



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**LISA J. PINO, M.A., J.D.**  
Executive Deputy Commissioner

September 2, 2020

Ms. Judith Cash  
Director  
State Demonstrations Group  
Center for Medicare and Medicaid Services  
7500 Security Blvd, Mail Stop S2-25-26  
Baltimore, MD 21244-1850

Dear Ms. Cash:

In 2015, as part of the 1115 Demonstration, NYS created Health and Recovery Plans (HARPs). HARPs are comprehensive Medicaid special needs plans serving people age 21 and older with serious mental illness and or substance use disorders. They offer an enhanced benefit package, including a suite of rehabilitation and recovery services called Behavioral Health Home and Community Based Services (BH HCBS) and are required to employ specialized staff with behavioral health expertise to ensure integration of care. BH HCBS are also available to people enrolled in HIV Special Needs Plans (HIV SNPs) who meet HARP eligibility criteria.

Much has been learned in the last five years in terms of the HARP successes and ongoing challenges. Based on a thoughtful review of access challenges with program participants and providers and building on consultation with other states who have addressed similar access challenges, the Department is now seeking to further improve access to BH HCBS for people with serious mental illness and/or substance use disorders by removing administrative requirements associated with services authorized pursuant to Section 1915(c) of the Social Security Act, which have resulted in lower than expected service utilization. The Department has found HARP enrollees require rapid engagement and immediate connection to a service in order to successfully engage and establish trusting relationships with providers. To increase access to these important and cost-effective services, New York will transition BH HCBS to a new service array called Behavioral Health Adult Rehabilitation Services (BH ARS).

Behavioral Health Adult Rehabilitation Services will be able to be accessed by any HARP enrollee, or HARP-eligible HIV SNP enrollee, for whom such remedial services are recommended by a licensed practitioner of the healing arts who also meets medical necessity criteria developed by the state. Supports for employment and educational goals will be incorporated within Psychosocial Rehabilitation. The State intends to implement this Amendment effective three months after approval.

Costs for these services are already included in managed care premiums and as such no impact to spending or budget neutrality is expected.

The department sought public input regarding the proposed transition from the Adult Behavioral Health Home and Community Based Services (BH HCBS) to the new Behavioral Health Adult Rehabilitation Services (BH ARS) array.

Letters were sent to Tribal leaders and colleagues in Indian Health Centers on June 9, 2020. No comments were received in response. In addition to several webinars for providers and recipients, public notice was posted in the NYS Register on June 17, 2020. In response to stakeholder feedback the department extended the initial public comment period by one week, with submissions due July 24, 2020. Twenty-six comments were received from a variety of providers, provider associations, local governments, and consumer advocacy groups. There was no opposition to the transition from BH HCBS to BH ARS and the majority of comments (62%) expressed support because the changes are expected to enhance access to care

We are available to discuss this amendment as needed. Please contact Peggy Elmer at [peggy.elmer@health.ny.gov](mailto:peggy.elmer@health.ny.gov). We look forward to working with you on this amendment.

Sincerely,

A black rectangular redaction box covering the signature of Donna Frescatore.

Donna Frescatore  
Medicaid Director  
Office of Health Insurance Programs

#### Enclosures

cc: Adam Goldman, CMS  
Lisa Marunycz, CMS  
Jonathan Morancy, CMS  
Nicole McKnight, CMS  
Francis McCullough, CMS  
Maria Tabakov, CMS  
Greg Allen, NYSDOH  
April Hamilton, NYSDOH  
Peggy Elmer, NYSDOH  
Gary Weiskopf, OMH  
Robert Myers, OMH  
Nicole Haggerty, OMH  
Phil Alotta, NYSDOH

# New York State Medicaid Redesign Team (MRT) Waiver

1115 Research and Demonstration Waiver  
#11-W-00114/2

Transition of Behavioral Health Home and Community Based Services to Behavioral Health Adult  
Rehabilitation Services

Amendment Request

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## Section I. Program Description and Objectives

### Goals and Objectives

In July 1997, New York State received approval from the Centers for Medicare and Medicaid Services (“CMS”) for its “Partnership Plan” Medicaid Section 1115 Demonstration (the “1115 Demonstration”). In implementing the 1115 Demonstration, the State sought to achieve the following goals:

- Improve access to health care for the Medicaid population;
- Improve the quality of health services delivered; and
- Expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

In furtherance of these goals, the primary objective of the 1115 Demonstration was to enroll most of the State’s Medicaid population into managed care, and to use a managed care delivery system to deliver benefits to Medicaid recipients, create efficiencies in the Medicaid program, and enable the extension of coverage to certain individuals who would otherwise be without health insurance.

