Testimony Of

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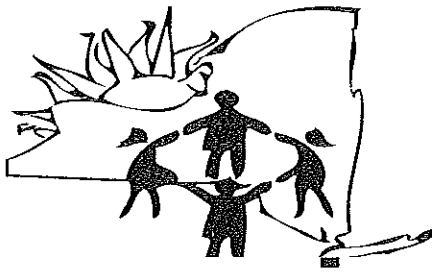
New York State Coalition for Children's Mental Health Services



The Joint Legislative Budget Hearing on Mental Hygiene

February 11, 2014

John A. DeFrancisco, Chairman, Senate Finance Committee

and

Herman D. Farrell, Jr., Chairman, Assembly Ways and Means Committee

"The current behavioral healthcare system for children and their families is underfunded. Per capita investment in behavioral health for adults far outweighs investment in children, which could be remedied through reinvestment of existing resources." – Children's Behavioral Health Subcommittee Report to the Medicaid Redesign Team. Oct 2011

Chairmen Farrell and DeFrancisco, Assemblywoman Gunther and Senator Carlucci, thank you for this opportunity to testify about the Governor's Executive Budget for 2014-15.

I am Andrea Smyth, the Executive Director of the NYS Coalition for Children's Mental Health Services, a statewide association of over 50 nonprofit children's mental health providers. We offer quality outpatient, community-based and residential services for children and their families in every county in New York.

The Coalition urges that the Legislature support the following proposals in the Executive budget:

- $5 million for transition planning for the foster care system as currently exempt children are moved into Medicaid Managed Care
- $10 million for transition planning for plans, counties and providers to prepare their infrastructure for the transition to Medicaid Manage Care
- $25 million for pre-investment into community based services, which includes support for a 150 slot expansion of the children's home and community based waiver services program – and expansion that has already begun with Balancing Incentive Plan funds (64 new slots in 2013). Extend the pre-investment funds so they can be used for the development of both state-operated AND non-profit children's crisis/respite beds, as development of this service was highly recommended by every Regional Planning group established under the Regional Center of Excellence planning process.
- Nurse Practitioner modernization proposal; which is greatly needed in the children's behavioral health field to combat the severe child psychiatrist shortage.

The Coalition urges that the Legislature support, but modify the following proposals:

- Continue the APG pass-through to children's behavioral health outpatient providers until December 2017, with an amendment that specifies "or until 12 months after the full transition of currently exempt child and adolescent populations and services is complete"
- Authorize the new Reinvestment Program, "Community Based Behavioral Health Services Reinvestment Program", with an amendment that prioritizes the preservation of existing children's mental health outpatient capacity as essential community providers and

authorizing a children's essential community provider program to preserve the children's safety net providers through December 2017 or until the transition of currently exempt child and adolescent populations into Medicaid managed care is complete."

- Accept the Executive's recommendation to takeover ratemaking for the Child Health Plus insurance product, but amend the proposed 2014 rate freeze to exempt children's outpatient behavioral health visits and instead include the following except for the purpose of reimbursing providers licensed pursuant to article 28 of the public health law and article 31 of the mental hygiene law for ambulatory behavioral health services provided to those under the age of 21, such reimbursement shall be in the form of fees for such services which are equivalent to the payments established for such services under the ambulatory patient grouping (APG) rate-setting methodology as utilized by the departments of health or the office of mental health for rate setting purposes for behavioral health services provided April 1, 2014 through December 31, 2017 or until the transition of currently exempt child and adolescent populations into Medicaid managed care is complete.
- Amend eligibility for the proposed $1.2 billion capital cost fund to include Residential Treatment Facilities, a subclass of hospitals licensed under Art 31 of the Mental Hygiene Law
- Ensure the charge to the "Raise the Age" Commission (the Commission on Youth, Public Safety and Justice) is charged not only with reviewing sentencing and criminality policies for youthful offenders, but also is charged with identifying the array of services and supports that will be necessary to implement revised policies. The Coalition believes and upstate Juvenile Justice Residential Treatment Facility (RTF) and expansion of other community services that might be court-ordered will be required to link offenders with appropriate behavioral health services.

The Coalition urges the Legislature to add the following to the State Budget:

- Extension of the March 31, 2015 sunset date for the existing community mental health Support and Workforce Reinvestment act until March 31, 2016. This will ensure that whatever negotiations over state-operated bed downsizing can be concluded and the Legislature is able to ascertain the appropriate reinvestment values.

- Direct the Department of Health and the Office of Mental Health to institute a rate code modifier for Medicaid behavioral health clinic visits under the age of 21
- A partial year implementation of the Human Services COLA for the non-profit workforce.

