



NYS Licensed Agencies Providing
Mental Health & Substance Abuse Services
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NYS 2025 Joint Legislative Budget Hearing on Health - Federation of Mental Health Services Testimony

Thank you for this opportunity. My name is Tracy Schneider, and I am the President of the Federation of Mental Health Services. For over 57 years, the Federation has dedicated itself to the sustainability of rapid access to community based mental health and addiction services. Our members have had to rely on their intellectual capital, learned experience, creativity, and flexibility to continue to bridge the gaps created by reimbursement models that do not actually cover the actual costs of delivering care. Acting predominantly as safety net providers, they struggle with keeping the people that they serve as the focus of their work, while having to adapt to changing landscapes and other challenges, including but not limited to workforce shortages (without providers, even the best-intentioned program initiatives, cannot achieve all of the desired outcomes).

Although there is much to be said about what I speak of above, for the purposes of today's testimony, I want to highlight two specific proposals from the Executive Budget Medicaid Scorecard that continue to create unnecessary burdens and overwhelmingly dire repercussions to the provider care community. As mentioned above, as safety net providers, our members serve primarily those covered by public benefit insurance programs as well as the un and underinsured. Also, as mentioned, they have to do so while accounting for all indirect costs relying on slim to no profit margins. They are mission driven and do so with the best of intentions and integrity. The first issue I would like to speak about is OMIG Reform.

Due to our shared outrage, there have been ongoing efforts to secure reforms to the OMIG audit process for well over a decade since the implications associated with the way that process has been undertaken has been devastating to some provider groups. The "ask" has been simple: more transparency, balance, and fairness. There is total support for the OMIG's effort to identify and address fraud, waste, and abuse in the Medicaid Program. However, intentional, and malicious fraud and abuse is NOT the same as technical and human error, yet there is no differentiation in how penalties are imposed, or corrective actions applied. There seems to be an increased focus on uncovering clerical, technical and administrative errors vs truly looking to root out fraud, waste, and abuse. What makes this most astounding is even when there is no impact on the clinical care provided or any adverse patient outcome, the extrapolation formula applied can, does and has crippled organizations to the point of putting them out of business. OMIG applies a formula to a clerical error accounting from literally a couple of hundred dollars, and demands recoupments of hundreds, thousands, or millions of dollars from providers. That action threatens the viability of organizations that often are the lifeline to those in the most need.

In 2022, both houses passed an OMIG reform bill that was subsequently vetoed by the Governor. In her veto message the Governor directed OMIG to take some actions to not only engage the provider community to solicit input on their concerns but also to "commit to conducting program integrity activities in a responsible manner that includes consideration of financial impacts on providers and assured continuity of care for Medicaid recipients." Not only have no real meaningful conversations or changes occurred, but this also most recent Medicaid Scorecard for SFY 2024-25 seems to have increased OMIG's "Audit Target" by \$100 million. Setting increased targets even before there is any real resolution to distinguish between intentional fraud, waste, and abuse from technical, human, and administrative errors, as well as revisiting the due process associated with appeals, is truly unconscionable.

The OMIG Audit Reform legislation passed by the Legislature in 2022 has actually been amended and now addresses the concerns raised with the language of the last bill, while additionally assuring that the NYS process would align with those of CMS and other states. That legislation is (S5329B, Harckham/ A6813A, Paulin) and we urge that it be included in your one-house budget bills and in the final state budget.



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Competitive Procurement Proposal (Article V11/MH, Part H)

Since the Medicaid Redesign Team carved in mental health and substance use disorder services into the state's Medicaid managed care structure in 2015, that shift create a variety of additional compliance expectations that are time consuming, costly, duplicative while also at times, negatively impacting cash flow, billing, and other administrative processes. Payment denials and delays, increased audit activity that duplicate those from the OMIG and state regulatory agencies just creates confusion and deters funds that could be better spent on services that are direct in care of the consumer.

Since 2019, over 200 citations have been issued against numerous MCOs for 3 primary issues: failure to pay the government mandated Medicaid rate, failure to oversee the third-party vendor that insurers hire to act in their stead, and failure to comply with federal and state parity laws. In 2020, the NYS Council issued over 20 FOILs to 6 different state agencies/regulators and confirmed– that DOH had failed to enforce an expenditure target requirement embedded in MCO contracts with the state that requires them to spend the vast majority of funds paid to them (by the state) on actual services for Medicaid members. As a result of this failure to enforce an important contract provision, the OMH and OASAS systems of care were deprived of hundreds of millions of dollars that MCOs were permitted to hold on to despite not having earned it. DOH finally began to recoup overpayments made to MCOs that did not meet the targets in 2021 and \$222M was returned to OASAS and OMH as the result of this action. Since then, another \$220M has been or will be recouped from MCOs that continue to fail to meet these targets (the executive budget refers to these recouped funds as Reinvestment Dollars associated with the transition to Medicaid managed care and the executive budget for both OASAS and OMH includes proposals in the Aid to Localities bills that appropriate \$74M to OMH and \$37M to OASAS) that are designed to ensure Medicaid beneficiaries get the services they need and are entitled to. Again, these are state funds that health insurers have been permitted to hold on to and presumably collect interest on, while the Overdose Epidemic and increased rates of suicide continue to devastate our local communities.

When agencies have to spend hard earned dollars and personnel time chasing MCOs who do not respond to provider requests, or delay or deny payment without valid reason, this has a direct effect access to care since those resources could best be spent on services that directly impact patients. A Competitive Procurement of MCOs will do nothing to address this since it will probably be the same MCO's competing for a contract in the new system.

The proposal as written is too vague. It doesn't include detailed deliverables and expectations to get the award. It also appears to be a "one and done" with no time frames for the award or re-procurement. With no risk of losing the contracts, what is the incentive for an MCO to do what they are expected to, or have failed to accomplish in the past? Even the penalties for "imposed liquidation damages" with the model contract are so low (between \$250 and \$250,000), there is no real incentive for the plans to change.

The competitive procurement proposal is just not enough. We ask that outpatient mental health and substance use disorder services get carved out from Medicaid managed care and a return to a FFS system for MH and SUD services only (not for all Medicaid recipients) and hope that you agree to move this his as part of your one house budget bill.

For any additional information, comment, or dialogue, feel free to contact Tracy Schneider, LCSW-R, President of the Federation of Mental Health Services at tschneider@federationmhs.org or by phone at 929-414-7956.