

New York State Council
for
Community Behavioral Healthcare

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New York State Health Benefit Exchange
New York State Department of Health

The New York State Council for Community Behavioral Healthcare is pleased to submit our comments on New York's selection of an Essential Health Benefits (EHB) benchmark plan for use in the individual and small group insurance markets.

The New York State Council for Community Behavioral Healthcare (The Council) is a statewide membership association composed of 90 community-based organizations that provide life-sustaining public mental health and substance use treatment and recovery services to New Yorkers in settings including hospitals, county-operated programs and services, and freestanding non-profit agencies.

Members of the NYS Council commend the Cuomo Administration for having the foresight to focus significant state resources on the establishment of a NYS-operated Health Benefits Exchange long before most other States. Over the last two years, we have benefitted from your invitations to attend many Administration-hosted stakeholder meetings on topics including Health Reform, the Health Benefits Exchange and most recently, Essential Health Benefits. We have tried to keep our healthcare advocacy partners across the state informed regarding the implications of the policy decisions facing New York State and the Administration as it moves to implement the Exchange. Policy decisions regarding essential benefits will have a real and significant impact on nearly every New Yorker, and especially those living with challenges associated with addictions and mental health disorders. We truly appreciate all of your efforts to make information available to stakeholders as the process moves forward.

Decisions about health benefits must recognize that 83 cents of every dollar is spent on chronic health conditions. Significant among these are mental health illness and addiction, either as a primary disorder such as depression or anxiety, or co-occurring with diabetes, heart disease, or another chronic disease.

Community expectations about mental health and addictions treatment have evolved over the years. While stigma remains a barrier, new norms anticipate that these disorders will be regarded like any other disease, reflecting the reality that treatment works and recovery is possible.

When providers have available the right set of tools, they will save money in the long run; healthy people cost society much less than sick people who are not receiving the right treatment at the right time. Federal and State law recognizes that mental health and substance abuse treatment services

are equally as important as coverage for any other health condition. New York State sets the standard when it comes to our collective commitment to treat these diseases as critical components of good healthcare.

Having health insurance (regardless of the type) and being able to use it when you need to are two very different things. Too many New Yorkers with addiction and mental health challenges still experience serious difficulties accessing and utilizing their health insurance benefits. Potential care recipients get caught in the maze associated with finding a doctor who will take their insurance. Clinicians/providers often give up and close their practices to certain new clients when they have had enough of the frustrations associated with prior authorization and varying definitions for medical necessity. Treatment on demand means clients can get the help they need when they need it. This requires far better surveillance of provider contracts and day-to-day practices of health insurance plans, and the providers within networks. It is imperative for New York State to take the reins and adequately monitor Qualified Health Plans and their behaviors within and outside the Exchange.

As New York moves forward with implementation of the NYS Health Benefits Exchange, we urge the Administration to remember that mental health and substance use illnesses have benefitted from increasingly sophisticated treatment practices based on scientific research supporting medication assisted options, cognitive behavioral therapies and an evidence based patient placement criteria. The benefit package should entail full coverage of all medically necessary services across the continuum of care in both mental health and substance abuse treatment. *Medical necessity must be defined to support parity and enforce oversight of the benchmark options.*

The foundation of comprehensive coverage requires that a diagnosis by a qualified healthcare professional be the starting point to receive appropriate treatment. This clinical, medical and practical decision tree is as rooted in nationally accepted criteria as DSM 5 and Medicare criteria for medical illnesses. Therefore precertification limits and other “caps” to treatment should not be imposed on mental health and substance abuse treatment options that are not placed on other medical conditions.

Our comments reflect our understanding of the HHS guidance to states regarding the identification of a benchmark plan. We know HHS guidance largely prohibits states from changing the basic plan design of any of the 10 plans under consideration here in New York. It is our understanding the only time states can change plan design is in order to bring a potential benchmark plan up to the standards set forth in the ACA regarding essential health benefits.

