

THE COALITION

OF BEHAVIORAL
HEALTH
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A non-profit tax-exempt
organization representing
New York City's community-
based behavioral health sector.

September 1, 2010

Michael F. Hogan, Ph.D.
Commissioner
NYS Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Re: **Implementation of Mental Health Clinic Restructuring and Reform**

Dear Commissioner Hogan:

As you know, over much of the past three years, The Coalition of Behavioral Health Agencies, Inc. has been engaged with you, your staff and our fellow stakeholders in discussion and debate over the future of the outpatient mental health system in New York State. Our goals have been to ensure, when all is said and done, that 1) any new mental health clinic model is both fiscally sustainable and programmatically sound and 2) the continued viability of the nonprofit safety net providers of behavioral health care to the most vulnerable New Yorkers.

While we believe that, with your help and leadership, significant progress has been made along the way, we remain deeply concerned about the potential impact of clinic restructuring on the already fragile community mental health system.

The Coalition's "stress test" on the impact of clinic reform on the voluntary sector documented the significant revenue declines anticipated by providers throughout metropolitan New York City and painted a bleak picture of the future of not-for-profit behavioral health. We repeatedly have expressed our concerns to you and your staff about the consequences of clinic restructuring. It is particularly distressing that at this date, so close to the October 1 implementation date, we still have not received from SOMH an official tool to project revenues that includes a formula for Medicaid Managed Care income.

Among our issues is the fear that financial pressures will result in salaried clinicians with benefits being replaced by per diem or part-time staff—at great sacrifice to the quality and continuity of care—even while State and county-operated programs receive preferential reimbursement.

We recognize that the time for further debate and discussion is now rapidly coming to an end. With the proposed October 1, 2010 implementation date on the immediate horizon, we believe the following steps must be taken to ensure a successful implementation of the clinic restructuring initiative:

- ***Before the new payment system is initiated, a number of critical components—several of which have been recognized by OMH as essential to the success of the reform—must already be in place:***
 - Receipt of all necessary approvals for and simultaneous implementation of Medicaid Managed Care payment supplementation;
 - Receipt of all necessary approvals for and timely availability of indigent care pool for mental health clinic services;
 - Definition of a regulatory approach and funding mechanism to allow for the continued provision of critically necessary off-site visits, especially for the homebound elderly and children, through the availability, if necessary, of state-only support for such services. In recent days, we have gathered data on the impact of this omission and will communicate separately to you on the matter.

- ***Successful implementation requires the strengthening of a proactive monitoring capacity, including an engaged stakeholder council empowered to recommend any necessary mid-course corrections:***
 - Along with other stakeholders, The Coalition currently is participating in an OMH organized implementation monitoring advisory group; we think this group should be strengthened and expanded. If not already so structured, it should be made into a formal council, be charged with the responsibility of obtaining real time feedback on the implementation of clinic reform and empowered to make recommendations to address any unintended consequences of the initiative;
 - Membership in the council should include representatives of key provider and consumer stakeholders, and should include representatives of other State agencies (including the Health and Insurance Departments) as well as key State legislators and/or their staff who have an interest in the initiative, particularly since the implementation will occur during the transition to a new Administration;
 - Data and other relevant information relating to the implementation of clinic reform should be made available to the council and it should be required to make a report on the implementation of the initiative by no later than March 1, 2011 to allow for consideration of any necessary changes to the initiative prior to the adoption of the 2011-2012 State Budget.

- **Renewed efforts must be undertaken to address the dramatic underpayment for mental health services by health insurers:**
 - Working poor and middle class families and children will face greater barriers to accessing mental health services, as clinics find themselves no longer able to accept grossly inadequate rates;
 - Mental health “parity” is meaningless if commercial health insurers can discharge their obligation to cover behavioral health services by paying rates that cover only a small fraction of the cost of high quality clinic services;
 - OMH should immediately initiate interagency discussions with the Department of Health’s Office of Managed Care and with the State Insurance Department to identify steps—regulatory and legislative—that will ensure access to mental health services by insured New Yorkers, particularly as the State prepares for the implementation of federal health reform.

- **To protect against unwarranted audit recoveries by OMIG related to compliance with new billing requirements, OMH and OMIG must agree, in advance, on key payment and billing protocols:**
 - Following the lead of OPWDD, OMH and OMIG should specify which payment and program standards or documentation requirements will be audited for compliance purposes to avoid the otherwise inevitable game of “gotcha” that will ensue as a result of confusion over the new standards;
 - In addition, OMH should negotiate a two year grace period with OMIG in which OMIG would agree to hold harmless mental health clinics, except in cases of intentional fraud, during the implementation the new Part 599 regulations.

In the short time remaining before the new system is scheduled to be put in place, we again pledge our best efforts to work with you and your colleagues to ensure that a revamped clinic structure and payment methodology achieves the objectives we share: promoting access for all New Yorkers to essential, cost-effective and high quality community based mental health services. Your consideration of our views from the outset of this process has been very much appreciated and we look forward to working with you to ensure the successful implementation of clinic reform.

Sincerely yours,



Phillip A. Saperia
Executive Director

cc: Richard F. Daines, M.D.
Commissioner, NYS Department of Health