

2024 BOARD OF TRUSTEES

BOARD OFFICERS

Thomas Carman • Watertown
Chair

Kenneth Gibbs • Brooklyn
Chair-Elect

Patrick O'Shaughnessy, DO • Rockville Centre
Secretary

Steven Kelley • Ellenville
Treasurer

Jose Acevedo, MD • Geneva
Immediate Past Chair

BOARD MEMBERS

Emeritus Trustees

Steven Corwin, MD • Manhattan

Michael Dowling • New Hyde Park

Bruce Flanz • Queens

Steven I. Goldstein • Rochester

Herbert Pardes, MD • Manhattan

Thomas Quatroche, Jr., PhD • Buffalo

Michael Spicer • Yonkers

Class of 2024

Michael Backus • Oswego

Scott Berlucchi • Auburn

Susan Browning • Poughkeepsie

John Carrigg • Binghamton

Robert Corona, DO • Syracuse

Richard Duvall • Carthage

Evan Flatow, MD • Manhattan

Carol Gomes • Stony Brook

Sharon Hanson • Buffalo

Seth Kronenberg, MD • Syracuse

Cynthia McCollum • Manhattan

Jonathan Schiller • Middletown

Class of 2025

Kevin Beiner • New Hyde Park

Brian Donley, MD • Manhattan

Mark Geller, MD • Nyack

Muhammed Javed, MD • Olean

Jonathan Lawrence • Elmira

Daniel Messina, PhD • Staten Island

David Perlestein, MD • Bronx

Paul Scimeca • Glens Falls

Robert Spolizino, Esq. • New Hyde Park

Charles J. Urlaub • Lewiston

Class of 2026

Gerald Cayer • Lowville

John D'Angelo, MD • New Hyde Park

Richard Davis, PhD • Rochester

Sean Fadale • Gloversville

Susan Fox • White Plains

Steven Hanks, MD • Albany

Cameron Hernandez, MD • Queens

Susan Holliday • Rochester

Mary Leahy, MD • Suffern

Svetlana Lipyanskaya • Brooklyn

Dennis McKenna, MD • Albany

Michael Stapleton, Jr. • Canandaigua

Kimberly Townsend • Syracuse

Stephen Turkovich, MD • Buffalo

Allied Association Chairs

Daniel Ireland • Batavia

Michelle LeBeau • Plattsburgh

Philip Ozuah, MD, PhD • Bronx

Association President

Marie B. Grause, RN, JD • Rensselaer

January 18, 2024

Stephani Schendlinger, Esq.
New York State Department of Financial Services
One Commerce Plaza
Albany, NY 12257

Re: 11 NY CRR 38, Insurance Regulation 230

Dear Ms. Schendlinger:

On behalf of the Healthcare Association of New York State's member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, we appreciate the opportunity to provide comments on the pre-proposed network adequacy and access regulations.

During the COVID-19 pandemic, many people experienced high levels of distress and experienced mental health symptoms of what is now known as long COVID.¹ A 2023 New York Health Foundation analysis found that rates of depression and anxiety among New Yorkers remain highly escalated, disproportionately impacting certain populations.²

Lack of insurance coverage and high cost are well understood as major barriers to care. Twenty-three percent of respondents to a recent Kaiser Family Health Foundation survey indicated they skipped or delayed therapy due to cost.³

Without timely care, people living with behavioral health conditions often needlessly enter into crisis and require hospitalization. By restricting benefits for mental health and substance use disorder services, health plans are denying lifesaving care, imposing incalculable harm on patients and their loved ones, and actively exacerbating health inequities.

HANYYS applauds DFS for its efforts to enhance and enforce behavioral health parity requirements. We are encouraged by your expanded focus on reducing and eliminating barriers to care. Network adequacy is a major, longstanding

¹ Substance Abuse and Mental Health Services Administration (June 2023). Advisory: Identification and Management of Mental Health Symptoms and Conditions Associated with Long COVID.

<https://store.samhsa.gov/product/advisory-identification-and-management-mental-health-symptoms-and-conditions-associated>

² New York Health Foundation (June 2023). Treading water: The ongoing impact of the COVID-19 pandemic on New Yorker's mental health. <https://nyhealthfoundation.org/resource/treading-water-the-ongoing-impact-of-the-covid-19-pandemic-on-new-yorkers-mental-health>

³ Kaiser Family Foundation (2022). How does use of mental health care vary by demographics and health insurance coverage? <https://www.kff.org/mental-health/issue-brief/how-does-use-of-mental-health-care-vary-by-demographics-and-health-insurance-coverage>

obstacle for individuals living with behavioral health needs. While limited provider networks can result in barriers to care in any field of medicine, they are particularly acute in behavioral health, impeding patient access to critical services.

HANYS strongly supports the proposed requirements for payers to:

- cover out-of-network services, regardless of whether such benefits are included in an insured's coverage, when patients cannot receive services within designated timeframes;
- charge only the in-network cost-sharing amount for OON services when the designated timeframes cannot be met with in-network providers, and apply such payments to the insured's out-of-pocket maximum for participating providers;
- establish a protocol for continually monitoring and assessing network capacity;
- certify compliance with network adequacy requirements annually; and
- establish an adequate network of behavioral health services.

HANYS thanks DFS for this step in addressing the behavioral health crisis. We look forward to working with the department as this regulation is implemented.

If you have questions, contact Anna Sapak, manager, insurance and managed care, at 518.431.7871 or asapak@hanys.org, or Sarah DuVall, director, behavioral health, at 518.431.7769 or sduvall@hanys.org.

Sincerely,



Victoria Aufiero, Esq.
Vice President, Insurance, Managed Care and Behavioral Health