

Addiction Treatment Providers Association of New York

**Joint Legislative Budget Hearing
Mental Hygiene
February 13, 2024**

**Budget Priorities 2024-
Testimony submitted on behalf of ATPA by Avraham Schick, President**

I am the President of the Addiction Treatment Providers Association of New York (ATPA), an association representing privately-owned NYS OASAS certified facilities and I am grateful for the opportunity to offer testimony on our members' behalf.

For more than 40 years, our members have been providing quality treatment for substance use disorders (SUD) across New York State. **ATPA members have been, and continue to be, at the forefront of providing, promoting, assisting, and enhancing innovative treatment for those with substance use disorders.** In 2022, ATPA members collectively treated more than 50,000 patients statewide including inpatient providers (90% of patients who were on Medicaid) and outpatient providers (60% of patients who were on Medicaid).

Currently, New York State is in an addiction state of disaster and a response from the State is needed that treats the reality as such. The NYS Overdose Death Dashboard (<https://oasas.ny.gov/overdose-death-dashboard>) shows overdose deaths increased by **73%** from 2018-2022. During the same time period overdose deaths connected to illicit fentanyl increased by **127%**. ATPA has called on Governor Hochul to declare an **addiction state of disaster** and take the actions outlined below, however that request has not yet been acted on. Without swift and bold action, New York will continue to see deaths from addiction (opioids and alcohol included) continue to rise.

Given the rise of overdose and health-related deaths from addiction in New York State, and the public health emergency we are in, ATPA strongly advocates for increased access to quality care and safety. The proposed solutions would not just affect the member-providers of ATPA, but in fact would benefit the entire sector and will save lives. New York must support the following solutions:

1. Universal Access to Opioid Settlement Funds

While funds continue to be deposited into the Opioid Settlement Account, there are over 50,000 New Yorkers suffering with addiction who will receive no benefit from those funds simply because they received treatment in a privately owned facility. These funds are intended for **ALL** New Yorkers suffering with a substance use disorders and shouldn't depend on where they decided to receive treatment. Besides, when individuals seek treatment, they do not make

decisions based on the tax status of the provider. If we are to address the devastating impact of the opioid crisis – where a New Yorker is dying every 90 minutes from an overdose – New York must ensure that the distribution of opioid settlement dollars is equitable. ATPA has done the legal research and has demonstrated that it is clear- the procurement process funded with settlement dollars should be made accessible to all providers.

Furthermore, the procurement rules that govern the disbursement of these funds must be streamlined so that these funds are more swiftly distributed.

2. Increase Medicaid Rates

- a. Medicaid rates for SUD services are wholly inadequate and are preventing OASAS providers from operating at full capacity and preventing increased access. We request that some portion of the \$330 million in unspent Opioid Settlement funds be transferred to the Department of Health (DOH) so that they can increase the reimbursement rates for all SUD services. This action will expand access to treatment.

Medicaid Managed Care (MMC) plans are failing to comply with the contracts they have signed in that they are not spending to agreed-upon levels for SUD services. In fact, for several years the state has been recouping unspent funds from the plans. A recent report issued by DOH (https://www.health.ny.gov/health_care/managed_care/reports/docs/final_report_mco_services.pdf) highlights that MMC plans are not spending all their allotted premiums on BH services. A review of two MCO funding mechanisms for BH—the Behavioral Health Expenditure Target (BHET) and Medical Loss Ratio (MLR) recoveries—shows that MMC plans remitted over \$220 million in allocated premiums back to the state from 2017 to 2020. This includes \$91 million in BHET remittances from 2018 to 2020 and \$130 million in MLR remittances from 2017 to 2019. We request that the state also use these funds to pay for Medicaid rate increases and not wait for end of year remittances and after more services could have been provided and more lives saved.

Additionally, MMC plans are regularly: denying individuals access to treatment; overriding the decisions of provider’s medical experts; and refusing to pay providers for treatment they approved or asking for their money back years later. Given this situation, ATPA supports the Executive Budget request to procure and reduce the number of plans that will manage SUD services so long as the result is that no more than 2-3 MMC plans manage these services statewide, and any savings produced by this action be reinvested in SUD service reimbursement rates.

3. Reform Insurance Laws

- a. Rein in **arbitrary, unfair and no-accountability claw backs** that are hampering our ability to provide our patients with life-saving treatments. Currently, insurance companies retroactively take back payments from providers for patients that have already received services that were medically necessary and approved by the insurer, sometimes years later. This clawback of these payments leaves providers in a financially unstable position. ATPA believes that when a provider follows the insurer's preauthorization approval process and other contractual requirements for a patient to receive care – the insurer should have no ability to take back such payments absent fraud.
- b. **Make cost sharing affordable for patients.** Oftentimes, patients in outpatient treatment programs are receiving treatment at least three times per week. Each time, that individual is asked to pay a set copay/coinsurance/deductible. The impact of the per visit cost sharing is leading individuals to stop coming to treatment, which is incredibly dangerous. ATPA believes that a new approach is necessary where insured individuals receiving SUD services and their provider are able to enter into an arrangement where they are able to pay copays/cost sharing/deductibles through an “episode of care cost sharing agreement” similar to what occurs with maternity care, as outlined in S.7288-A We request that this bill be included in the final budget to allow providers to increase access to treatment.

4. Opioid Stewardship Fund

This fund should be made permanent, as the Governor has proposed, and we strongly request that language is added to the stewardship law that requires these funds to **supplement and not supplant** current spending.

5. Reform OASAS Staffing Regulations

- a. There is a workforce crisis across many sectors, however the shortage of employees in the substance use field is frightening. There are regulatory reforms that can be implemented by OASAS that will recognize the state of disaster that we are in and alleviate needless administrative and workforce restrictions so we can meet the challenge. We request that the Legislature require OASAS to make staffing adjustments to their regulations. Specific suggestions include:
 - i. Allow for LMHCs, CASACs, and LMSWs to sign off on patient admissions.
 - ii. Allow AMAP to administer meds (akin to the OPWDD industry who have an even more vulnerable and impaired population).
 - iii. Allow Licensed Practical Nurses (LPN's) to be listed as Qualified Healthcare Providers (QHP's). Same for CRPAs and CASAC-Ts

- iv. Allow for NPs and PAs to sign off on Treatment Plans. Should not need an MD counter signature.
- v. Allow for patient admissions to be done virtually.

The Addiction Treatment Providers Association strongly urges every lawmaker to support the above proposals. Without swift and bold action, New York State will continue to lose loved ones to this horrendous epidemic.

For More Information please contact Avraham Schick, President, Addiction Treatment Providers Association, at 917 743 6302 or at aschick@silverlakebehavioralhealth.com