



August 25, 2016

Jason Helgerson
NYS Medicaid Director
Deputy Commissioner, Office of Health Insurance Programs
NYS Department of Health
One Commerce Plaza
Albany, NY 12210-2820

Dear Mr. Helgerson:

LeadingAge New York appreciates the opportunity to comment on the State's draft transition plan to move the Nursing Home Transition and Diversion (NHTD) Medicaid waiver and the Traumatic Brain Injury (TBI) waiver population and benefits into managed care. LeadingAge NY represents over 500 not-for-profit and public providers of long term and post-acute care (LTPAC) and senior services throughout the State. Many of our Home and Community-Based Services (HCBS) members are long standing providers of NHTD and/or TBI waiver services.

While we acknowledge the significant work that has gone into ensuring as smooth a transition as possible, several of our members do not support transitioning the two waivers into managed long term care. From their experience, the NHTD and TBI participants are part of a well-defined and unique population that are well served by the current waiver infrastructure, with built-in assurances for budget neutrality even though this population has a greater tendency for high medical, psychological and social needs. They are concerned that if the NHTD and TBI participants are enrolled into managed care they face a greater likelihood of being hospitalized, institutionalized or incarcerated given their significant need for wrap-around services and supports that are currently provided but are lacking in the managed care infrastructure. Nevertheless, assuming that the transition to managed care moves forward, LeadingAge NY members insist that the program features must be substantially comparable to those services available to NHTD and TBI participants since January 2015. If the transition is to take place by January 2018, below are numerous components to the transition plan that need to be addressed.

General Comments

More detail is needed on how the Community First Choice Option (CFCO) new State Plan Amendment (SPA) will be implemented. Without this, the intersection of the CFCO with the waivers and managed care is unclear and the potential impact cannot be assessed. While the CFCO SPA is scheduled to be implemented in December 2016, specific directives and policies have yet to be posted by the Department of Health (DOH). As an example, presently, Home and Community Support Services (HCSS) as defined under the waivers includes oversight and supervision as a discrete service. However, oversight and supervision are excluded as a discrete service under CFCO. As a result of this change in definition some participants could lose these vital services. As specified in the NHTD/TBI transition narrative the goal is not to control costs of services but rather to improve the quality of services provided across the state. Given this change in definition of HCSS, the transition would not improve the quality of services for those participants currently receiving the service, it could actually have the opposite impact.

Second, it is critical to understand how the Home and Community-Based (HCB) Settings rule will be implemented in New York. Comments on this rule are due to DOH next month. An understanding of how “conflict of interest” and “heightened scrutiny” will be applied is critical to understanding the impact of the transitioning of the two waivers into managed care. It would be logical to suspend the transitioning of the two waivers into managed care until specific directives and polices have been posted by DOH and any potential issues have been resolved.

Third, for waiver participants, providers and managed care plans to effectively prepare for the transition, more specific timeframes and procedures are needed. DOH should articulate specific and realistic timeframes and procedures for the transition of both waivers to managed care plans similar to past Medicaid Redesign Team (MRT) proposals. Procedures, meeting times, deliverables and agendas should be posted well in advance to encourage meaningful stakeholder involvement and participation. Waiver service providers and managed care plans should be able to rely on these timeframes to effectively plan their staffing needs, enter into contracts to build network capacity and ensure continuity of care policies for participants and providers. The following are comments on specific sections of the draft transition, organized by section heading:

Change in definition of Home and Community Support Services (HCSS)

Recommendation: Given that the service needs of this vulnerable and diverse population can be significantly greater than those of a personal care population, it would be in the participants’ best interest to maintain the current HCSS definition. HCSS should continue to provide oversight and/or supervision as a discrete service in order to maintain the health and welfare of the person living in the community. This change in definition would ensure current waiver participants would not lose this service. If the definition cannot be changed, at a minimum, waiver participants should continue to receive this service while the waivers are being transitioned into managed care and for at least six months after January 2018 under the proposed continuity of care provisions. The State should track the outcomes of waiver participants who had this service discontinued as a result of changing the service definition.

