



Comments from The Coalition for Behavioral Health to Amend the 1915(c) Children's Waiver Home and Community Based Services (HCBS) Coverage

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The Coalition for Behavioral Health is the umbrella advocacy association of New York's behavioral health provider community, representing over 100 non-profit community-based behavioral health agencies that serve more than 600,000 individuals in New York City and its surrounding counties.

The Coalition for Behavioral Health is committed to partnering with the State as various transformations to the State Medicaid system move forward, including the behavioral health transition to managed care, the shift to value-based payments (VBP), and efforts to integrate both physical and behavioral health services. Although The Coalition appreciates the State's effort in expanding the definition of a Licensed Practitioner of the Healing Arts (LPHA) and removing the requirement of on-going documentation of the existence of the LPHA risk factor, **The Coalition does not support the New York State Department of Health in its effort to reduce payments for Children's Waiver Home and Community-Based Services (HCBS) by 1.5 percent on or after September 1, 2020.**

According to data from the NYS Office of Mental Health (OMH) from February 2020, 6,678 children are enrolled HCBS and 4,255 children (64 percent) qualify for HCBS because of their serious emotional disturbance (SED) diagnosis. Historically, the State protected rates for behavioral health services, including Health Homes Serving Children, even when other parts of the healthcare system have seen rate reductions, such as the one percent across the board Medicaid cut in 2020. In addition, since the implementation of new children's HCBS waiver, the State has spent approximately \$12 million on HCBS; a 1.5 percent cut would only save the State approximately \$90,000, while severely harming impacted children and families.

Communities need children's HCBS now more than ever due to the trauma, loss, anxiety, loneliness, and loss of structure and routine caused by the COVID-19 pandemic. Instead of cutting rates and access to care for the highest acuity children, the State should ensure these children and families can access the services they require. Implementing a 1.5 percent rate reduction will deteriorate the children's HCBS program and behavioral health service system statewide. Moreover, this rate cut will disproportionately impact people of color, both clients and families and the staff who assist them, who are primarily Black and Latinx. Lack of access to necessary behavioral health services will exacerbate the health disparities communities of color already experience and increased due to COVID-19.

Children's HCBS has a dramatic beneficial impact on children and families who receive the services. Without these services, these children could be in an institutional or more restrictive

setting and families would not have the support they need to provide appropriate care for their children. These services keep children in the community, where they can build relationships, feel integrated and connected, and develop into healthy adults who are able to contribute back to their community and are not in other costly systems such as the criminal justice system, homeless shelters, or in intensive healthcare. HCBS providers sustained services through telehealth during the height of COVID-19, which kept children out of the emergency room. Our member agencies received feedback from clients about successes including: helping parents build confidence in their own parenting skills, teaching families how to manage crises, aiding children to learn how to interact with adults outside the family unit and increasing their confidence, and providing parents with respite in order to participate in self-care.

The Coalition details the impact of a 1.5 percent rate reduction on the children's behavioral health service system and offers the following recommendations to improve the Children's HCBS Waiver application. These recommendations help ensure expedient access to children's HCBS, which will ultimately keep high acuity children in the community and outside of institutions, emergency rooms, and higher levels of costly and inappropriate care.

Impact of 1.5 Percent Rate Cut to Children's HCBS

- **Financial loss:** Many organizations were already experiencing financial loss from their HCBS programs prior to the 1.5 percent rate reduction announcement. In order to financially sustain their programs, some have reduced the number of clients and geographic areas served, downsized staff, and hired only per-diem staff. Moreover, many clients are eager to engage in respite and providers use respite as a gateway for children and families to engage in other HCBS. However, the respite rate is already too low to financially sustain and must be blended with other higher reimbursement services. A 1.5 percent rate reduction will only exacerbate financial loss which will impact programs and the clients they serve. Organizations will have to further reduce the number of clients they serve, ultimately decreasing access to care for children and families. Moreover, some HCBS providers have already furloughed staff due to decreases in revenue caused by COVID-19.
- **Coordination of care:** Children who are eligible for HCBS are usually involved in a variety of systems and work with a multitude of providers, which can be difficult to manage. When an HCBS provider can offer multiple services to a child, this helps streamline and coordinate the care for a child and their family. If agencies decide to de-designate from specific services, this will disrupt care for children and families, and they may have to coordinate with multiple HCBS providers in order to receive all services they need.
- **Staffing models:** In order to financially sustain HCBS, most providers adopted a per-diem staffing model to deliver HCBS in the community. Although this helps organizations manage the cost of the service, it is still difficult for providers to maintain highly qualified professionals who can effectively deliver the service. Moreover, many per-diem workers are employed full time at other organizations, which makes it difficult for them to participate in collateral contact. The 1.5 percent rate cut will directly impact staff and cause salary reductions, difficulties recruiting and retaining staff and supervisors, and larger caseloads. This will dramatically impact the quality of HCBS; with less staff and supervisor oversight, children and families will receive lower quality

care. In addition, providers in a region will compete for staff with higher experience, especially for services where higher qualifications are mandated.

