

2012 State & Federal Priorities *Executive Summary* Home and Community-Based Care

ACCESS TO CARE

Patients and families must be able to access all information related to home and community-based care and have the ability to choose their services from any provider.

HCP Supports:

- Development of long-term care policies that are comprehensive, cost-effective and ensure patient access and choice to a wide array of home and community-based services.
- The patient's right to take reasonable personal risk in selecting their service level/setting, and protections for providers when patients exercise such rights.
- Public policy that helps ensure patient and worker health and safety, without exempting certain entities from such policies.
- The continued presence and availability of contracted home care services as an integral facet of the community-based care delivery system.
- Health care programs allowing patients to receive the best, most cost-efficient care in the least restrictive setting.

HCP Opposes:

- Any elimination or limits on contracting by agencies with government and non-government payer types, including arbitrary restrictions on contracting with Medicaid managed care models.
- Restructuring of home care system and reimbursement methodologies, absent direct and representative industry input.
- Reconfiguration or dismantling of existing programs in a manner that would restrict or deny consumer access to services that were previously available.

REGULATORY RELIEF

The home care industry must be able to operate within the health care continuum based on the same set of rules and requirements as all other entities providing the same or similar care to patients in a home and community-based setting. A balanced set of rules for similar care allows for better health and safety, increased quality, and prevents market disruption.

HCP Supports:

- Consistent and standardized interpretation of rules and regulations by both State and Federal agencies, preservation of due process for providers, recognition of the difference between fraud and error, and working with OMIG to change current audit practices.
- Regulatory action that streamlines rules and other requirements through the elimination of duplicative and unnecessary requirements.
- Efforts to stop scofflaw agencies and education of the public on the risks of securing unregulated care.
- Long-term care restructuring policies that ensure continuity of care and preserve availability of services.

REIMBURSEMENT

The home care industry must receive timely and adequate reimbursement for its services from all payers at levels sufficient to maintain industry stability, sustain the growing demand for services, and cover the cost of new mandates imposed by local, State or Federal governments.

HCP Supports:

- Reimbursement models that are effective in a competitive marketplace, recognize regional differences, and provide payment adequate to ensure access to quality care and sufficient incentives and flexibility to recruit and retain a stable and qualified work force.
- Policies to ensure that home care providers are reimbursed in a timely manner for services delivered on behalf of government, non-government, and third-party payers, such as Medicaid Managed Care.
- Reimbursement methodologies and rates offering incentives to be efficient without jeopardizing quality care.

EFFICIENCIES

Initiatives that promote the use of new technology allow for flexibility and create more efficient and cost-effective means of providing home and community-based care.

HCP Supports:

- Increased funding from both public and private payers for innovative health technology, including telehealth equipment and services, electronic health records (EHRs), medication management devices, and other health information technology (HIT) systems.
- Development of Statewide health information network (SHIN-NY) that recognizes the important role of home care.



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2012 STATE AND FEDERAL PRIORITIES

HOME AND COMMUNITY-BASED CARE

Preservation of patient access to cost-effective, quality home care services must be a cornerstone of New York State's health care system. HCP strongly urges that necessary and sufficient resources be committed to preserving access to quality home care services and that New York's home and community-based care infrastructure be strengthened. HCP encourages fair reimbursement policies, regulatory consistency, and program streamlining to improve New York's long-term care system in this challenging fiscal environment. HCP opposes State and Federal efforts to dismantle or destabilize home care by restructuring the system absent a thorough analysis with direct and representative industry input; the imposition of new unfunded mandates; and new funding cuts that reduce reimbursement and limit patient access to care.

HCP's 2012 Public Policy Priorities should be used for guidance in working to build recognition for home and community-based care as the health care solution that allows the elderly, disabled and the chronically-ill to remain with their families and in their homes for as long as possible.

State & Federal Funding: HCP supports publicly-funded health care programs that allow a person to receive the most cost-effective and patient-preferred care in the least restrictive setting. State and Federal funding must be provided to ensure patient health and safety in the community, consumer choice of provider, and fair and reasonable worker wages and benefits.

REIMBURSEMENT

The home care industry must receive adequate reimbursement for its services from all third party payers, public and private, in a timely manner and at levels sufficient to provide industry stability, to sustain the growing demand for services, and to cover the cost of new mandates imposed by local, State or Federal governments.

