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TESTIMONY OF
THE COALITION OF NEW YORK STATE
MANAGED LONG TERM CARE AND PACE PLANS

ON THE GOVERNOR'S PROPOSED SFY 2014-2015 HEALTH AND MEDICAID BUDGET

SUBMITTED BY JAMES LYTLE

TO THE

JOINT LEGISLATIVE COMMITTEE ON

HEALTH AND MEDICAID

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Introduction

Members of the Joint Legislative Budget Committee: thank you very much for the opportunity to testify on behalf of the New York State Coalition of MLTC and PACE Plans. The Coalition was formed in 2006 to provide a single voice for not-for-profit, provider-sponsored MLTC and PACE plans. The Coalition now represents 22 plans that provide coverage for the overwhelming majority of the elderly and disabled individuals enrolled in MLTC or PACE.

MLTC and PACE Background

Since 2004, the number of New Yorkers enrolled in Managed Long Term Care (MLTC) and the Program of All-Inclusive Care for the Elderly (PACE) has increased by twelve-fold, from approximately 10,000 to nearly 120,000. While the plans are justifiably proud of the growth of the program, they are even more gratified that the program continues to receive very high marks for quality—not only from the Department of Health but, more importantly, from the thousands of frail and elderly New Yorkers that they serve.

MLTC and PACE plans coordinate an array of medical and social services for elderly or disabled Medicaid beneficiaries who require more than a hundred and twenty days of community-based long term care services. These plans provide access to quality long term care at a fraction of the cost of institutional care, while also achieving extraordinarily high rates of patient and family satisfaction.

It should be noted that MLTC plans provide the full array of long term care services—from personal care to nursing home care—but are not responsible for physician, hospital or other services, which patients typically access through their Medicare coverage. PACE enrollees, on the other hand, receive comprehensive health care services through their plan, including physician and hospital services.

For the most part, the plans in the Coalition have enjoyed a productive and positive partnership with the Department of Health and have sought to secure the Medicaid Redesign Team's vision of achieving higher quality and lower costs through a reliance on managed long term care. We are, generally, very supportive of the Governor's budget request. Most of the concerns detailed below relate to issues outside of the budget itself and focus more on the implementation of the MRT objectives—including the timeliness and adequacy of the MLTC and PACE premiums, along with certain issues relating to the oversight and operation of MLTC and PACE plans.

Current Issues

While the rapid transition of over 100,000 elderly and disabled New Yorkers to mandatory enrollment in MLTC and PACE plans has proceeded very successfully, there have been some challenges along the way and there are some urgent issues that will need to be addressed to ensure that plans will continue to be able to provide high quality and coordinated care at a cost that ensures continued savings to the State of New York:

- ***Rate Timeliness***._The issuance of rates for MLTC and PACE plans are consistently delayed, which has had a significant effect on the plans' ability to create budgets and to manage their operations. These delays are compounded by retroactive rate adjustments that risk plans' fiscal stability and potentially challenge their capacity to provide adequate care for their members. Although updated rates may be issued imminently, the plans are still awaiting rates that were supposed to be issued last April. While we appreciate the best efforts of a heavily-burdened Department staff, we would urge that every effort be made to make sure that premiums are established prospectively, especially when—as noted below—new significant cost increases are being mandated on plans.

- ***Wage Parity.*** In less than a month, home care aides in New York City are slated to receive a substantial boost in compensation through wages and benefits, as a result of the wage parity mandate enacted by this Legislature. While the Coalition plans support fair wages for home care aides and recognize the obligation of plans to provide sufficient payments to contracted entities to meet their wage parity obligations, the State also has an obligation to ensure that the premiums paid to plans are fully adequate to meet this new state mandate. Those premiums must also take into account the impact of increased minimum wages and the repeal of the companionship exemption, which, taken together, further increase payments to home care aides who work overtime. The Coalition recommends that a "wage parity" adjustment to premiums be made through a separate "add-on" to the base premiums to distinguish and separate this component of the premium from the balance of the complex and ever-changing premium methodology—and that the amount allocated to these purposes is sufficient to meet the expense. We understand that the Department had initially calculated the cost of meeting these new expenditures at approximately $300 million in Medicaid funding and has more recently determined that the amount needed is $350 million, of which $275 million will support MLTC/PACE premiums. While this increased level of support is appreciated, we continue to question whether that amount will, in fact, be adequate to ensure compliance with the wage parity mandate.

- ***MLTC Contracting with CHHAs and LHCSAs.*** Reversing policies in place for more than a decade, the Department of Health recently issued a Dear Administrator Letter (DAL) that establishes a new policy stating that certain home health services can only be provided by an entity that meets the federal Medicare Conditions of Participation. As a result of the still unclear new policy direction, MLTCs would be required to contract with Certified Home Health Agencies (CHHAs), rather than Licensed Home Care Services Agencies (LHCSAs), to provide home health services to MLTC enrollees and bear the substantially higher administrative and supervisory costs that would necessarily follow. We believe the policy will not only unnecessarily increase the cost of care to these enrollees, without any corresponding improvement in quality, but will also potentially disrupt continuity of care for enrollees whose current aides may or may not be affiliated with the relevant CHHA. Moreover, contrary to the position advanced in the DAL, we do not believe that any federal policy, regulation or statute actually mandates this new policy. We understand that the Department has proposed to augment premiums for plans by $17 million to address the added costs of contracting with CHHAs—an amount that the plans believe is entirely inadequate to meet the actual cost of this new unfunded mandate.

