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Wednesday, July 25, 2018

Erin Kate Calicchia  
Deputy Director, Division of Long Term Care  
Office of Health Insurance Programs  
New York State Department of Health  
One Commerce Plaza, Room 1624  
Albany, NY 12210  
[ErinKate.Calicchia@health.ny.gov](mailto:ErinKate.Calicchia@health.ny.gov)

**Re:** *Limitation on Number of Contracted LHCSAs in a Partial Capitation Plan Network Draft Guidance*

Dear Ms. Calicchia:

Thank you for providing the New York State Association of Health Care Providers, Inc. (HCP) the opportunity to comment on the Department of Health's (DOH/the Department) draft guidance on the *Limitation on Number of Contracted Licensed Home Care Services Agencies (LHCSAs) in a Partial Capitation Plan Network*.

In addition to HCP staff, we selected a small group of active provider members located across the State to also review and provide feedback on the draft guidance. Over all, the Association is pleased with the thorough, straightforward information provided by the Department in the guidance document. Below are recommendations for the Department to take into consideration in advance of issuing final guidance:

- **Establish reasonable deadlines in advance of October 1.** HCP recommends that the Department implement a date by which managed long term care (MLTCs) plans must notify LHCSAs if they are retaining or terminating contracts. Plans should alert providers regardless of their decision so that the process is streamlined and effective, and to allow LHCSAs to pursue alternatives if they are losing a contract.
- **Ensure continuity of care.** HCP believes it is important for the Department to align consumers' termination notices with what is permitted under Continuity of Service requirements. Current law allows consumers who are interested in continuing services with their current LHCSA do so for up to three months if a contract is terminated. In addition, providers are given three months' notice when a contract is terminated. The draft guidance states that consumers are to be given 15 days' notice of termination, and HCP recommends this be extended to three months as well. HCP also encourages the Department to ensure protection for consumers under the Adequate Access to Service provision by regularly reviewing any exceptions made by the MLTC, as well as the status of the cases.
- **Allow for the continuation of single case agreements.** Currently, single case agreements are not included in this Budget provision; however, plans have notified providers that they are not counting single case agreements in their census. HCP urges the Department to clarify that single case agreements will not be counted towards the plans' maximum number of contracts.
- **Continue to consider geography.** HCP encourages the Department to ensure there are enough agencies to provide continuity of care – particularly in isolated areas of the State or in niche markets. HCP will address this in upcoming *LHCSA Public Need Methodology RFI*.

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- **Specify the out-of-network provision.** On page two of the draft guidance, it states that an MLTC plan may not have less than two LHCSAs accepting new enrollees in each county within the MLTC plan's service area. If an MLTC plan is unable to provide covered services to an enrollee through its covered contracted network, the MLTC plan must make arrangements with out-of-network providers to furnish the covered services until such time as the MLTC plan can provide them within the network. HCP urges the Department to provide more specifics since there is concern that this provision is quite broad for LHCSAs. HCP recommends that the guidance specify the number of refusals of service permitted by a LHCSA before they are at risk of having a contract annulled.

Again, thank you for sharing this draft guidance. Please contact Alyssa Lovelace with questions regarding the Association's comments at [lovelace@nyshcp.org](mailto:lovelace@nyshcp.org) or 518.463.1118, ext. 818.

Sincerely,



Claudia Hammar  
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