In recent years, home care has sustained over one billion dollars in State and Federal cuts, taxes, and unfunded mandates. HCP opposes Medicaid and Medicare cuts to home care because they jeopardize access to quality care. HCP opposes trend-factor and market basket cuts, provider taxes, payment lags, and other payment reductions; co-payments; or home care program eliminations. HCP opposes Medicaid cost-containment measures that reduce access to home care or arbitrarily reduce utilization. HCP supports reimbursement systems that provide adequate reimbursement, reflect increases in costs, and are responsive to extraordinary circumstances.

HCP recommends revision of current Medicaid fee-for-service (FFS) reimbursement methodologies to provide timely reimbursement that accurately reflects current-day costs. HCP supports reimbursement

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methodologies that offer providers incentives to be efficient without jeopardizing quality care. HCP supports methodologies that are effective in a competitive marketplace, recognize regional variations in the cost of care delivery, promote quality care, and provide sufficient resources to recruit and retain a stable and qualified workforce. HCP supports policies that reward providers striving for high quality of care, as determined by appropriate quality measures.

Government-payer rates, whether FFS, Prospective Payment System (PPS), or from a third-party payer such as a Medicaid Managed Care model, must reflect the costs associated with new mandates or unavoidable increases in the cost of providing care. HCP supports immediate and routine increases of all government-payer rate categories to ensure the ongoing delivery of quality care; efficient processing and payment of rates, rate reconciliations, and payment from third-party payers; clear and unambiguous regulations and instructions for rate development; and adherence to regulatory requirements for home and community-based care reimbursement methodologies by both government entities and providers.

HCP supports policies to ensure timely reimbursement and clear billing policies for services delivered on behalf of non-government, and third-party payers, such as Medicaid Managed Care. Regardless of payer source, services delivered in good faith under the parameters agreed to between the home care agency and any payer should be guaranteed prompt payment from the payer, its parent company, and contractors. Without such provisions, patient access to home care will be compromised.

Additional funding for home care programs should be allocated in an equitable manner across all home care providers and program types, and throughout all regions of the State. All home care provider types must be able to access funding to which they are entitled to and should have flexibility to utilize funds in a manner that most benefits patients, workers and agencies. Counties and managed care payers must adhere to the current program utilization structures and/or reimbursement methodologies and be required to refrain from suppressing cost, reimbursement and/or utilization inappropriately.

HCP strongly supports the continued presence and availability of contracted home care services as an integral facet of the community-based care delivery system. HCP also supports reasonable measures that will ensure increased transparency, accountability, and enforceability of those providers receiving Medicaid or Medicare funds.

Regulatory Reform: HCP opposes unreasonable and burdensome State regulations, especially in the current economic environment that demands streamlining. HCP strongly opposes unfunded mandates. HCP supports the consistent, uniform and fair application of State regulations. HCP urges dialogue with the industry on recommendations to improve the system through appropriate and sensible regulatory reform. HCP supports regulatory action eliminating duplication and efforts to require and use industry input in regulation and policy development based on well-defined and understood terms.

HCP encourages the development of home care expertise among all government bodies that regulate the home care industry. In order to ensure that the home care industry functions at the highest levels of efficiency and quality, the industry must have timely access to State agency staff that are knowledgeable about home care settings.

Long-Term Care Restructuring: HCP opposes any efforts to restructure the home care system, absent direct and representative industry input. Any restructuring must consider the

strengths of the existing home care infrastructure; regional and provider variations; patient need, access, and choice; and realistic transition strategies. HCP opposes elimination or limits on contracting; government mandates on agency allocation of revenue and resources; and elimination of longstanding home care provider types as part of the shift to managed care.

HCP opposes the reconfiguration or dismantling of existing programs in a manner that would restrict or deny consumer access to services that were previously available, particularly as a result of the shift to managed care. HCP also opposes the creation of duplicative programs that drain limited resources; instead, State and Federal policy should bolster existing programs and encourage coordination of services from multiple providers to address the changing needs of New York's elderly, disabled, and chronically-ill populations.

HCP supports long-term care restructuring policies that are comprehensive, affordable, and cost-effective, creating a system that ensures patient choice and access to a wide array of home and community-based services. HCP supports policies that require payers to ensure adequate access to home care by all populations. HCP also supports public policy that creates a long-term health care system that ensures services are delivered in the most integrated and least restrictive setting while appropriately addressing the personalized needs of each individual.