Children's Behavioral Health Clinic Preservation Initiative:

With good reason, the transition of the exempt children's populations into Medicaid Manage Care is being carefully crafted and is not scheduled to begin until late 2016. While being among the last populations to be transitioned is appropriate, an unintended consequence is that the children's behavioral health care providers will go the longest under the Medicaid cost containment initiatives. Transitional support is required immediately to sustain the existing, behavioral health capacity for children's outpatient services. I refer now to the pie charts attached to the back of your testimony. Those show the fiscal status, as determined by the Office of Mental Health, of the roughly 40 "kids-only" clinics currently operating around the state. Based on this information, and because 2014 will be the first year that the Medicaid APGs will not be blended with supplements, 30 of the 39 "kids only" clinics are at severe risk of closure in 2014 because their significant deficits are growing.

Children's clinic Medicaid rates (APGs) were fully "transitioned" on October 1, 2013. Many children's providers experienced a 66% reduction in their 30 minute visit rate and a 56% drop in their 45 minute visit rate. This means Medicaid rates have been reduced, yet the child and adolescent population has not yet been fully transitioned from Fee for service Medicaid into Medicaid managed care. The plans and commercial insurers are still two years away from having to adjust their behavioral health rates to reflect the true cost of the whole-population behavioral health needs. And, the reality of the situation is that kids come to our clinics with their parents' health insurance. The APG calculations did not take into account that the kids' clinics would experience a more diverse payer mix than adult clinics would have. Take Child Health Plus for example, the average rate paid by CHP for a behavioral health visit is $67.11, while the APG rate is and average of $130 per visit. As you may have heard from the Health Exchange Director last month, 22,000 previously uninsured youth have been newly enrolled in CHP. If those new enrollees need mental health services and my clinics serve them at $67.11 per visit, their operating deficits will grow with each subsequent visit.

Article 31 clinics are not eligible for Vital Access Provider status, children's clinic providers have two more years to wait until plans become fully aware and familiar with the full cost of specialty behavioral health care, and without action this state will lose this essential community provider capacity.

We ask for three courses of action: direct DOH and OMH to institute a rate code modifier on the APG rates when youth under the age 21 receive behavioral health clinics services; approve DOH takeover of CHP rates, but reject freezing the behavioral health visit rates at the 2014 level and instead allow for the APG pass-through; and allow the newly proposed Community Behavioral Health Services Program to include a children's behavioral health essential community provider program so transitional support can be provided in 2015 and 2016 to fiscally distressed kids clinics.

Capital costs:

Allow Residential Treatment Facilities to be eligible for the proposed capital funds that will support transition and reconfiguration of the "built" children's behavioral health care services to be more responsive to communities.

Crisis Bed Pilots to Allow for Access to a Scarce Services:

Authorizes the commissioner, to ensure adequate regional capacity for acute mental health care for children, to establish pilot programs at residential treatment facilities for the provision of intensive psychiatric treatment to children in crisis who have been diverted from the emergency room or not admitted to a general hospital after presentation in the emergency department.

This change would improve the short-term mental health treatment options for children and families in crisis situations. As you may know, a state senator in Virginia was physically attacked by his son, and the son subsequently completed suicide, the morning after the Senator brought his son to the emergency room but was denied admission. The development of crisis/respite beds should not be limited to pilots at state-operated children's psychiatric centers. These beds must be developed in geographic areas that allow for quick access.

If the federal Waiver is approved, we believe this important initiative could be supported as a Delivery System Reform Incentive Programs (DSRIP) initiative, but we urge the Legislature to identify some priorities, like the conversion of excess residential capacity into crisis beds to assist

with emergency department diversions and quicker access to safe, out-of-home services for youth and families in crisis.

Regulatory Relief

Please authorize the proposed nurse practitioner modernization act. Restore prescriber prevails and reject the application of the proposed off-label prescribing restrictions for prescribers at OMH licensed facilities. The shortage of child psychiatrists and other authorized prescribers is not only driving up the cost of behavioral health care, it is negatively impacting on capacity. To adequately respond to increasing demands, we need sensible steps such as allowing experienced psychiatric nurse practitioners to supervise other nurse practitioners. We also need our available prescribers to have the ability to treat their patients with the most appropriate prescription drugs and not be impeded by the additional bureaucracy these initiatives represent. Lastly, we urge OMH to release long-awaited modernization of the nearly 40 year-old restraint and seclusion regulations currently in use.

Raise the Age and Community MH Reinvestment

I have attached position papers with more specific recommendations about these two important priorities.

Submitted by: Andrea Smyth Date: February 11, 2014

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