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New York Medicaid Redesign Team II issues proposals that include emphasis on Long Term Care

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Though the state is focused on COVID-19, the New York Medicaid Redesign Team II (MRT II) issued an executive summary of proposals last week intended to generate \$2.5 billion in savings under the state Medicaid program next year. While the MRT II executive summary refers to proposed reforms that impact hospitals, case management activities, managed care payors, pharmacies, and transportation providers, there is a particular emphasis on long-term care.

The MRT II proposal includes 17 long-term care recommendations, many of which, if enacted into law, will fundamentally change how providers will furnish care to Medicaid beneficiaries. Here is a list of the long-term care proposals:

1. Promote Encounter Data Accountability and Partially Restore Managed Long-Term Care (MLTC) Through Restored Quality Incentive Pools

- This proposal would restore 50% of Managed Long-Term Care Plan (“MLTC”) “quality pools,” which were eliminated in the state’s fiscal year 2020 budget. The restored modified pools are intended to incentivize MLTCs plans to submit to the state encounter data.

2. Home- and Community-Based Eligibility Lookback Period of 60 Months

- This proposal would require that individuals seeking home- and community-based Medicaid coverage be subject to the same 60-month look-back period as those seeking Medicaid coverage for nursing home care.

3. Eliminate Spousal and Legally Responsible Relative Refusal

- This proposal would prohibit spouses living together in the community, and parents living with their child, from refusing to make their income and resources available during the determination of an applicant’s eligibility for Medicaid.

4. Change Eligibility Criteria for Personal Care Services (PCS) and Consumer-Directed Personal Assistance Program (CDPAP) and Eligibility Criteria for Enrollment in MLTC Partial Plans

- The proposal would modify eligibility criteria for PCS and CDPAP services by requiring an individual to be assessed to have a need for assistance with more than two activities of daily living (ADLs) ranging from limited assistance to total dependence. The new eligibility criteria would apply irrespective if the services are received through fee-for-service, mainstream managed care plans, or MLTC plans.

5. Administrative Reforms to PCS and CDPAP Program

- This proposal includes: (1) Use an independent clinician panel, similar to the state's Conflict Free Evaluation and Enrollment Center, to assess patients and order PCS and CDPAS under a clear set of standards and protocols; (2) implement an enhanced utilization review process by an independent assessor for any individuals who are assessed to need more than 12 hours per day on average in a given month; (3) change the frequency in which the Community Health Assessment is conducted from every six months to once annually, subject to requiring reassessments based on changes in health condition or status; (4) implement a uniform tasking tool for use by plans and local departments of social services districts ("LDSSs") to help determine service utilization, including the hours of PCS and CDPAS required each day; and (5) employ the provider "choice" model to proceed with the implementation and electronic visit verification (EVV) system, as required by the Federal 21st Century Cures Act.

6. Implement Comprehensive CDPAP Programmatic Reforms and Efficiencies

- The proposal includes the following: (1) proceed with the Request for Offer (RFO) process to streamline the number of fiscal intermediaries (FIs) that deliver high quality services; (2) require that consumers work with a single FI; (3) eliminate conflicts of interests associated with FI services and plan or licensed home care services agency services in the same legal entity and without appropriate safeguards; (4) implement restrictions on FI advertising; (5) eliminate requirements that plans and LDSSs educate consumers about the availability of the CDPAP program semi-annually; (6) permit personal assistants to transport consumers during approved care hours when deemed safe and appropriate; and (7) develop standards and protocols to determine whether consumers are self-directing and, if applicable, their designated representative is able to fulfill their obligations appropriately.

7. Provide Integrated Care to Dual Eligible Members

- The proposal would promote integrated plans for individuals who are both Medicare and Medicaid eligible and promote enrolling dually eligible members into existing Medicaid integrated care products.

8. Reform the Fair Hearing Process

- The proposal would remove the barriers that limit the ability of managed care plans and LDSSs to manage the care authorized for its enrollees focusing specifically on PCS.

9. Delay Implementation of the Expansion of Community First Choice Option (CFCO) Services until April 1, 2022

- The proposal would delay implementation of CFCO services until April 1, 2022.

10. Cap Statewide Managed Long-Term Care (MLTC) Enrollment Growth at a Target Percentage

- The proposal would establish a target growth rate for individual partial capitation MLTC plans, which MLTC plans would need to stay under in order to recoup the withheld MLTC premiums.

11. Enhance Wage Parity Enforcement

- This proposal would amend the state Wage Parity Law to require written certification of compliance, impose criminal penalties and sanctions for false certifications of compliance, mandate an annual assessment of wage parity law compliance, and require certain notice to employees of wage parity requirements.

12. Issue a Request for Offers for Licensed Home Care Services Agencies (LHCSA)

- The proposal would limit the number of LHCSAs authorized to participate in the State's Medicaid program through an RFP, which would include evaluation criteria that includes establishing a baseline value for wage and wage-related costs paid to home health aides and personal care workers employed or contracted by the LHCSAs.

13. Reduce Workforce Retraining and Retention Funding

- This proposal would reduce Workforce Recruitment and Retention funding for health care workers, which was authorized in 2002 to support providers' ability to recruit and retain qualified direct care staff.

14. Require all Uniform Assessment System Community Health Assessments (CHA) and reassessments to be conducted by an Independent Assessor (IA)

- The proposal would require all Community Health Assessments (CHA) and reassessments to be completed by a single statewide Independent Assessor.

15. Implement Changes to the Community Spouse Resource Amount

- The proposal would call for the state to utilize the federal minimum level as the minimum community spouse resource amount necessary for Medicaid eligibility of an applicant under spousal impoverishment budgeting.

16. Offer Non-Medicaid Long-Term Care Programs to Encourage Delayed Enrollment in Medicaid including a private pay option for consumers to purchase on NYSoH

- This proposal would create a private pay personal care services option, supported through the State of Health Marketplace, that would serve as a source for the purchase of pre-negotiated and pre-priced packages of personal care services from LHCSAs.

17. Reduce Nursing Home Capital Funding

- This proposal would reduce nursing home capital reimbursement funding by five percent and eliminate funding associated with residual equity payments to for-profit nursing homes.

[The full MRT II Executive Summary of Proposals is available here.](#)

The MRT II executive summary states that the proposals will be advanced in the state budget through appropriation and other bills implementing the budget. The bills will then be subject to review and approval by the State Legislature. It is uncertain if all the proposals will be adopted as proposed; some of the proposals are controversial and are sure to invite opposition from stakeholders. Indeed, the MRT Long-Term Advisory Committee did not fully endorse, in whole or in part, most of the proposed long-term care reforms. We will keep a watch on the legislative process and report further on those proposals that the State Legislature approves.

For more information on the content of this alert, please contact our [Coronavirus Response team](#), your Nixon Peabody attorney, or:

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