In 2015, as part of the 1115 Demonstration, NYS created Health and Recovery Plans (HARPs). HARPS are comprehensive Medicaid special needs plans serving people age 21 and older with serious mental illness and or substance use disorders. They offer an enhanced benefit package, including a suite of rehabilitation and recovery services called Behavioral Health Home and Community Based Services (BH HCBS) and are required to employ specialized staff with behavioral health expertise to ensure integration of care. BH HCBS are also available to people enrolled in HIV Special Needs Plans (HIV SNPs) who meet HARP eligibility criteria.

Much has been learned in the last five years in terms of the HARP successes and ongoing challenges. Based on a thoughtful review of access challenges with program participants and providers and building on consultation with other states who have addressed similar access challenges, the Department is now seeking to further improve access to BH HCBS for people with serious mental illness and/or substance use disorders by removing administrative requirements associated with services authorized pursuant to Section 1915(c) of the Social Security Act, which have resulted in lower than expected service utilization. The Department has found HARP enrollees require rapid engagement and immediate connection to a service in order to successfully engage and establish trusting relationships with providers. To increase access to these important and cost-effective services, New York will transition BH HCBS to a new service array called Behavioral Health Adult Rehabilitation Services (BH ARS).

### Proposed Implementation

The State intends to implement this Amendment effective three months after approval.

## Section II. Proposed Amendment

New York State will transition BH HCBS to “Behavioral Health Adult Rehabilitation Services” (BH ARS). BH ARS will be able to be accessed by any HARP enrollee, or HARP-eligible HIV SNP enrollee, for whom such specialized services are recommended by a licensed practitioner of the healing arts who also meets medical necessity criteria developed by the state. Supports for employment and educational goals will be incorporated within Psychosocial Rehabilitation.

## Section III. Waiver Expenditure Authority

New York operates Targeted Behavioral Health (BH) HCBS Services through the existing Expenditure Authority #5 in the STCs effective December 7, 2016 and ending March 31, 2021.

***Targeted Behavioral Health (BH) HCBS Services.*** Expenditures for the provision of BH HCBS services under Health and Recovery Plans (HARP) and HIV Special Needs Plans (SNP) that are not otherwise available under the approved state plan [Demonstration Services 8].

New York seeks to change the terms of this authority to reflect the transition from “Targeted Behavioral Health (BH) HCBS Services” to “Targeted Behavioral Health Adult Rehabilitation Services”.

## Section IV. Beneficiary Impact

This proposal will have positive beneficiary impact and will improve service access. Approximately 140,000 people are enrolled in a HARP. Between five and six thousand HARP members annually access adult BH HCBS. Despite numerous attempts to improve access to adult BH HCBS, fewer than 4% of HARP members have received any of these services due to unnecessary procedural challenges inherent in the current services authorization. These proposed changes streamline access to care by eliminating the need for an independent assessment of BH HCBS eligibility, remove settings restrictions on service access, and make Adult BH ARS available to all HARP members and HARP-eligible HIV SNP members based on a recommendation from a licensed practitioner of the healing arts. Of the existing BH HCBS array, only two underutilized services are being eliminated. The following table shows how services will transition from BH HCBS to BH ARS.

Existing BH HCBS	Services Post Transition to BH ARS
Psychosocial Rehabilitation	Psychosocial Rehabilitation (including PSR with special focus on vocational and educational goals)
Community Psychiatric Support and Treatment (PST)	Community Psychiatric Support and Treatment (PST)
Empowerment Services – Peer Supports	Empowerment Services – Peer Supports
Family Support and Training	Family Support and Training
Short Term Crisis Respite	Crisis Intervention- Already available to all Medicaid Managed Care recipients
Intensive Crisis Respite	Crisis Intervention- Already available to all Medicaid Managed Care recipients
Education Support Services Pre-Vocational Services Transitional Employment Intensive Supported Employment Ongoing Supported Employment	Continued but Consolidated under PSR
Habilitation	Removed - Beneficiary goals and needs more appropriately addressed via PSR
Non-Medical Transportation	Removed very low utilization.