- **De-designation from HCBS:** Even before the announcement of the potential 1.5 percent HCBS rate reduction, according to OMH data from September 2019, 15 HCBS providers already de-designated from at least one or more HCBS. The State has not shared cumulative de-designation data publicly with providers since September 2019, however, the number of de-designation requests has continued to rise. Some of these providers have de-designated due to the difficulties of financially sustaining HCBS and retaining appropriate staff. A further rate reduction will only exacerbate these issues and cause more agencies to de-designate from HCBS.
- **Network adequacy:** The State must assure there is appropriate network adequacy for HCBS that meets the need and demand for HCBS in each region. If too many providers de-designate from HCBS in certain regions, children and families will find it difficult to locate any available provider for services. Lack of access to timely and appropriate behavioral health services leads to higher cost care for children and families, such as increased emergency room visits and hospitalizations. The goal of HCBS is to avoid higher cost care, and this is only achieved when there is sufficient network adequacy. The loss, trauma, and anxiety children and their families experienced during COVID-19 will likely increase demand for HCBS.

Recommendations to Improve Children's HCBS

- **Authorize reimbursement for HCBS delivered through telehealth and telephone and permanently maintain COVID-19 telehealth and telephonic regulations.** During COVID-19, HCBS providers successfully engaged children and families through telehealth and telephonic care, helped people stay on track with their health goals, and kept people out of the emergency room during the height of COVID-19. In addition, telehealth decreased staff travel time, which increased the number of clients served and opened availability for multilingual staff. Ongoing, clients and providers must be able to determine when a visit will be through telehealth, telephone, or a face-to-face based on client choice and clinical assessment. In addition, shortened billing increments must be maintained since children and families are not able to engage in telehealth services for extended individual sessions, especially younger children who are more difficult to engage through telehealth in longer sessions.
- **Provide funding and/or Medicaid reimbursement for the purchase of telehealth equipment for children, families, and staff to close the digital divide.** Many children and families who need HCBS do not have the necessary technology and equipment to participate in HCBS through telehealth, including computers, tablets, or smartphones with cameras and reliable internet. Although some schools provided tablets to students, some devices would not allow additional applications outside of school programs. In addition, some families only have one device, making it difficult to keep health information private or find time to participate in telehealth. Some providers purchased equipment for families, however many providers do not have the funds to cover these costs for all families that need devices. Moreover, many organizations were already experiencing difficulties covering purchases for equipment for staff during COVID-19, many of whom come from the same communities as the clients they serve and lack access to devices and internet.

- **Streamline the HCBS referral process.** Current low enrollment in HCBS is not due to lack of need, but because of the difficult eligibility and referral process and lack of available providers causing delays in connection to care. In addition, care managers have no incentive to refer to HCBS, and Children and Family Treatment and Support Services (CFTSS) is much more accessible for children and families and has a more streamlined referral process. Care managers struggle with referring children and families to the appropriate HCBS, and face difficulties with staff retention and staff shortages which increases the time it takes for children and families to be connected to HCBS.
- **Streamline the de-designation process from HCBS.** Although some providers already de-designated from at least one or more HCBS, the number of providers seeking de-designation is higher since providers cannot officially de-designate from HCBS until they place their current HCBS clients with other agencies. This has been an incredibly difficult process since there is not enough capacity in some regions to transfer cases. Some providers, with client and family choice, have cross-walked their HCBS clients to comparable CFTSS. While providers are in the process of transferring current clients, they are still listed as active HCBS providers, even though they are not currently accepting new clients and pursuing de-designation. The State must allow providers to initiate the de-designation process and not be listed as active providers while they transfer current HCBS clients.
- **Provide ongoing, transparent, updated data to providers on de-designations.** Although the State provides information during the bi-monthly Children's Plan/Provider Roundtable meeting on the number of available providers by service and by region and the number of providers who have de-designated, they have not provided information on the total number of de-designations since September 2019. In addition, the data they have shared combines de-designations for both CFTSS and HCBS, making it difficult to determine the number of de-designations for HCBS only.
- **Develop a capitated rate for HCBS.** The current HCBS reimbursement rates are difficult for providers to sustain since the number of clients served by each provider has remained low. In addition, much of the mandatory work HCBS providers do to deliver the service is not reimbursable, such as collateral contact, engagement with the care manager or MCO, and engaging potential clients before they are enrolled in HCBS. A case rate, which Health Homes currently receive, would allow providers to predict revenue and cost for the service each month and scale staff depending on demand for HCBS.

We thank the State for the opportunity to share our feedback and recommendations to ensure the success of HCBS and stability of the children's behavioral health service system. In order to ensure high acuity children and families can access the behavioral health services they need in the community, children's HCBS must be available and the rate must not be cut.

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