



Support for Managed Long Term Care Ombuds Program Appropriation for 2013-2014

Position

Medicaid Matters New York (MMNY) wishes to thank Governor Cuomo for providing the funds needed to support the establishment of the managed long term care ombuds program. This commitment to provide individual and systemic advocacy assistance for seniors and people with disabilities in managed care is consistent with the proposal offered by MMNY in 2012 (*see Background below*). We urge the Legislature to approve the \$3M provided for the “managed long term care ombuds program” in the Aid to Localities budget. This program will help managed care enrollees resolve disputes with managed care entities; monitor, document, and investigate systemic problems such as inadequate accommodations for people with mobility disabilities; offer information, guidance, and support; and provide direct representation in grievances, Fair Hearings, and appeals. With the implementation of mandatory Managed Long Term Care already underway, we support the establishment of this program as soon as possible.

Background

In 2012, Medicaid Matters New York proposed that the NYS Department of Health establish a Medicaid Managed Care Ombudsman Program modeled in part on a successful program operating in the state of Wisconsin. Through a series of meetings with a variety of stakeholders and government agency officials, an MMNY workgroup developed the concept and proposed a framework for the program. At the same time, the NYS Department of Health took steps to advance the idea by including ombuds programs within its Fully Integrated Duals Advantage Program proposal and the “Super Waiver” NY Partnership Plan amendment application. Approval of the Super Waiver application would provide \$23 million for a statewide ombuds program over five years.

There are at least 1.3 million New Yorkers with disabilities or chronic illnesses in the Medicaid program, including those eligible for both Medicaid and Medicare. The care and supports for those with high needs cost \$31.1 billion per year. In addition, other recipients with less extensive needs also likely require some degree of assistance in accessing services and supports, as well as help to protect their rights in the new care management settings.

The concepts advanced by MMNY for the ombuds program arise from the recognition that individuals throughout the State will require expert assistance as they adjust to the shift to mandatory enrollment in Medicaid managed care. For people with disabilities and chronic illnesses, including seniors, this policy presents significant changes in how they access health and mental health care services because many have previously been exempt or excluded from mandatory enrollment.

An ombuds program would help recipients understand how to access services in a managed care environment; help them secure a change in or restoration of benefits, services, or supports; support advocacy to obtain accommodations for their disabilities; and provide systemic advocacy to address

patterns such as improper notices, inadequate networks or accommodations, or unlawful care management practices. In addition, the program would benefit recipients in Medicaid managed care generally as they would be able to access an enhanced information and referral system with automated guidance by telephone as well as general advice and referrals from well trained advocates situated in their own communities.

This initiative would also provide a broader benefit to the State. By intervening in these ways at the local level, the program would help resolve problems as they arise and save scarce public resources that would otherwise be spent on costly litigation and financial penalties for unlawful practices and procedures employed by Medicaid managed care entities. Further, it would provide a cost-effective way to improve managed care “literacy” for the neediest recipients who have not previously had to make their way through the various managed care processes. Thus, this program will benefit enrollees, managed care organizations, and the Department of Health.

Program Design

Consistent with the recommendations of MMNY, the program should have a minimum staffing ratio of one advocate for every 2,500 recipients with disabilities or chronic illnesses. It should be phased in over four years, and the initial populations to be served would be the managed long term care group, followed by the behavioral health, chronic medical, and intellectual/developmental disability groups.

The ombuds program should be configured as a “hub and spokes” support system with centralized advisory, management, procurement, training, and quality assurance functions (Coordinator); and subcontracts with local community-based programs (Centers). Contracts should be awarded through competitive processes, and no less than 80 percent of the program funds should be allocated to the Centers in local communities. The Coordinator should assure adequate coverage throughout the state, and provide directly or by sub-contract adequate support services including training and consultation in both Upstate and Downstate regions. Each Center should have at least one full-time lawyer, and one full-time disability specialist either on staff, or provided for by sub-contract, and each should be required to provide all of the following services:

- ✓ Information, technical assistance, consumer education, and community training on obtaining Medicaid and Medicare services and coordination, supports, and protection of due process rights.
- ✓ Advice and assistance in preparing and filing complaints, grievances and appeals of complaints or grievances, including preparation of documents and guidance for self-advocacy.
- ✓ Negotiation on behalf of both individuals and groups.
- ✓ Individual case advocacy services including interpretation of statutes, rules, or regulations, as well as accompaniment and legal representation in administrative hearings or any other judicial proceedings relating to managed care services, coordination, or benefits.
- ✓ Systemic advocacy to ensure timely and adequate access to all services or supports a beneficiary is eligible to receive, including accessible and effective notices; the Federal Americans with Disabilities Act, as well as State and local laws regarding accommodations; adequate translation and interpretation assistance; preservation of due process rights; and identification of and referrals to outside resources to address any systemic issues that fall outside the scope of the program.

For additional information, please contact the co-authors of the MMNY proposal, Leah Farrell (lfarrell@cdrnys.org) and Shelly Nortz (snortz@cfthomeless.org).