

12

TESTIMONY OF THE LEGAL ACTION CENTER

**Joint Legislative Budget Hearing
Mental Hygiene**

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Presented by

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reality after ten years of little to no enforcement. The Coalition is comprised of 26 organizations from across New York State, including directly impacted individuals, providers of SUD and mental health (MH) services, provider coalitions, as well as other health providers, community-based organizations and legal services providers.

Building on the groundbreaking reforms enacted over the past 5 years, 2019 solidified New York as a national leader by including in the budget the Behavioral Health Insurance Parity Reforms ("BHIPR") a groundbreaking set of policies that makes several advances toward improving the ability to access life-saving substance use disorder treatment. Despite these advances, New Yorkers have trouble finding SUD and MH providers with available appointments who are in their insurance network. A December 2017 study by Milliman found that New Yorkers went out-of-network for care significantly more often for MH/SUD care than for medical surgical care, with disparities increasing from 2013 to 2015.¹ An update to that study was just released this November, finding that disparities have continued to worsen since 2015. They found that New York State ranks third in the nation for highest proportion of out-of-network utilization for behavioral health office visits as compared to medical office visits, with patients having to go out-of-network 11 times more for behavioral health care than for medical care.²

New Yorkers also face delays in getting care when their insurer requires prior authorization, or their care is denied mid-way through treatment because their insurer says their treatment isn't medically necessary. People pay hundreds or even thousands of dollars out of pocket even when they have insurance, due to co-pays and co-insurance that are higher or charged more often for SUD care than for other medical care. High quality SUD and MH providers throughout

¹ Melek, S. P., Perlman, D. J., & Davenport, S. (2017, November 30). *Addiction and mental health vs. physical health: Analyzing disparities in network use and provider reimbursement rates* (Rep.). Retrieved March 12, 2018, from Milliman website: <http://www.milliman.com/insight/2017/Addiction-and-mental-health-vs-physical-health-Analyzing-disparities-in-network-use-and-provider-reimbursement-rates/>

² Melek, S.P., Davenport, S., Gray, T.J. (2019, November 20). *Addiction and mental health vs. physical health: Widening disparities in network use and provider reimbursement*. Retrieved December 17, 2019, from Milliman website: <http://www.milliman.com/bowman/>

CHAMP, which is a joint project of OASAS and OMH, operates a hub and spoke network. Administered by the Community Service Society (CSS), CHAMP provides services to NY consumers and providers through a helpline and network of three specialist organizations with expertise in specific areas of insurance and behavioral health (The Legal Action Center, The NYS Council for Community Behavioral Healthcare and Medicaid Rights Center) and five community based organizations (CBOs) across the State who provide on the ground support as well as community outreach.

Highlighting the huge void it has filled, the CHAMP Helpline has served over 1600 New York health care consumers and providers since it became fully operational in October of 2018. CHAMP callers face numerous insurance barriers such as an inability to find a treatment provider with an open bed, or repeated care denials.

CHAMP is currently funded by the executive at \$1.5 million. The Behavioral Health Parity Compliance Fund, once it becomes established in October 2020, may eventually provide an additional \$1.5 million, depending on the ability for the State to collect fines from plans who violate the Parity law.

However, the need to fully fund CHAMP to expand services is now. With an additional \$1.5 million from the legislature for a total budget of \$3 million, CHAMP can reach more individuals through an expanded network of CBOs so that more New Yorkers can have services available to them locally. Currently, the CHAMP CBO network does not include 38 counties in New York State. The CHAMP helpline is available statewide and provides an incredible service to New Yorkers in need, but on-the-ground CBOs provide local outreach and support that is invaluable to individuals with MH and SUD needs. The additional funding would also go towards additional health counselors so that the helpline hours can be extended. Right now, the helpline only operates from 9am to 4pm on weekdays when many New Yorkers are at work. Too many New Yorkers continue to be unable to obtain SUD and MH care because of payment barriers from

- **Enact legislation to require true network parity between mental health and substance use disorder providers and medical/surgical providers.** The State must develop strong quantitative standards for networks of SUD and MH providers that consider patient to provider ratios, provider capacity and time and distance standards, as well as considering complex health needs or languages spoken other than English.
- **Insurance networks will continue to be limited if providers are not appropriately reimbursed.** The State must develop strategies to ensure parity of rate setting between substance use disorder (SUD) and mental health (MH) providers and medical/surgical providers and set rates that consider the especially complex needs of patients with SUD and mental illness. One strategy is to understand how reimbursement rates are impacting providers. Legislation recently introduced by Senator Carlucci and Assemblywoman Gunther; S6694/A7935, will create a workgroup to analyze reimbursement rates in Medicaid and commercial insurance for behavioral health services and whether they are adequate to ensure continued viability of providers in our state.
- **Ensure employees of all public-facing business can administer naloxone without fear of legal liability.** Business owners currently cite a fear of legal liability as a major barrier to encouraging access to naloxone at public-facing businesses such as restaurants and retail establishments. The legislature should remove that fear to ensure there are trained individuals available in those establishments in case an individual experiences an overdose.
- **Require emergency departments to offer MAT following an overdose so that people are connected to care.**

Provide individuals involved in the criminal justice system with appropriate care

New York and the US are confronting an overwhelming opioid epidemic, resulting in tens of thousands of deaths per year, providing these medications to every individual who needs them is not only the humane thing to do. It is essential to saving lives.

A main issue thwarting effective jail and prison discharge planning is the lack of access to consistent transitional care. Treatment works best when it starts upon admission and certainly well before an individual re-enters the community.

In November 2019, New York State proposed to become the first state in the nation to obtain a waiver from the federal government of the Medicaid Inmate Exclusion to allow Medicaid to pay for specific and limited transitional care inside prisons and jails by submitting an amendment to the 1115 Medicaid Waiver to CMS. Paying for care inside jails and prisons via federal Medicaid is a critical element in addressing the State's overdose epidemic, especially in light of the high rate of death post-incarceration: an individual is 12 times more likely to die and 130 times more likely to die of a drug overdose in the first two weeks after release from incarceration compared to the general population. We urge the Legislature to support the State's application to for this waiver amendment. Coordinating the services between our criminal justice and health systems is imperative because, not only is treating people the humane course of action by making individuals healthier and more productive, it's also undeniably smart policy that reduces crime and recidivism, saves money in both systems, and makes communities at large healthier and safer.

For our State to address barriers to MH and SUD care most effectively, it is imperative to address barriers to insurance coverage and the nexus of health and justice. Legal Action Center thanks you for the opportunity to provide our input.