Having said this, we remain concerned that some of the core programs and services that we believe and research shows should be included as essential mental health and substance abuse benefits here in New York will not be included due to a variety of factors including HHS guidance regarding implications of adding new state mandates. As such, we argue for these services in our formal comments to the Administration pertaining to the use of reinvestment dollars associated with approval of New York’s 1115 waiver amendment.

Below is a series of statements that summarize our thoughts regarding the principles the Administration should follow as it works to identify a benchmark plan and define essential health benefits for all New Yorkers including individuals with significant mental health and addiction challenges:

- Adequate and accessible treatment of mental illness, emotional disturbance and addictions is essential to achieving the triple aim goals of health reform—better care, better results and lower costs for the population.

- Early identification and voluntary recognition and treatment result in fewer social consequences, better prognoses, and less secondary co-occurring illness and complications.
- Mental illness and addiction are complex and chronic conditions that can affect the mind, body and overall daily functioning.
- Efforts to too narrowly define covered benefits shift the risk, cost and consequences to the covered person and to others such as workers comp, jails, corrections, disability, or government programs such as Medicaid.
- In the context of health reform—with changes to underwriting, dollar limits on coverage, loss ratios, an emphasis on "total cost of care" and requirements for mental health and chemical dependency parity—a continuum of mental health and addictions services is an essential tool to appropriately manage care for a population.
- New York's choice should allow an easy transition for consumers moving to the Exchange as well as those that qualify for services through the Exchange at the point of initial implementation. New York must do everything in its power to inform and assist New Yorkers – and particularly those with special needs- regarding their choices, so as to guarantee access to high quality care and continuity of care.

Given the considerations (listed above) we believe the **Empire Plan** provides the most comprehensive coverage for New Yorkers, and especially those requiring treatment for chronic conditions including but not limited to addictions and/or mental health disorders.

We agree with the United Hospital Fund's report analyzing the benchmark options. The Report highlights the value of the Empire Plan for its ability to minimize significant state defrayal costs and to serve as a bridge during the transition period when NY implements the Exchange.

It is important to note that the Empire Plan was used as the backstop during the crafting of Timothy's Law legislation. It contains a fairly comprehensive group of benefits for this population.

The Empire Plan is the only benchmark that meets or exceeds almost all of New York's individual and small group benefit mandates.

The Empire Plan offers stability and a high level of certainty in addition to its comprehensiveness, due to its large size and clearly identifiable benefits.

Milliman Analysis

At a recent Administration-hosted stakeholder meeting representatives from Milliman reviewed some of their analysis regarding the ten most popular plans in New York. The Report noted the Empire Plan had a slightly higher predicted effect on premium cost. According to Milliman, utilizing the Empire Plan as the benchmark for Essential Health Benefits would result in marginally larger increases in medical costs for insurance when compared to the largest commercial small group products (a difference of 3.2 percent from the lowest priced Oxford small group plan and 1.2 percent over the Federal Employee Health Benefit Plan). While affordability of coverage is extremely important, we believe the marginally higher price of the Empire Plan will be significantly offset by the significant changes in the marketplace achieved by the full implementation of the Affordable Care Act (ACA).

A note about the Milliman exhibits: While the spreadsheets provided show the existing benefits offered by the various plans under consideration, they do not show which of these benefits must be supplemented to meet federal parity requirements. For example, we were unable to ascertain whether federal mandates for mental health parity were included in treatment visit limits.

Closing Remarks

New Yorkers need to have a serious discussion regarding the need for increased access to a variety of mental health and addiction treatment programs and services that we know will save money for the state and improve outcomes for behavioral healthcare recipients once they are standardized across the continuum of care. We would like to meet with Exchange staff to discuss the requirements New York will expect of QHPs in the Exchange.

We know the Administration awaits further guidance from HHS on a number of critical issues. HHS seeks to define certain core concepts that may/may not work in our favor. We look forward to a dialogue with you regarding forthcoming HHS guidance. Thanks again for this opportunity to comment on this critical decision facing New York at this time.

Respectfully submitted,

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