



The Arc[®]

New York

*A family-based organization
for people with intellectual
and developmental disabilities*

Comments on The SIPs-PL Draft Document

June 25, 2020

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Dear Commissioner Kastner,

Thank you for the opportunity to provide comments on New York's draft Specialized I/DD Plans-Provider Lead (SIPs-PL) document, which is the basis for the transition to managed care for the Office for People with Developmental Disabilities (OPWDD), our providers, and the people we serve.

The Arc New York is a family-led organization that advocates and provides supports and services to people with intellectual, developmental, and other disabilities, emphasizing choice and community engagement. With 40 Chapters representing 61 counties across New York state, including all of New York City, our organization supports more than 60,000 individuals and families and employs more than 30,000 people statewide.

We are fortunate to have more than a seventy-year history as advocates and service providers. The parents who founded our organization were among the earliest advocates for quality services and opportunities for people with intellectual and developmental disabilities (I/DD). In the past 70 years, we have witnessed – and at many times driven – massive transformation and progress in our field. Over those seven decades, our state has developed a robust system of individualized, integrated services and supports that provides quality care and the opportunity for a rich, full life for 140,000 New Yorkers with I/DD. We are open to change and we embrace innovation. However, it is our legal and ethical obligation to ensure essential supports for the people and families we serve. Any transformation we undertake must sustain and strengthen that system.

There are abundant examples of the positive impact a fully integrated managed care program could have on the lives of the people we support in our programs. For instance, the confines of the current reimbursement system do not allow providers to innovate in the way they deliver their services. Without reform, the ability to reinvest savings into provider programs to improve quality, serve new members, and enhance the workforce simply does not exist. An effectively implemented managed care system could give providers the flexibility to explore new services, payment models, and employ new technologies.

We recognize the state's intention to move the field to managed care system. The Arc New York supports this vision and will continue to partner with the state to forward that transformation effectively. For that partnership and the transformation to managed care to be successful, two commitments from the state are absolutely essential. One, Managed Care Organizations must be provider-led and person-centered. Two, the funding to support the

establishment of a managed care infrastructure and the ongoing administration of a managed care system must not come from the existing operating budgets of I/DD providers.

A strong provider network is essential to a successful transition to managed care. MCOs on their own do not support individuals, the providers do. The SIPs-PL proposal gives providers the chance to have a say in how MCOs can help lead a strong, person-centered, efficient and responsive provider network. A strong provider network requires an equally strong, upfront, and ongoing investment in the implementation and operation of a managed care infrastructure. The state must identify distinct and separate sources of funds to cover these administrative costs. This is critical to long-term sustainability.

We cannot stress enough what Specialized I/DD Plans-Provider Lead managed care really means. It means putting the resources into the hands of providers and practitioners who are experts in their fields, it means acknowledging that people with I/DD have specific needs that require a tailored plan without any reservation, and it means that there will be a long-term investment to ensure the best care available. Put plainly, we are not willing to walk back on decades of progress that were fought for with fervency and passion. Not today, not ever.

For managed care to be successful, this transition must be made in partnership with providers and families. As stated in the draft document, we support, “improvement in care management processes using a home health model,” and “creation of a policy framework for the implementation of provider-led managed care.” This transformed system must continue to deliver the same programs and services without diminishment or compromise. To gain our support in this transition, the state must demonstrate a commitment to one of The Arc New York’s core principals of providing equal and undiminished supports and care to all individuals with I/DD.

When we advocate for appropriate funding for our field, our programs, and the people we serve, we are regularly informed that additional funding is simply unavailable, and we need to identify efficiencies within our own system. The administrative costs associated with managed care are reported to be approximately 10 percent of the total revenues under the control of the managed care organization. Revenues associated with voluntary-operated programs in the OPWDD system total approximately \$6 billion. Therefore, it is conceivable that managed care administration will require as much as \$600 million per year in new funding.

