Medicaid Matters New York

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TESTIMONY SUBMITTED TO THE NEW YORK STATE LEGISLATURE
Joint Hearing of the Senate Finance and Assembly Ways and Means Committees
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2012-2013 Executive Budget
Health/Medicaid

Thank you for the opportunity to address you today. My name is Lara Kassel. I am the Coordinator of Medicaid Matters New York (MMNY), a statewide coalition of over 140 organizations representing the interests of the over five million New Yorkers who benefit from the Medicaid program. MMNY is unique in that it is the only statewide entity that focuses its advocacy efforts solely on the interests of Medicaid beneficiaries.

This year's Executive Budget includes several proposals for the Medicaid program that are largely the result of the Medicaid Redesign process which began last year. The Medicaid Redesign Team, on which I sat, was a mechanism by which input was sought on reforming the Medicaid program to find long-term efficiencies and quality improvements. A series of workgroups were convened throughout the summer and fall to discuss several issues in a more in-depth manner, resulting in dozens of new proposals and initiatives to come out of Medicaid Redesign.

MMNY does have some concerns about some of what came out of the Medicaid Redesign process. There were some significant, positive, important workgroup recommendations, however, many of which have been long-fought by the consumer advocate community. MMNY issued a memo in December 2011 to highlight interests and concerns at the close of the formal Medicaid Redesign process (attached). In addition to specific Medicaid Redesign recommendations included in the 2012-2013 Executive Budget discussed in this testimony (and noted accordingly), the memo pointed to:

- Our support for the assertion that the social determinants of health and well-being must be addressed and the recommendation that savings associated with major changes to the Medicaid program be appropriately reinvested in community-based services, housing, and other social supports;
- Our concern about the pace at which expansion of mandatory managed care in Medicaid is being pursued, highlighting the need for consumer protections and education; and,
- Our concern that going forward, the MRT implementation process be transparent, afford ample opportunity for public involvement, and make every effort to educate people in the Medicaid program as to how reforms will impact them and the services on which they rely.

Making sound policy and balancing budgets only works to the benefit of everyday New Yorkers when consumer priorities are realized. That is the heart and soul of the Medicaid Matters mission. The state, as well as the Legislature, has demonstrated a commitment to the health and well-being of consumers in many ways, but there have also been instances where low-income New

Yorkers were harmed by the need to balance the ledger. MMNY expects the "do no harm" mantra to not only be realized but exceeded by promoting accessibility, quality and accountability in enacting a responsible budget this year.

MMNY wishes to bring the following Executive Budget items to your attention, particularly as they relate to Medicaid beneficiaries:

Access to coverage

Support Facilitated Enrollment for seniors and people with disabilities

MMNY has always been at the forefront of promoting efforts to provide access to eligibility and enrollment assistance throughout the state. New York has a robust history of supporting a Facilitated Enrollment program to provide such assistance. The program, however, has never included assistance for people with disabilities or seniors. This year's Executive Budget would authorize the Department to contract for these services on a request for application (RFA), non-competitive basis.

This is a welcome and important expansion, especially at a time when significant changes to the way people seeking long term care will access what they need as they face mandatory enrollment in managed care. In expanding Facilitated Enrollment for seniors and people with disabilities, particular attention must be made to meeting the needs of the vulnerable populations facing these transitions, such as people who are homeless.

This budget item was recommended by the MRT Program Streamlining and State/Local Responsibilities Workgroup.

Reject the elimination of spousal refusal

New York has protected spouses who need access to the Medicaid program for long term care by a provision referred to as "spousal refusal." This allows one spouse to "refuse" the other so that for the purposes of eligibility only the assets and income of the spouse needing long term care will be counted. This year's Executive Budget would eliminate this provision.

MMNY opposes the elimination of spousal refusal because it means that one spouse would need to impoverish themselves in order to seek long term care for their spouse. If maintaining this provision is not possible, modification should be sought to appropriately cap refusal and to include exception for domestic violence cases where a spouse truly refuses to document their assets and income. The provision should also be expanded to include "parental refusal" to allow dependents to seek long term care without their parents' income and assets being considered.