HCP supports increased access to both public and private markets for home care services for providers able to demonstrate character, competence and financial feasibility in the delivery of services. HCP opposes market controls that result from moratoriums on certificate of need (CON) consideration, and the processing of limited CON applications to address special interests.

HCP supports CON reform efforts to develop a patient-centered, high performing health care delivery system offering accessible, affordable, quality and cost-effective care in settings that are appropriate to the needs and preferences of health care consumers. HCP supports a comprehensive update of the CHHA public need methodology; lifting of the moratorium on CHHAs; and fair, efficient and timely processing and consideration of existing and new applications.

Due Process, Fraud & Abuse: HCP opposes unfair interpretation of rules and regulations by any State or Federal agency and maintains that surveyors and auditors must recognize the distinction between fraud and provider error. Surveyors must follow regulatory and policy guidance of state agencies. HCP supports the preservation of due process and the opportunity to challenge adverse findings and determinations made during surveillance and audit processes and opposes the application of expansive methodologies to calculate recoupment amounts and penalties for administrative or technical error. HCP supports transparency in the extrapolation method and opportunity for providers to correct administrative or technical errors. HCP supports a fair and non-punitive approach during audits. HCP fully supports and participates in workgroups to

REGULATORY RELIEF

The home care industry must be able to operate within the health care continuum based on the same set of rules and requirements as all other entities providing the same or similar care to patients in a home and community-based setting. Creating a balanced set of rules for similar care allows for better health and safety, increased quality of care, and avoids market disruption.

improve such measures including the Office of the Medicaid Inspector General Work group.

HCP strongly supports education for State, Federal and local auditors, OMIG auditors, surveyors and investigators for home care and all Medicaid vendors. HCP supports public policy that affords providers ample opportunity for dialogue during and following audits, surveys and investigations. HCP also supports the opportunity for industry input on policies promulgated by agencies responsible for adopting program policies and protocols.

HCP supports continuing education opportunities among all agencies to ensure consistency in the interpretation and implementation of home care statute and regulations.

Surveillance: HCP supports thorough and consistent training of all State and Federal surveyors, auditors, and investigators on home care issues, including home health aide and personal care aide training, home care registry (HCR) requirements, Criminal History Record Check, CHHA, LHCSA minimum standard regulations and billing issues prior to beginning any review process of a home care agency's activities. Surveillance must be done in a consistent manner throughout the State and all surveyors should be educated by the proper regulatory body to follow regulations uniformly to ensure continuity in results.

HCP opposes duplicative audits throughout the State and fully supports consolidated audits and an established timeframe.

Employee Training, Verification and Screening: Requirements for the Home Care Registry (HCR), New York State Department of Health Regional Offices and the Criminal History Record Check (CHRC) program must ensure that providers can access consistent, accurate and valuable information regarding applicants for employment in a timely and efficient manner.

HCP supports a Home Care Registry which ensures that home care providers have ready access to verifiable information on the training, certification and employment of home health aides and personal care aides in New York State. As a result, HCP believes that information for both HCR and CHRC must be consistent and uniform across all policymakers and be entered accurately

within a timely manner. HCP believes that a registry must not provide a false sense of security to the public, undermine the health and safety protections that are offered through the State-regulated home care system, or compromise worker privacy and safety by making the system publicly available. These providers must be held harmless for their good faith use of government-supplied information in the employment process and cannot be burdened with the administrative costs of HCR and CHRC. The heavy administrative cost of the HCR and CHRC must be borne by public payers to prevent the imposition of additional unfunded government mandates on providers. Providers must be reimbursed for costs of complying with employee screening regulations, including all aspects of regulatory compliance.

ACCESS TO CARE

Patients and their families must be able to openly access all information related to home and community-based care, and have the ability to choose services from any provider without penalty.

Oversight - Aide Services: HCP supports the preservation of patient health and safety by ensuring

that all home and community-based providers operate within existing regulations and that the public is educated on the risks of securing unregulated home care. HCP supports efforts that stop scofflaw agencies and home health and personal care aides from operating outside of the law. All providers of home care must be required to comply with regulations that ensure the health and safety of patients and workers.