Location of the enhanced benefit – Structured Day Program (SDP)

Recommendation: Structured Day Programs must be required to follow the same regulations and policies applied to the Social Adult Day Care (SADC) Program or the Adult Day Health Care programs as a result of any heightened scrutiny provisions developed under the HCB Settings rule. The Department should ensure consistent policies with all three programs. As anything less will create an unfair advantage of one program over another.

Service Coordination

LeadingAge NY is very concerned with the usage of the plan as it relates to “business relationship” as it is overly vague and will cause significant confusion.

“Service Coordination and an individual who provides other services to a plan member or an individual who has a **business relationship** with or is employed by a provider of other services to the plan member, may not serve as a Service Coordinator.”

Recommendation: DOH needs to better define what is a business relationship or use a more precise term. The use of the term “business relationship” could undermine and unbundle the provision of services that have existed for over 20 years and would force participants to choose between their Service Coordinator and their other waiver service providers. Since current Service Coordinator providers are also providers of other

waiver services this will cause unnecessary chaos. There are numerous firewalls in place through the managed care plan to ensure no steering for financial gain is occurring. Additionally, the Service Coordinator responsibilities and activities are limited and all Service Coordinators' recommendations have to be approved by the plan's case manager.

This new policy could create the need for a separate pool of Service Coordinators that do not have a "business relationship" with a plan or provider. Unfortunately, even if the Department wanted to go forward with this policy, the pool of Service Coordinators is extremely limited and non-existent in some rural areas.

As seen in the Service Coordinator description, a Service Coordinator is not developing a person centered service plan nor are they the case managers. Therefore, conflict of interest protections is not required.

DOH should consider striking this language in its entirety.

The role of the Regional Resource Development Center (RRDC)

Recommendation: As stated in the draft transition plan, "the RRDC will continue to have a role in the managed care model. In order to access the enhanced benefits noted above, NYSDOH will continue to contract with RRDCs. The current RRDC contracts with NYSDOH terminate June 30, 2016. A contract arrangement is being sought to continue these functions until a new competitive procurement process can be implemented in 2017."

It is our suggestion that the current RRDC role be extended for two years, similar to the continuity of care provisions. During this time, DOH could track how many referrals were made for enhanced services to see if there is a need for this role and to what degree.

The role of the RRDC to provide training and education related to services and special needs populations is likely to lessen over time. This training could be developed into a "train the trainer" format as a way to effectively and efficiently deliver the same training and education. If the RRDCs are to serve as only functional assessment and technical assistance centers to managed care members and providers, this could be done on a smaller scale, only requiring three RRDCs across the state.

Under the transition plan, any managed care member seeking the five enhanced benefits must seek the service through the RRDC and in conjunction with their managed care plan. The RRDC will complete a service assessment, which has yet to be defined, to establish the need for the service, advise the MCO of the assessment outcome and facilitate in-network provider selection in conjunction with the plan member. We support the role of the RRDC to supplement and support the care planning initiated and implemented by the MCOs and to track their supportive efforts to the plans. However, we are concerned with the time period of the enhanced benefit service assessment, which could result in a delay in receiving the enhanced benefits. We suggest including timeframes for an expedited assessment to mitigate any delay in receiving the enhanced benefits.

Assessment Tool- UAS-NY

Recommendation: The MLTC/MMC plans will be using the UAS-NY to assess NHTD/TBI individuals and LeadingAge NY concurs with the concerns and suggestions raised by The Alliance of TBI & NHTD Waiver Providers and other stakeholders during the NHTD/TBI transition meetings. The UAS-NY tool has been called

into question by providers and NHTD/TBI participants for not accurately assessing participants with a cognitive impairment. We suggest an independent assessment of the UAS-NY to accurately capture the level of need the individual requires to safely remain in the community.

Tracking Waiver Participants through the Transition Process

Recommendation: DOH should consider developing metrics and a process to track positive and negative outcomes as result of this transition to managed care. This should include any changes in services and any incidents of participants being hospitalized, incarcerated, or institutionalized.

Thank you for the opportunity to comment on the transition plan. LeadingAge New York remains available to work with the Department to make this a safe and smooth transition for NHTD and TBI participants and to preserve the vital infrastructure of home care services.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel J. Heim', with a long horizontal flourish extending to the right.

Daniel J. Heim
Executive Vice President

cc: Andrew Segal
David Hoffman