Access to services

Modify the provision on enteral nutrition

Last year's enacted budget eliminated Medicaid coverage for enteral nutrition, except for people who are tube fed. MMNY is pleased to see that the Governor has proposed to restore coverage for people with HIV/AIDS. However, coverage should be fully restored for anyone needing this type of nutrition. There are many diseases and disabilities that demand enteral nutrition due to wasting or physical limitations that prevent ingesting regular food.

The budget calls for standards for the provision of enteral nutrition for people with HIV/AIDS. If the Department of Health is going to write new standards for this one population, MMNY urges the standards be written to allow anyone needing enteral nutrition to access this product. In addition, a physician override procedure must be in place in cases where the standards go too far in restricting access to the product.

Repeal limits on Medicaid benefits

Last year's enacted budget limited or eliminated coverage for some important, necessary Medicaid benefits. MMNY opposed these actions as they would prevent people who rely on Medicaid for these vital services and devices from accessing what they need to stay well. The move to cap outpatient therapy visits – physical, occupational, and speech therapies – to 20 per year (except for people with developmental disabilities, traumatic brain injury, and children), as well as the elimination of coverage for compression stockings and orthopedic footwear and orthotics, was shortsighted as they constitute primary and preventive care and services for the people who need them.

The MRT Basic Benefits Review Workgroup recommended a new process by which to review benefits in the Medicaid program, rather than leaving decisions about what Medicaid should cover up to contentious budget discussions when the prevailing factor is cost. The budget actions taken last year to limit or eliminate benefits should be repealed and left up to the new review process.

Support HEAL-NY grants for diagnostic and treatment centers

The Healthcare Efficiency and Affordability Law for New Yorkers (HEAL-NY) is a program that provides capital grants to health facilities. It is state funding that is matched with federal dollars. The Executive Budget would allow the Commissioner of Health to allocate HEAL-NY funds to diagnostic and treatment centers. This funding would represent true investment in community-based, primary and preventive services, furthering the goals of using public funding to drive quality and access. As health system restructuring takes place, it is crucial that this sort of investment be made by the state.

Support for community-based, primary care was central to the discussions and recommendations of the MRT Health System Redesign: Brooklyn Workgroup.

Support access to Consumer Directed Personal Assistance

Consumer Directed Personal Assistance (CDPA) allows people with long-term needs to retain attendant services in their own homes, on their own terms. It is a successful, high-satisfaction, money-saving program that puts the person first by allowing him/her to hire and train staff to fulfill the personal assistance needs of day-to-day life.

The Executive Budget would require Medicaid managed care and managed long term care plans in Medicaid to offer CDPA as a plan benefit. MMNY welcomes this requirement.

This budget item was recommended by the MRT Managed Long Term Care Implementation and Waiver Redesign Workgroup.

Support the elimination of health disparities

One of the major achievements of the MRT was the outcome of the Health Disparities Workgroup, which was charged with addressing health disparities based on ethnicity, race, immigration status, gender, sexual orientation, disability, geography, and income. The Workgroup chairs and staff recognized the need for a balanced, richly-diverse, community-representative membership, which resulted in recommendations that will make a meaningful difference in reducing and eradicating health disparities.

MMNY supports and urges enactment of the following Health Disparities Workgroup recommendations, most of which are included in the budget:

- **Pharmacy translation services and prescription standards** – The budget would require chain pharmacies to provide prescription labels and inserts in an individual's primary language, as well as interpretation services for medication counseling. The budget would also require the State Education Department, in consultation with the Department of Health to develop standards to streamline the way prescriptions are written and the way medications are labeled to promote greater understanding of what medications are and how they are to be taken.
- **Medicaid coverage for language access** – The budget provides funding to adjust the reimbursement rates of hospital inpatient and outpatient services, emergency rooms, and clinics to cover the costs of interpretation services for people with limited English proficiency and people who are deaf or hard of hearing.
- **Hospital charity care funding** – The Workgroup recommended a change in the way funding is allocated to hospitals to cover the care they provide to people who are uninsured by endorsing a proposal by the Commission on the Public's Health System. MMNY has long fought for a more transparent and accountable distribution of this funding, which totals over $1 billion per year. As recommended by another MRT Workgroup, Payment Reform and Quality Measurement, there will soon be a new workgroup to tackle this complex issue. It is imperative that the new workgroup be representative of people in the Medicaid program and the people who advocate for them. As demonstrated by the diversity of the Health Disparities Workgroup, sound policy that works for people in the program can be achieved with appropriate representation.
- **Data collection and analysis** – The budget provides funding to expand the state's health disparities data collection and analysis efforts to do detailed reporting on race, ethnicity, gender identity, disabilities, and housing status.

