



Testimony  
of  
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Submitted at the  
Joint Legislative Hearing on the 2011-2012 Executive Budget Proposal for  
Mental Hygiene

The Honorable John A. DeFrancisco, Chair, Senate Finance Committee

The Honorable Roy J. McDonald, Chair, Senate Mental Health &  
Disabilities Committee

The Honorable Herman D. Farrell, Jr., Chair, Committee on Ways and  
Means

The Honorable Felix Ortiz, Chair, Committee on Mental Health

The Honorable Steven Cymbrowitz, Chair, Committee on Alcoholism and  
Drug Abuse

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## **Introduction**

Good afternoon Senators DeFrancisco and McDonald, Assembly Members Farrell, Ortiz, Cymbrowitz and distinguished members present at today's hearing. Thank you for allowing me the opportunity to testify before you today on the 2011-2012 Executive Budget Proposal. My name is Jason Lippman, and I am the Senior Associate for Policy and Advocacy at The Coalition of Behavioral Health Agencies (The Coalition).

Governor Cuomo's Executive Budget proposes to close an approximately \$10 billion budget gap. In doing so, the Legislature should support the initiatives that augment community-based services. Behavioral Health programs run in the community by not-for-profit mental health and substance abuse providers save State dollars because they help divert high need consumers from more costly inpatient hospitals and emergency rooms, and help prevent homelessness. They also cost less to operate than similar services in State run facilities.

## **Medicaid Redesign**

The Coalition **supports Medicaid Redesign Proposal 93** to establish regional behavioral health organizations (BHOs) to manage carved-out behavioral health services that are not covered under the state's Medicaid managed care plans. BHOs will work with existing providers in the community, in partnership with State and local governments to develop a system for more integrated care coordination. Community-based providers have developed some of the most innovative and cost effective approaches to enhance personal recovery of high need users.

BHO proposals that were implemented in other states have been shown to improve care and reduce costs. BHOs will coordinate care to help reduce costs through the prevention of avoidable emergency room visits and inpatient hospitalizations, as

well as savings in the homeless and criminal justice systems. The establishment of BHOs will also help move the behavioral health system towards more comprehensive care management through the creation of Health Homes. Health Homes will provide comprehensive care for people with multiple medical issues and serious mental illness, and will be eligible for 90% federal reimbursement.

What follows the BHO is of deep concern to the behavioral health provider community. We urge the Legislature to support the formation of a stakeholder workgroup with the meaningful inclusion of The Coalition in the planning and designing of the post BHO and special needs plan environment and mechanisms. We also urge the development of a child and adolescent specific BHO that would address the multiple needs and integrations issues of this population, which are profoundly different than the needs of adults.

Conversely, The Coalition strongly **opposes Medicaid Redesign Proposal 26** to establish utilization controls on behavioral health clinics. Under this proposal, behavioral health (mental hygiene) clinic rates would be lowered at two outlier threshold levels based on the number of clinic visits a given patient receives during a 12 month period. Outpatient mental health and substance abuse clinics would see reduced reimbursement for any services provided beyond 30 outpatient mental health visits and 65 outpatient substance abuse visits per consumer each year. We are against this proposal, not only because it prescribes an unsustainable rate reduction but also because it does not take into account the unique treatment needs of consumers. In a personalized/recovery oriented treatment environment, regulations and treatment regimens should fit consumers' personalized needs, rather than be instituted across the board. Moreover, Proposal 26 penalizes the high need users, by not allowing them to

get appropriate treatment in a low intensity, yet supportive environment. It is not only the consumer and provider that would be hurt by this initiative, but the State would be placed at risk to pay for more costly interventions in the future, e.g. emergency room visits and inpatient stays.

We also **oppose elements of Medicaid Redesign Proposal 15E and 15H** to lift prescriber prevail protections and restrict access to antipsychotic medications through a prior authorization process. Consumers, who are unable to access the most appropriate and clinically indicated psychiatric medication, experience higher rates of emergency room visits, inpatient hospitalizations and other costly health services. Furthermore, antipsychotic medications are often not clinically interchangeable. Prescribers must be allowed to choose the most appropriate, clinically indicated medications for their patients in order to enable proper treatment and recovery. This includes full access to the complete spectrum of antipsychotic medications. It is a critical component of community-based care.

The Coalition also **supports Medicaid redesign proposal 4647** to expand Managed Addiction Treatment Services (MATS). MATS is a case management program created to coordinate care for high cost consumers with chemical dependency issues. It assures effective and appropriate access to treatment and reduces the use of expensive Medicaid services.

### **Residential Services**

While we understand that the NYS Office of Mental Health (OMH) was faced with difficult choices about cuts to funding and made every attempt to limit the impact of cuts to services, we are concerned about how the \$32 million in cuts to residential services might affect providers and the consumers they serve. The Executive 2011-12 Budget

proposes to freeze new housing development for 1 year and convert its future housing pipeline to lower cost alternatives. We hope that OMH will work with providers in the community to determine where savings can be achieved without disrupting the scheduled development of programs that support recovery and allow individuals with mental illness and substance abuse issues to be productive members of the community.