Diverting \$600 million of current program funding in order to pay for Managed Care Organizations (MCO) administration would cause an unprecedented financial crisis for our field and result in program closures and service interruption for the people we serve. Funding managed care implementation and administration out of OPWDD’s current operating budget is simply not an option. In a challenging fiscal landscape – with, as we are told, no additional funding available – where will this money come from?

The Arc New York has joined forces with more than 300 providers across the state as a member of New York Disability Advocates (NYDA) to speak with a unified voice on the issues most

essential to our field and the people we serve. Our shared message on managed care is clear: funding for the implementation and operation of managed care *cannot* come from the operating budgets of providers delivering supports and services to people with I/DD, or from the existing resources of the OPWDD system. Any attempt to do so will exacerbate the financial crisis faced by all voluntary providers already facing hardship. After a decade of inadequate investment in the field, rate reductions, and looming budget cuts, our system of care is destabilized and unsustainable. Lack of a fully funded managed care will rapidly and irreparably damage the service system before any positive outcomes can be derived. We are a system on the brink of collapse, instead of a system on the cusp of constructive transformation.

This system simply does not have the capacity to manage the numbers of crisis consolidations that would result from an abrupt or improperly financed transition to managed care. We believe the State has intentionally and systemically underfunded the system to drive consolidation. We will continue to support efficiency and consolidation in order to sustain and improve quality services for the individuals we support, because that is our mission. There have been many agency consolidations in our field, and specifically within The Arc New York. But, if the goal is increased efficiency, not survival, then consolidations should be planned, proactive, initiated, and approved prior to a provider devolving into a crisis where services are jeopardized. Thoughtful and effective consolidations require planning, funding, support from OPWDD regional offices and Central Office, and approximately six months to effectuate. . Crisis consolidations are not the foundation for a stable and sustainable field.

We will continue to identify efficiencies, including consolidation, collaboration, shared services and more. We will continue to deliver quality programs and services at significantly less cost than state-operated providers. However, we cannot fulfill our obligation to the people we serve without reasonable investment from the state, and we cannot attempt to transform the field without first stabilizing it.

Managed care and ultimately this SIPs-PL draft document is based on recommendations of the first Medicaid Redesign Team (MRT), but we are simultaneously moving backward with individualized options under the weight of MRT II provisions. As stated in the SIPs-PL draft document, "OPWDD is committed to helping individuals with I/DD live richer lives and creating stronger, person-centered services. OPWDD's goal is to meet the needs of individuals and families in the most comprehensive way possible and promote the achievement of quality outcomes and improvement across the service delivery system." While these are values we share and cherish, we are seeing them eroded before our eyes. As part of the 2020-2021 New York State Budget (Chapter Law 56, Part MM Sections 2-a and 3), NY SSL Sections 365-a and 365-f were amended to restrict eligibility for Medicaid personal care and consumer-directed personal assistance program (CDPAP) services in New York state. The system of individualized care we have worked so hard to build could vanish before our eyes unless we are diligent, which is why we are also supporting A10486 (Gottfried)/ S08403 (Rivera) to correct this devastating restriction to CDPAP. We highlight this to juxtapose the values stated in the SIPs-PL

document with the reality we see in practice. This is the caution when transitioning to new models of care. If this is how we treat person-centered services currently, how will we ever live up to the ideals of what we want for provider led plans?

We do not decry change, far from it, but we would never tolerate a system of unequal care and outcomes. There is a concern voiced among our chapters and family members of bifurcated healthcare delivery services between voluntary and state-run providers, should state facilities not participate in managed care. If the goal is to provide optimal services at lower costs, would it not benefit the state to implement managed care across the board and offer the same optimal services? The notion that we would treat the needs of people with I/DD differently depending on the provider that serves them would go against the grain of the progress we have made.

Voluntary-operated certified residential programs (ICFs and IRAs) represent approximately half of the \$6 billion in funding mentioned above. Therefore, it is reasonable to consider whether or not there is significant benefit derived from subjecting existing long-term residential care placements to a managed care system. If they are to be included, phasing in their transition may help mitigate the cash impact of the transition on the state budget.