- **Maternal and child health** – The budget would promote maternal and child health by expanding and supporting services, such as family planning, prenatal care coordination, and enhanced use of health information technology and screening technology.
- **Hepatitis C care** – The budget would promote care coordination and integration for people with Hepatitis C, which is disproportionately found in communities of color. This would include consumer outreach, counseling, and assistance in retaining social supports.
- **Medicaid coverage for harm reduction** – The budget includes funding for the reimbursement of harm reduction services (counseling for drug users) by drug treatment programs and community-based organizations.

Other recommendations of the workgroup were not included in the Executive Budget. They may be accomplished in other ways, including the new Medicaid waiver for which the state will soon be applying. Every effort must be made to adopt the recommendations of the workgroup to level the health care playing field for all.

Early Intervention program

The Early Intervention (EI) program provides comprehensive, coordinated services to effectively meet the needs of infants and toddlers with disabilities and their families. EI services are unique in that they can actually change a person's lifelong prognosis, as research has demonstrated.

The Executive Budget includes commercial insurance provisions for the support of EI services, as well the creation of a fiscal agent, which are welcome by the advocate community. It also requires, however, each EI provider to negotiate a contract and rate directly with commercial insurers and accepts the rate as payment in full, regardless of how far below the state EI rate the negotiated rate is. Most EI providers do not have the infrastructure to negotiate with and bill commercial insurers, and those which are already struggling financially and would be forced to close. This risk could be mitigated if the budget proposal were changed to require the new fiscal agent to bill insurers and provide payment to providers at the state-established rate.

MMNY joins the disabilities advocate community in advocating for a strong EI program that provides for the needs of the children who benefit from this program as half of the children and their families served by EI are Medicaid beneficiaries.

Health Insurance Exchange

MMNY strongly supports the creation of a Health Insurance Exchange through the enacting language proposed in the Executive Budget. While some of the particulars must still be negotiated, it is vitally important that New York be authorized to establish its own health insurance marketplace, rather than allowing the federal government to impose one on us.

New York has made great strides in beginning to form a Health Insurance Exchange that will work to benefit all New Yorkers in accessing the insurance coverage for which they are eligible, public or private. Extensive work has been done over the years, some at the initiative of the Legislature, to make accessing insurance coverage as easy as possible for low-income people seeking coverage for

the care and services they need to keep them well. This long history of supporting our vulnerable populations to get and keep health insurance must be continued by enacting the legislation to create a New York Health Insurance Exchange.

Moving Forward

In closing, Medicaid Matters New York has been advocating for the New York Medicaid program and the people it serves for nearly nine years and can claim victories, along with the state and the Legislature, in advancing the interests of Medicaid beneficiaries in numerous ways. MMNY urges the Legislature to continue to have the people in the Medicaid program at the forefront of every discussion on Medicaid throughout this year's budget negotiations. MMNY looks forward to continuing to partnering with the state and Legislature as they do so.

For more information, please contact Lara Kassel, Coordinator of Medicaid Matters New York at lkassel@cdrnys.org or 518-320-7100.

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MMNY on Medicaid Redesign Team Outcomes

December 21, 2011

MMNY actively participated in the Medicaid Redesign process through the MRT seat held by Lara Kassel, through membership on some of the MRT workgroups, through written comments, and through public input opportunities. As the formal process comes to a close, MMNY wishes to highlight the following items of interest as well as concern:

Social determinants of health and well being, reinvestment – MMNY is particularly pleased that the need for support of and attention to the non-health factors that contribute to health outcomes was addressed. MMNY urges savings associated with major changes to the Medicaid program be appropriately reinvested into housing, peer supports and other social support.