Oversight-Consumer Directed Care: HCP supports the Consumer Directed Personal Assistance Program (CDPAP), which provides chronically-ill and/or physically disabled individuals receiving home care services under the medical assistance program greater flexibility and freedom of choice in obtaining such services. HCP supports current regulations which clearly outline roles and responsibilities under the CDPAP program including supporting guidance and directives to all parties involved in the CDPAP.

HCP supports a program that runs in a manner consistent throughout the State, ensures accountability for caregivers and the use of public funds, and enrolls only appropriate persons. All parties involved must receive the necessary training and information for CDPAP. Similarly, steps must be taken to remove consumers from the program if they or their needs no longer fit this program.

Workforce Adequacy: Agencies need support to meet a growing demand for services. HCP supports regulatory relief, flexibility, program streamlining and reimbursement restructuring in order to assist providers in recruiting, training, and retaining high-quality professionals and paraprofessionals.

HCP opposes policy expanding the roles of home care workers unless roles and tasks are clearly defined. HCP supports advanced training that prevents jeopardizing patient safety. HCP supports policy that expands a worker's role with clear requirements, definitions and training and supports working with State agencies to achieve the measure.

Policy should take into consideration the needs of home care's unique and dynamic workforce that faces short and long-term workforce shortages. Policy should also take into account employer concerns arising from worker unemployment—including significant costs borne by the employer to prove cause for unemployment—and those workers denied employment by CHRC. HCP supports the continuation and enhancement of funding to assist in the recruitment and retention of home care workers.

Labor/Management Bias: HCP strongly opposes activities by labor groups that malign the home care industry or that misrepresent or misinterpret industry practice, in order to enhance labor-organizing efforts. HCP opposes efforts by local, State or Federal governments to interfere in labor/management negotiations – specifically any attempt by government to dictate how management and labor should interact in private business relationships. HCP opposes policy seeking to establish rules that hinder management rights in labor relations. Labor/management issues should be addressed in the context of the National Labor Relations Act (NLRA).

EFFICIENCIES

HCP supports initiatives and proposals that promote the use of new technologies, allow for flexibility and create more efficient and cost-effective means of providing home and community-based care.

Technology: HCP supports increased funding from both public and private payers for innovative health technology, including telehealth equipment and services, electronic health records (EHRs) and medication management devices. These tools enable home and community-based providers to care for more patients more efficiently, while also improving the quality of care. State, Federal and private funding should be available to home and community-based providers to the same extent and in the same manner that it is provided to other sectors of the health care system so providers can participate actively in an evolving health care system.

HCP also supports the establishment and growth of the Statewide Health Information Network (SHIN-NY). HCP urges State, Federal and private funders to recognize the important information home care providers can add to this effort. HCP also encourages the State to adopt technology-based solutions for the management of public programs to increase efficiencies and decrease costs.

Patient's Right of Choice: HCP supports a patient's right of choice. State and Federal health care systems must ensure that the patient has the right to determine in what part of the health care continuum they wish to participate (home and community-based setting, skilled nursing facility, short-term rehabilitation facility, etc.), while preventing the proliferation of unregulated care providers. HCP supports a patient's right to take reasonable personal risk in selecting services and the delivery setting, and insists the government provide protections for providers when patients exercise such rights.

HCP supports public policy that provides for informed and safe transitions to community-based care settings, including adequate time and financial resources and unbiased information about qualified providers so that patients and their families can work with home care providers to develop an appropriate, safe and integrated plan of care. HCP also supports frequent communication and clear information between providers, patients, health plans and DOH as the State transitions patients from FFS to managed care models.

Preservation of Health & Safety: HCP supports public policy that helps ensure patient and worker health and safety. HCP opposes mandates that compromise patient and worker safety. HCP strongly encourages DOH-supported public education on the legal protections and benefits of securing home care services from a licensed or certified agency and the dangers of purchasing services delivered by unregulated individuals and organizations.

The New York State Association of Health Care Providers, Inc. (HCP) is a statewide trade association representing home care and community-based providers through advocacy, information and education. Founded in 1974, HCP represents approximately 500 offices of Licensed Home Care Services Agencies, Certified Home Health Agencies, Long Term Home Health Care Programs, Hospices and related health organizations throughout New York State. Through a strong network of regional chapters and an active State office in Albany, HCP is a primary authority of the health care industry.

Questions about HCP's 2012 State and Federal Priorities?
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