The Executive Budget also calls for the phase-out of family based treatment (FBT) beds over the next 2 years. While we do realize that this program is currently underutilized, we do not think it is wise to completely take away an effective treatment option for vulnerable children with mental illness. FBT is one of the few out-of-home service options that do not require families to give up custody of their children. FBT also allows some service flexibility, like allowing providers to transfer placements to respite care or crisis intervention. We recommend that OMH take down the underutilized FBT beds in the first year of proposed reductions before it considers the complete elimination of the program. At some point, savings will not be achieved when children have to be served in more expensive systems. For example, it costs about \$160 a day to serve a child in family based treatment, but can cost up to \$1,000 or more per diem in an institutional setting.

The Executive 2011-12 Budget also proposes to eliminate funding in the NYS Office of Temporary and Disability Administration (OTDA) for Supported Housing for Families and Young Adults (SHFYA). SHFYA dollars are one of the programs funded by the Temporary Assistance for Needy Families (TANF) program that will be cut completely. It is the only statewide supportive housing program for formerly homeless families and at-risk youth. SHFYA pays for counseling, job placement and service linkages for over 2,058 households, including an estimated 3,100 children and over 500

at-risk youth. We urge the Legislature to reconsider this cut, as supportive housing has been proved to save money over the long run, and it allows consumers to live independently in the community.

The Coalition recommends that “sober homes” in local communities be certified by the NYS Office of Alcoholism and Substance Abuse Services (OASAS) to ensure a safe haven for consumers with addiction issues. The operation of unlicensed “sober homes” outside the oversight of state and local governments poses a risk to consumers and surrounding neighborhoods. Addiction services provided in the community should guarantee housing safety and appropriate client treatment.

### **Place Checks and Balances on OMIG**

The tactics used in the field by the NYS Office of Medicaid Inspector General (OMIG) continues to worry us. OMIG auditors are forcing providers who have delivered legitimate services to consumers to pay back to the State millions of dollars due to a simple omission or clerical error, and not for fraud and abuse, which is the original intent of OMIG’s founding charter.

Under the F-SHARP program, New York State is required to pay back dollars to the federal government over a ten-year period of time, in increasingly greater amounts of money. If OMIG fails to reach its designated targets for recoupments, the State will be forced to pay the difference. Clearly, the provisions of the F-SHARP agreement can place greater pressures on OMIG to take back claims from providers for items not necessarily related to fraud and abuse. Moreover, OMIG should be prohibited from recouping funds solely for billings that exceed the 90 limit.

We ask the Legislature to make sure that OMIG bases its actions on the standards that were set by the certifying and licensing agencies and not enforce

retroactively new regulations and standards through the audit process. Current practices expose agencies to double jeopardy and oversight contradictions and confusions. Moreover, OMIG should not be allowed to make audit decision based on its own definitions of medical necessity. Interpretations of medical necessity are properly in the domain of the state's mental hygiene agencies.

Regulations must be put in place to ensure that any data extrapolations conducted by OMIG are transparent and based on truly random sampling methods. Data extrapolations should only occur in cases of proven intentional overbilling. Furthermore, providers must also be guaranteed due process, including meaningful access to the right of hearing without financial penalty.

### **SAGE Commission**

Governor Cuomo's SAGE (Spending and Government Efficiency) commission is charged with recommending ways to eliminate at least 20% of the total number of agencies, authorities and other bodies as well as identifying improvements that can increase government efficiency. In considering possible restructuring among the state's mental hygiene agencies, The Coalition recommends that the Legislature encourage interagency collaboration. Savings can be achieved through the consolidation of back office and related functional efficiencies such as administration, information technology services, legal support, etc. where appropriate; as well as cooperative arrangements to overcome programmatic and regulatory barriers to treatment.

The Coalition **opposes** any merger that would combine the mental hygiene agencies into the NYS Department of Health (DOH).

## **Conclusion**

On behalf of the 100 plus agencies that we represent throughout New York City, Westchester and neighboring counties, the Coalition respectfully urges the Legislature to help ensure that the safety net provided by the community-based behavioral health sector remains intact.

## **About The Coalition**

The Coalition is the umbrella nonprofit, (501)(c)(3), association and public policy advocacy organization of New York's behavioral health providers, representing over 100 non-profit behavioral health agencies. Taken together, these agencies serve more than 350,000 adults and children and deliver the entire continuum of behavioral health care in every neighborhood of a diverse New York City, Westchester County and surrounding areas.

Founded in 1972, the mission of the Coalition is to coordinate the efforts of government and the private sector toward efficient delivery of quality behavioral health services to children, adults and families. The Coalition promotes policies and practices that support the development and provision of community based housing, treatment, rehabilitation, and support services to all people with mental illness and addictions disorders. Our members serve a diverse group of recipients, including the fragile elderly, people who are homeless, those who struggle with AIDS and other co-morbid health conditions, violence and other special needs. Coalition members help people with mental illness and addiction disorders to recover and lead productive lives in their communities.

The Coalition provides quality learning opportunities, technical assistance and training to staff and leadership of its member agencies and to the professional community on important issues related to rehabilitation and recovery, organizational development, best practices, quality of care, billing and regulations/contract compliance, technology and finance.