Health Disparities recommendations – The workgroup was charged with making recommendations on how to mitigate disparities in access and outcomes among specific populations across the state who have been marginalized by the health delivery system. MMNY strongly urges the Governor to include the Health Disparities workgroup recommendations in his 2012-2013 Executive Budget.

Streamlining eligibility and enrollment – In line with preparations for a health insurance Exchange in 2014 and the ongoing work to create a new statewide enrollment system, the state has been working to ensure streamlined eligibility determination and enrollment processes. The workgroup charged with reviewing streamlining efforts and making specific recommendations highlighted this work and reiterated the need for one system, with optimum data sharing, and enough flexibility to recognize that it will take time and extra attention to build all populations into a new system. MMNY has long supported streamlining efforts and is encouraged that attention is finally being paid to extending these improvements to people seeking long term care.

Obligation to abide by *Olmstead* – Both the Managed Long Term Care (MLTC) and Affordable Housing workgroups emphasized the state's obligation to protect New Yorkers' right to live in the most-integrated setting possible. This was due in no small part to the efforts of disability advocates and others who voiced this concern throughout the workgroup process. The MLTC workgroup devoted a Care Coordination Model principle to *Olmstead*, and the Affordable Housing workgroup included language in their final report to make clear that "supportive housing" must be a much broader concept going forward to include access to housing that is accessible, integrated, and not necessarily contingent on services.

The pace of mandatory managed care expansion – Particularly in view of the State's commitment to *Olmstead*, MMNY is concerned about the pace with which mandatory enrollment in mandatory managed care is being pursued. Low-income beneficiaries with complex health conditions are particularly vulnerable to adverse actions by health plans. This group will need due process protections and appropriate program capacity and incentives in order to maintain access to services in the community and avoid institutionalization. We believe the State needs to address these concerns before proceeding with rapid enrollment of dual eligibles and other vulnerable populations.

Charity care funding – MMNY has long advocated for transparency and accountability in charity care funding. The Medicaid Redesign process was a venue for once again bringing to light the critical importance of changing the funding mechanism to ensure that charity care funding is spent on actual services provided to people who are uninsured. MMNY was pleased the Health Disparities workgroup made strong recommendations on charity care, and we are encouraged by the creation of a new workgroup to revive this important discussion. In line with the Medicaid Matters mission, it is crucial that the new workgroup on charity care include consumer advocate membership.

Next steps, work going forward – As has been previously emphasized, the MRT was merely the first part of a multi-year Medicaid Redesign process. The work is just beginning to make sweeping changes to New York's Medicaid program. MMNY believes this work must continue to be done in a way that is open and affords public access to the decision-making process. In addition, it is vitally important that the state have a plan for making sure Medicaid consumers are aware of the changes to the program and how they will be impacted by them.

- **Adequate community/consumer education about changes** – The state has yet to provide information about how people in the Medicaid program will be educated about Medicaid Redesign. There is a tremendous need for community and consumer education.
- **Effective workgroups** – Many of the Phase II recommendations include the continuation of existing workgroups or the creation of new ones to tackle the myriad issues left up for discussion. The workgroups must have public meetings and their membership must be representative of the diversity of New York's Medicaid program. In addition, the work of the new workgroups must acknowledge discussions taking place at other tables to recognize where there is workgroup crossover.
- **Implementation transparency and opportunity for input** – As important as an effective workgroup process is a transparent and open process for implementation. The state must continue to provide information about the work being done to implement changes to the program.
- **1115 waiver process** – There are new provisions enacted in the 2011-2012 state budget that require the state to provide information, including draft applications, when applying for new Medicaid waivers or when filing state plan amendments. The public's understanding is that the new 1115 waiver will be the mechanism by which changes proposed through the Medicaid Redesign process will be implemented. The state must make every effort to apply for the new waiver in as public a manner as possible. In addition, a process by which the public can weigh in on the application must be established and publicized.