Medicaid beneficiaries receive large portions of their budgets from the Medicaid program. Absent funding to compensate for a minimum wage increase, many providers and community-based organizations will struggle to continue their mission of providing quality services to vulnerable populations.

The final budget must include funding for health and human service agencies and providers to allow them to continue the good work they do while also employing a competent workforce at the wage levels they deserve. Without this funding, the social safety net will fall apart and Medicaid recipients will not be able to get the care and services they need, especially in the community (as opposed to institutional settings) where most low-wage workers are employed.

Closing

Thank you for the opportunity to address you today. We look forward to working with you and your staff toward an enacted state budget that takes Medicaid consumer impact into consideration and protects consumers and the safety-net providers they rely on.

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