



MEMORANDUM IN SUPPORT

S.877-A – Ortt, Amedore, Murphy/A.23-A – Cahill

Relates to prohibiting a provider of health care coverage from requiring providers of behavioral health services to offer all products offered by the provider of health care coverage

The New York State Council, representing 100 behavioral health (mental health and substance use) prevention, treatment, and recovery organizations across New York, **strongly supports this legislation, S.877-A-Ortt, Amedore, Murphy/A.23- A-Cahill**, to amend the social services law, the public health law, and the insurance law, in relation to prohibiting a provider of health care coverage from requiring providers of behavioral health services to accept all products offered by the health insurance plan.

This legislation would prohibit managed care organizations (MCO) from including “all-products” clauses (APCs) in contracts with behavioral health organizations. APCs require service providers to participate in all products (e.g. Medicaid, commercial, workers compensation, Medicare) offered by the MCO (currently and prospectively) without the benefit of re-negotiation when a new product is brought to the provider. The provider is informed that unless it accepts the terms of the existing contract with the MCO as the term for the new business line, the MCO will cancel all contracts with that provider. *This coercive tactic threatens access to and continuity of care in the public mental health system*

Six states across the country have outlawed use of the APC concluding that it contributes to a system filled with inequities, restricts access to care and provides insurers with an unfair advantage. In a settlement agreement focused on unfair business practices **New York’s Attorney General prohibited Excellus from the use of all products clauses for an extended period. And there is ample evidence of similar responses from Attorneys General around the country.**

Without a prohibition of this language, the viability of the public behavioral health safety net system already under extreme fiscal distress, experiencing numerous closures and dealing with a Heroin/Opioid crisis is seriously jeopardized. A recent State Office of Mental Health survey of Outpatient Clinic providers concluded roughly 40% of service providers were in financial distress. The need for a prohibition of this language would not exist if reimbursement rates approximated cost of care, but this is not the case in the behavioral health system where rates are between 1/3 and 1/4 of the Medicaid rate for most commercial products. This disparity combined with use of all products language would put current and future Medicaid and commercial insurance beneficiaries at risk of losing their current provider while threatening availability of care across the state and making network adequacy standards impossible to meet in the coming Managed Care environment.

The NYS Council believes that under no circumstances should health insurance plans be permitted to require behavioral health care providers to accept “all products” as a condition of participation with that MCO. To do so is to threaten initial and continued access to care for Medicaid clients as well as those who are unable to afford private mental health services. **Therefore, we strongly urge the enactment of this legislation, S.877-S-Ortt, Amedore, Murphy/A.23-A-Cahill, this session.**