



State of New York
David A. Paterson
Governor

omh Office of Mental Health
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September 29, 2010

The Council
The City of New York
250 Broadway
New York, NY 10007-2594

Dear Speaker Quinn and Chairpersons of Committees on Aging; Health; Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services; and Governmental Operations:

I received your letter of September 28, 2010 regarding New York State's clinic restructuring plan and appreciate your concerns and advocacy for home based services to senior New Yorkers. Unfortunately, policies regarding which services are eligible for federal Medicaid Reimbursement fall under the auspice of the Centers for Medicare and Medicaid Services (CMS). While it was our sincere hope that CMS would approve reimbursement for home based services, we have not, to date, been successful in receiving approval for such services.

However, in recognition that some existing programs in New York City currently serve home bound seniors, we have initiated discussions with the New York City Department of Health and Mental Hygiene (DOHMH) in order to allocate additional state aid to that department to enable them to contract with providers that had received contracts for such services in the past.

We also appreciate your concern about the cash flow and administrative impact of the October 1 implementation of clinic reform on geriatric mental health providers. Regrettably, we do not have the Medicaid State Plan Amendment in place that would allow for an immediate transition to the new APG based reimbursement methodology. However, we are communicating an interim billing process that, with some software modifications, will allow all providers to continue to receive payments for services.

If we were to delay implementation of the new clinic regulations, which have been developed over three years with significant stakeholder input, we could potentially jeopardize substantial funding that is currently provided by Medicaid. The new regulations are compliant with federal HIPAA requirements that mandate procedure based billing. Further, there are a number of benefits to consumers contained in the regulations that would need to be deferred. These include permission for multiple procedures on the same day, incentives for services in languages other than English and incentives for after hours and weekend services.

Finally, these regulations address a long standing fiscal inequity where rates of reimbursement vary substantially among providers providing similar services. Many providers have been awaiting the increases in funding that are associated with more equitable reimbursement. The three year phase in of these regulations should allow for a reasonable transition period for those providers that will experience rate reductions.

We are confident that the additional funding provided to the DOHMH will protect existing services to homebound seniors and that our interim billing processes will ensure adequate cash flow. Meanwhile, meaningful reforms for consumers and protection from non-compliance with federal requirements will be achieved by implementing these regulations as scheduled.

Sincerely,

A handwritten signature in black ink, appearing to read "MHogan", with a long horizontal flourish extending to the right.

Michael F. Hogan, Ph.D.
Commissioner

cc: Adam Karpati

