



# New York State Conference of Local Mental Hygiene Directors, Inc.

An Affiliate of the New York State Association of Counties

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September 28, 2010

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Dr. Michael F. Hogan, Ph.D.

Commissioner

New York State Office of Mental Health

44 Holland Avenue

Albany, New York 12229

Dear Commissioner Hogan:

On behalf of the Directors of Community Services of New York's 62 Counties and the consumers and families served by the mental hygiene system, we are writing to relay the Conference's concerns related to the implementation of the new Part 599 regulations for clinic reform on October 1, 2010 without the necessary approvals from CMS.

The Conference appreciates the time and effort OMH staff has expended to develop the programmatic regulations and the reimbursement model we trust will ultimately be approved by CMS. We also appreciate the recent notification from OMH that the COPS, CSP and COPS-only payments will remain at 100% through the entire interim period until CMS approves the State Plan Amendment.

The commitment to continue COPS funding at 100% will facilitate continuity of care for consumers who are the ultimate concern in this transition. Cash flow is directly linked to a clinic's ability to provide services and treatment to clients. If COPS funding were to be cut without the Medicaid managed care rate increase or the uncompensated care pool funding in place to counter balance the loss, the effect on a clinic's ability to maintain staff and services would be compromised and treatment to clients would be disrupted.

The following is an overview of the major areas of concern among our members from the clinic provider and the LGU standpoints.

- Requiring providers to create duplicate billing systems with complex caveats to allow the APG reconciliation after the SPA is approved will result in billing, accounting, and cash flow issues for providers.
- There remains tremendous confusion in the field around acceptable billing and procedure coding which, although appreciated, is exacerbated by the interim period. The rules are changing daily and the field needs clear, explicit, and repeated communication about which practices are, or are not, supported by Medicaid billing and the acceptable method to bill and code for services.

- The State Plan Amendment to authorize the switch to APG billing, reimbursement for new services including Outreach, Complex Care Management, and off-site services (including off-site services to the homebound elderly), has not been approved by CMS.
- CMS has not approved the state's 1115 Medicaid Managed Care Waiver needed to authorize clinics to access funding from the uncompensated care pool.
- The Medicaid rates have not been approved by the Division of the Budget (DOB).
- The issue of if and how Counties will continue to support public mental health services, including services in the jails and courts, which will no longer billable to Medicaid and supported by COPS remains unresolved.
- The strong possibility that the OMIG will not accept any or all of these issues as acceptable reasons for delayed billing leaves providers in an extremely vulnerable position.

The Conference recognizes the Medicaid issues which make COPS funding no longer viable and we understand the state's financial constraints. Counties are under the same pressures. Despite OMH's efforts to minimize the fiscal impact to clinics on October 1, 2010, the clinical, programmatic and administrative confusion in the field is immense and growing. Medicaid is the life-blood of many clinics and it is critical that payment for services remain timely and without disruption.

We acknowledge that OMH is maintaining its position to begin implementation of clinic reform on October 1, 2010 in the absence of the necessary federal approvals. The Conference feels strongly that OMH should seriously consider all available options to facilitate continuity of care to patients, ensure that the delay in federal approval is not protracted and to take action to minimize disruption to the clients receiving services in the mental health system.

Sincerely,



Philip R. Endress, LCSW, ACSW  
Erie County Commissioner of Mental Health  
Chair, NYSCLMHD



Kelly A. Hansen  
Executive Director