

Memorandum of Support

Governor's Program Bill #13
S.5472 – Breslin / A.8402 – Morelle

Managed care reform act of 2009

On behalf of the more than 11,000 members in New York State, the National Association of Social Workers, New York State Chapter supports S.5472/A.8402, the Managed Care Reform Act of 2009, which institutes a series of consumer and provider-oriented reforms in insurance and public health law. We applaud the governor and legislature for acting on behalf of health insurance consumers and providers, both of whom for many years have been in a position of being powerless in protecting themselves and lacking rights in comparison to those afforded the insurance industry.

Many of our members own or work in small businesses that make every effort to serve clients who need to utilize their insurance benefits in order to access mental health care as they would not otherwise be able to afford the full out-of-pocket costs for such services. These small businesses are being crippled by the progressive reductions in provider reimbursements and increased administrative hurdles and lengthy delays in authorization for services and reimbursement. These trends have negatively impacted their ability to continue accepting insurance reimbursement for their services and remain solvent as a business. We must act swiftly and comprehensively to preserve the ability of insured New Yorkers to more easily utilize the insurance benefits for which they and their employers pay so richly.

As New York State's professional organization representing social workers, the largest provider of mental health services in the country, NASW-NYS supports many of the legislation's provisions that will assist social workers and the people whom they serve to engage in a provider-consumer relationship with less disruption and interference due to excessive bureaucratic managed care obstacles to the provision of mental health care.

Overpayment recovery:

This legislation will expand the 2-year overpayment recovery limit from physicians to all "health care professionals" credentialed under Title VIII of the education law. To the extent that licensed social workers (who are credentialed under Title VIII) would be deemed a "health care professional" for the purposes of this legislation, we express our wholehearted and urgent support for this provision.

The overpayment recovery limit of two years is a reasonable amount of time to give the insurance companies to review their records for possible overpayments to providers. It is particularly onerous for solo practitioners or small group practices to review records more than two years old to verify whether or not the insurance company did indeed overpay them.

Administrative denials

Inclusion of a provision prohibiting insurance companies to summarily deny claims on minor or arcane administrative bases is a welcome relief for social workers. Solo providers who submit paper claims on occasion may print their claims with all of the relevant and necessary information but if the information is not precisely centered in the claim form box, the insurance company will reject it because it doesn't scan properly on the insurance company's equipment. This provision of the legislation will help ensure that payers review claims more carefully before summarily refusing payment. Claim rejections require excessive amounts of time and research on the part of providers to determine the exact cause of the denial. Claim denials should be based solely in relation to the client's eligibility for and use of available benefits not for typographical or processing system errors.

Adverse reimbursement changes

While the reduction of reimbursement rates for social workers is a long standing and progressive problem, in recent months, there have been several managed care companies in NYS who have reduced provider rates, ostensibly because they are getting in line with industry wide rates. Each has given providers little to no opportunity to either sign an amended contract or withdraw from the network prior to the implementation of the rate reduction. The requirement for 90 days advance notice of adverse changes in reimbursement, and 30 days for providers to consider and opt-out of their contract is a welcome one. This provision will help provide an appropriate timeframe for our busy professional social workers to make a critical decision for their practice of whether they can afford to continue their participation as part of that managed care organization's provider network.

Concerns

While NASW-NYS largely supports this legislation and its positive intents, we have a few concerns and clarifications on this legislation that we would like to bring to your attention: 1) the definition of "health care professional," 2) shortened prompt payment requirements for electronically-filed claims, and 3) network adequacy requirements.

"Health care professional" definition

This legislation defines "health care professional" as follows: "health care professional' shall mean a health care professional licensed, registered or certified pursuant to title eight of the education law." However, there are a number of licensees under that title that are clearly not health care providers, such as, engineers and landscape architects. While these professions are clearly outside of the definition of "health care professional," it is less clear where professions such as social work may land if left to interpretation. In light of this, we recommend that all professions intended for coverage in this legislation be referenced explicitly in the bill language; this definition should, of course, reference social workers licensed under Article 154 of the education law. Given that social workers receive third party payment, and have for decades, we would like reassurance that all such protections of payer-provider relationships in insurance law are drafted to include this profession.

Prompt payment requirements

NASW-NYS endorses the change requiring managed care organizations to pay electronically-filed claims within 15 days of receipt. Given that such claims are received immediately, are more legible, and may be processed with greater ease, a 15-day period is not only reasonable, but is a boon to providers who depend on reimbursements to keep their practice running.

While we applaud this step, there is still concern that no matter how short a prompt-payment period is mandated on health plans, the penalties are too light to compel such entities'

compliance. If you look at a typical reimbursement for a one-hour psychotherapy session by a licensed clinical social worker- \$62, and apply the current annualized interest rate penalty for late payment of this fee (12%), you get \$7.44 for one year. This breaks down into \$.02 per day. Now given that a managed care organization is only required to pay a late payment penalty equaling \$2.00 or more, then **a plan must be one-hundred days late with a payment in order to accrue a penalty fee they are required to pay.** It is clear that in the absence of a significant increase to the prompt-payment penalty rate that managed care organizations will have any reason to heed such timeframes.

Network Adequacy

NASW-NYS supports the need for insurers to maintain a network of providers adequate to meet the needs of its insured members; however we urge the inclusion of an enhanced description of what constitutes an adequate network. Upon resignation as a network provider, a number of our members have experienced lengthy delays, some in excess of a year, in the removal of their information from provider directories and online listings. Therefore there are no assurances that all providers listed in a network directory provided to insured New Yorkers are active participating providers. There is also the issue of the status of the provider as accepting new patients. Safeguards must be taken to ensure that a sufficient portion of a network is currently accepting new patients. Consideration in this area must also be given to the geographic location of such providers to ensure adequate access to services in all regions of the state (especially rural areas).

Of additional concern is the triennial review of network adequacy by the Insurance Department. Given the fluctuating nature of a provider network and status of an individual provider's capacity to accept new consumers, there must be an impetus for insurance companies to reassess the status of their network on a regular basis. Insurance Department reviews on a triennial basis will not provide ample pressure on insurance companies to actively and consistently maintain their networks.

The National Association of Social Workers, New York State Chapter advocates for increased public policy aimed at enhancing insurance benefits for the public while protecting the ability of social workers to continue to practice independently and effectively. Therefore, we support S.5472/A.8402 with the recommended changes outlined herein.