We are also concerned about the financial impact on the state budget in transitioning from the current lagged payment of the fee-for-services system to a managed care per-member-per-month system – a prospective payment liability to the state of New York. Currently, eMedNY Medicaid payments are made to providers approximately eight weeks following service delivery. As part of the transition to managed care, the state would be required to advance funding to MCOs, while still making eMedNY payments. What is the cash impact to the state of making dual payments during the transition? Will closing the current deficit negatively impact providers? This transitional payment structure cannot come at a cost to the provider network.

I/DD service providers in our state have a long history of trust with individuals receiving services and their families. The SIPs-PL model was developed precisely because of this history, and remains the best way of ensuring high-quality services and payment methodologies, which support the outcomes so important to our loved ones. Provider-led plans will be sensitive to the unique needs of the people we serve, cognizant of the difference between medical and habilitative services, and aware of the history of marginalization of people with I/DD, and the necessity for integration and opportunity. Maintaining the state's commitment to provider-led plans and a strong provider network is absolutely essential.

However, this too requires investment. As stated, SIPs-PL need financial support for start-up and operating costs in order to be sustainable in their transition. Small member pools and an extended ramp-up to full enrollment have created exceedingly high costs per individual in the early phase, given the fixed cost of infrastructure and overhead and the relatively low numbers of enrollees. We must balance the pace of managed care implementation to allow for

thoughtful consideration of questions and resolution of concerns, while supporting the financial stability of the SIPs-PLs through the transition. If managed care is to be successful for our field, provider-led MCOs must also be successful.

We are hopeful the Partners Health Plan (PHP) model, which draws on a Fully Integrated Duals Advantage (FIDA) approach of Medicaid and Medicare, has the potential to elicit savings on the medical side that could be harnessed to promote better outcomes and more efficient models of habilitative care. Has there been any preliminary evaluation of the success of this unique care management model and the potential for savings and quality improvement? If indeed there are efficiencies and flexibility that can be derived through care management, there must also be a commitment to reinvest those savings into the system. The state should continue to support the FIDA demonstration project and the transition to mandatory enrollment, while evaluating the model to learn as we expand to a wider population through SIPs-PL managed care.

As we continue to weather the COVID-19 public health crisis with limited resources and few options to cover additional costs, our ingenuity has demonstrated that regulatory flexibility is essential for the provider network in meeting the needs of the I/DD community. For example, telehealth services have been crucial and advantageous during the COVID-19 crisis, saving on costs and resulting in immediate access to a wider range of healthcare professionals through various tools. For families, managed care offers a single point of access, rapid support, and incentives for robust, solution-focused care management and crisis response. With flexibility, providers can accomplish this goal in both times of calm and hardship, while potentially saving the system money. A strong managed care program needs empowered providers.

Will access to supports and services remain or be bolstered to ensure people live full and healthy lives? Will there be adequate funding to support our mission? Will there be a dedicated Ombudsman as a resource for reporting any maleficence? Will there be no loss of services? Will there be flexibility in service delivery? Will managed care administrative costs be separated from the current service system? These questions must be resolved in partnership with providers and families. We need clarity in order to responsibly and effectively prepare for transformation.

We are prepared to partner with New York in answering the questions that remain around the transition to managed care and developing a robust and sustainable system that enhances positive outcomes and quality of life for the people we serve. For such a transformation to be successful, true partnership with providers and adequate fieldwide investment is absolutely essential.

New York state has historically been a model for the progressive rights of the I/DD community ever since we defeated the ills of Willowbrook. The Arc New York was at the forefront of this movement, leading the charge as a catalyst for action and change nationwide. To that end, we remain dedicated to progressive change. New York can choose to be that progressive force, or we can eschew these principles and limit access and care like so many other states have done.

Especially in the face of the COVID-19 pandemic, it is incumbent on us to carry the torch, and show the nation and the world that we are serious about the rights of people regardless of their race, creed, sex, gender, wealth, ability, or disability.

The Arc New York has been a leader at the forefront of historic change and will continue to do so. While many questions remain, we will always work and strive to meet and exceed the needs of the people we represent. It's our mission, our purpose, our history.