NC Managed Care:
Issue areas to watch and lessons learned from other states

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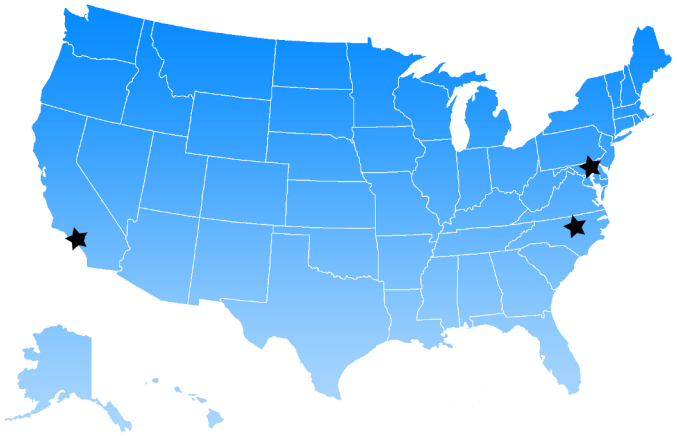
NATIONAL HEALTH LAW PROGRAM

About NHeLP

- National non-profit law firm committed to improving health care access and quality for underserved individuals and families
- State & Local Partners:
  - Disability rights advocates – 50 states + DC
  - Poverty & legal aid advocates – 50 states + DC
- National Partners, *e.g.*
  - Network for Public Health Law
  - Center for Children & Families
- Offices: CA, DC, NC
- www.healthlaw.org



Overview

- Quick update
- Medicaid Transformation in NC
- Transition to Managed Care: Examples from Other States & Lessons Learned
- NC Managed Care: Our experience thus far
- Q&A

Updates

- Go live date of July 1, 2020
  - Statewide rather than regional
  - Includes tribal option launch
- Open enrollment to begin March 15, 2020
  - Auto-enrollment will occur May 14
- Tailored plans one year later
  - RFP expected Nov. 2020

- Unknowns: centralized call center staff, deadline for provider contracting, ombudsman programs

Medicaid Transformation in NC

NC Medicaid Transformation

- Two types of PHPs:
  - Statewide commercial plans (CPs)
  - Regional Provider Led Entities (PLEs)
  - Tailored Plans (1 year delay)
- Other states:
  - Comprehensive managed care
  - Carve outs/carve ins
  - PCCM
  - Capitated managed care is dominant delivery system
- States that with high percentage managed care:
  - 100-95%: TN, HI, NE, KS, VA, NH, DE, NJ;
  - 90% or more IA, AZ, TX, OH, WA,*, KY, OR*, LA, FL, RI

NC Medicaid Transformation: Who Is In/Out?

- In:
  - Mandatory enrollment of all Medicaid participants, unless they fit into an excluded category (~90%)
- Out
  - Medically needy
  - Presumptive eligibility
  - Emergency Medicaid
  - HIPP program
  - Family planning
  - EBCI
  - Individuals in prison
  - MSP
  - CAP/C
  - CAP/DA
  - PACE
  - Recipients of services under LME/MCOs
  - Nursing facility residents (90 days or more)*
  - Dual eligible*
  - Children in foster care*

Differences for NC

- Regionalization
- Mix of plan types
- Intersection of plans and tailored plans and how do people transition
- Due process standards

Managed Care Differences

- Appeal process
  - Mandatory plan level appeal
- Closed networks
- Single state agency, but:
  - Enrollment broker
  - Different plans/policies
- Ombudsman program
- Social determinants

Remedies for Non-Compliance

- DHHS has a range of remedies it can impose on PHPs (or other vendors) for noncompliance depending on the severity and frequency of the violations
- Noncompliance is assigned to 4 risk levels, with the highest level associated with actions (or inactions) that "seriously jeopardize the health, safety, and welfare of member(s), reduces member(s) access to care, and/or jeopardize the integrity of Medicaid Managed Care."

Remedies include:

- Remedial actions (such as immediate remediation and corrective action plan)
- Intermediate sanctions (such as civil monetary penalties, appointment of a temporary manager, notification of members rights to terminate their enrollment, suspension of new enrollment, recoupment of payments)
- Liquidated damages (DHHS has list of monetary damages that correspond with different types of violations)

Transition to Managed Care:

Examples from Other States & Lessons Learned

Types of Issues

- Confusion
- Lack of access to providers/services
- Enrollment/disenrollment
- Choice of provider
- Denials
- DUE PROCESS
  - Notices
  - Appeals
    - Ex) New York

What is Due Process?

- Medicaid enrollees have a property interest in Medicaid benefits and are entitled to receive medically necessary services through the state's Medicaid program. Therefore, enrollees' benefits are protected by the Due Process Clause of the U.S. Constitution.

- "Due process" refers to constitutional and statutory requirements for the State to provide Medicaid enrollees with **written notice and an impartial hearing** before it (or its contractors) denies, reduces, suspends, or terminates Medicaid-covered services.
    - Adequate notice includes: the specific regulations supporting the action, an explanation of the reasons for the proposed action, and information on how to appeal.

Due Process in NC Medicaid

It depends on the service. There are different steps in the appeals process for each type of service based on the funding source.

Medicaid State Plan Service, Non-Innovations Waiver (N.C.G.S. § 108A-70.9A(c))

- E.g., Private Duty Nursing, PT, OT, ST, DME, PCS, CAP/C, CAP/DA
- Mediation→OAH Hearing
- Need to show medical necessity

LME/MCO Medicaid Service, Innovations Waiver, B3 Services (N.C.G.S. § 108D)

- E.g., ACTT, PRTF, Community Living & Supports, Day Supports
- Internal LME/MCO Reconsideration→Mediation→OAH Hearing
- Need to show medical necessity
- Grievances v. appeals

Due Process: FFS v. Managed Care

Managed Care: Adverse Benefit Determination

1) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit.
2) The reduction, suspension, or termination of a previously authorized service.
3) The denial, in whole or in part, of payment for a service.
4) The failure to provide services in a timely manner, as defined by the State.
5) The failure of an MCO, PIHP, or PAHP to act within the timeframes provided in § 438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals.
6) For a resident of a rural area with only one MCO, the denial of an enrollee's request to exercise his or her right, under § 438.52(b)(2)(ii), to obtain services outside the network.
7) The denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities.

42 C.F.R. § 438.400(b)

Other State Experiences

- New Jersey
- Iowa
- Kansas
- NY (MLTSS)
- NC (Behavioral Health)

Effective Advocacy

- Communication & Collaboration
- Shared resources/technical assistance issues
- Identifying and reporting on systemic issues
- Single state agency!

Questions?

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