- ***Social Adult Day Care.*** Last year, in order to address concerns over potential abuses by social adult day center operators, new policies were put in place to limit eligibility to persons who needed and requested only social adult day services, and each of the plans in the downstate region were required to audit their social adult day care providers to make sure that they were meeting State Office for the Aging regulations. While the plans support steps that might assure regulatory compliance by social adult day programs, the State's directive led to social adult day providers being audited by each of the affected plans, which multiplied the cost of the compliance review and resulted in inconsistent findings. The Coalition was also surprised to learn that, after the plans conducted these audits, the State had contracted with IPRO to do audits of all of the social adult day care providers—a project that, had it been conducted at the outset, would have relieved the plans from the unnecessary costs and inconsistency that has characterized the MLTC plan reviews. Moreover, continued uncertainty over the shifting eligibility criteria relating to social adult day programs has led to confusion among enrollees, uncertainty among plans and concern over the unfairness of imposing any potential Medicaid liability on plans that required to administer a constantly changing set of regulatory requirements.

- ***Implementation of Mandatory Enrollment in Upstate Counties.*** The Coalition has been concerned about the implementation of mandatory enrollment in MLTC and PACE plans in select upstate counties. Current members of MLTC and PACE plans have received confusing or contradictory information regarding enrollment, and there has been insufficient communication and collaboration with the upstate plans from the Department of Health and its contractors regarding these concerns. Even the most basic information, such as the State's assessment of how many eligible individuals in their service areas, has not been provided, precluding plans from undertaking well-informed preparation for the enrollment of these new members and the provision of additional services or providers, as well as complicating the plans' abilities to assure continuity of care. In addition, the much lower rates for upstate plans threaten the capacity of these plans to meet the needs of their enrollees—an issue that the Department has recently pledged to address.

- ***Implementation of FIDA.*** The Coalition continues to work with the State on the implementation of the Fully Integrated Duals Advantage (FIDA) program for individuals with long-term care needs enrolled in both Medicare and Medicaid (dual eligibles). Given the magnitude of the transition, plans appreciate the recent three-month delay in the rollout of the program, which will ensure that outstanding policy and operational issues can be resolved prior to implementation – critical in order to launch this initiative successfully in October. In addition, the finalization of Medicare and Medicaid rates is one of the most important issues to be resolved before implementation of FIDA. The dual eligible population is among the most complex and vulnerable in the Medicaid program, with needs that span the primary and acute care, long-term care, behavioral health, and social service systems. FIDA rates must reflect this complexity. In the absence of sufficient rates that support the full range of these services, as well as the administrative functions necessary to effectively manage them, plans may find participation in the program untenable. The Coalition looks forward to continuing conversations with the State and the Centers for Medicare & Medicaid Services around FIDA rate development.

- ***Coverage of Out of Network Providers.*** The Executive Budget proposes imposing requirements on managed care plans related to out-of-network coverage. Among other things, the proposal would require that (i) insurers and plans notify enrollees of the right to obtain prior authorization to access out-of-network providers and to obtain a standing referral for an ongoing course of treatment; (ii) provide direct access for most services provided by an obstetrician or gynecologist; (iii) maintain an up-to-date provider directory; (iv) explain the amount the plan will reimburse for out-of-network care if covered; and (v) disclose whether a provider scheduled to provide care is in the plan's network. The Executive Budget also proposes that the Department of Financial Services conduct regular reviews of the provider networks and that the State establish a review process for denials of requests for out-of-network authorizations. While we understand why proposals relating to out-of-network care are being considered for commercial insurance plans, including those offered through the New York State of Health Exchange, we believe the inherent inapplicability of many of these requirements to managed long term care should result in exempting MLTC and PACE plans from any enacted requirement.

Conclusion

MLTC and PACE plans have enhanced the quality and the coordination of care for New Yorkers who require long term care services, allowing people to remain in their homes by providing high quality and coordinated care increases their quality of life, while decreasing the state's costs. We welcome your interest in this important program and we appreciate the opportunity to present our testimony.

Any additional questions or comments can be directed to James Lytle at 518-431-6700 or at jlytle@manatt.com.

Appendix A

Coalition Plans	PACE/MAP/MLTC	Enrollment as of 1/1/14
ArchCare	PACE, MLTC	2,079
Catholic Health LIFE	PACE	160
CenterLight Healthcare	PACE, MLTC	13,738
Eddy Senior Care	PACE	140
Elant Choice	MLTC	464
ElderOne	PACE	3,736
Elderplan	MLTC, MAP	11,876
ElderServe	MLTC	10,277
Fidelis Care at Home	MLTC, MAP	8,372
GuildNet	MLTC, MAP	16,802
HHH Choices Health Plan	MLTC, MAP	2,970
Independence Care System	MLTC	5,076
MetroPlus	MLTC	465
Montefiore	MLTC	86
North Shore LIJ	MLTC	481
PACE CNY	PACE	444
Senior Health Partners	MLTC	10,924
Senior Network Health, LLC	MLTC	458
Total Aging in Place Program	MLTC	119
VillageCareMAX	MLTC	2,550
VNA Homecare	MLTC	199
VNS Choice	MLTC, MAP	17,934
Total Coalition Members	-	**109,350**
Total MLTC/PACE/MAP Members Statewide	-	**124,696**