## Section V. Budget Neutrality

Funding for Adult BH HCBS is already included in the HARP premium (monthly HARP premiums range from \$1,233 to \$2,656 depending on region). Impacted HARP services are only available through managed care. This proposal does not grant any additional benefits to the HARP population. It primarily changes the way some benefits are accessed. Given these factors, the State does not anticipate any impact on the annual average demonstration cost of \$40 billion and, therefore, the State does not anticipate any impact on Budget Neutrality of the demonstration resulting from the adoption of this amendment.

## Section VI. Compliance with Tribal Consultation and Public Notice

The department sought public input regarding the proposed transition from the Adult Behavioral Health Home and Community Based Services (BH HCBS) to the new Behavioral Health Adult Rehabilitation Services (BH ARS) array.

Letters were sent to Tribal leaders and colleagues in Indian Health Centers on June 9, 2020. No comments were received in response.

In addition to several webinars for providers and recipients, public notice was posted in the NYS Register on June 17, 2020. In response to stakeholder feedback the department extended the initial public comment period by one week, with submissions due July 24, 2020.

Twenty-six comments were received from a variety of providers, provider associations, local governments, and consumer advocacy groups. There was no opposition to the transition from

BH HCBS to BH ARS and the majority of comments (62%) expressed support because the changes are expected to enhance access to care. Comments specifically supported the elimination of the independent assessment required to determine BH HCBS eligibility, removal of settings restrictions on service access, consolidation of educational and vocational services under psychosocial rehabilitation, and making Adult BH ARS available to all HARP and HARP-eligible HIV SNP members based on a recommendation from a licensed practitioner of the healing arts. Comments also expressed support for the resulting administrative burden reduction for Health Home care managers.

Several comments (31%) proposed implementation of standardized and timely Medicaid Managed Care plan authorization processes for BH ARS, and modifications to the existing reimbursement models. In addition, requests for changes to staff qualifications and populations eligible for BH ARS were received. Stakeholder comments underlined the need for clear consumer educational materials and sought additional clarity from the State about the BH ARS workflow. The State will be considering this feedback in the development and implementation of the BH ARS program design.

None of the comments received opposed the transition to BH ARS, although a few comments expressed concerns with the elimination of non-medical transportation. However non-medical transportation was rarely used and cannot be authorized as a service under BH ARS. None of the comments required a change in the application.

## Section VII. Evaluation Design

New York believes this proposal will have limited impact on the evaluation design. The Behavioral Health demonstration was phased in with New York City (NYC) transitioning starting in October 2015 and rest of state (ROS) in July 2016 for adult enrollees (ages 21 to 64). Behavioral Health Home and Community Based Services were offered beginning in January 2016 in NYC and October 2016 for ROS. The aims of the New York BH demonstration are to improve the NYS Medicaid behavioral health population's health care quality, costs, and outcomes and to realize transformation of the behavioral health system from an inpatient focused system to a recovery focused outpatient system. Much of this evaluation can proceed but one of the goals of the New York HARP evaluation is to assess the impact of the demonstration on improvement in recovery, social functioning and community integration for individuals in the HARP meeting BH HCBS eligibility criteria. Because so few people have been able to access BH HCBS, the evaluation data will be limited in the ability to assess the effectiveness of these services on the HARP population. Going forward, with this transition to BH ARS to improve service access, evaluators will be able to incorporate the impact of BH ARS on improvement in recovery, social functioning, and community integration.



# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE Department of Health

**HARP BH HCBS Transition to Behavioral Health Adult Rehabilitation Services (BH ARS)**

In July 1997, New York State received approval from the Centers for Medicare and Medicaid Services ("CMS") for its "Partnership Plan" Medicaid Section 1115 Demonstration (the "1115 Demonstration"). In implementing the 1115 Demonstration, the State sought to achieve the following goals:

- Improve access to health care for the Medicaid population;
- Improve the quality of health services delivered; and
- Expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

In furtherance of these goals, the primary objective of the 1115 Demonstration was to enroll most of the State's Medicaid population into managed care, and to use a managed care delivery system to deliver benefits to Medicaid recipients, create efficiencies in the Medicaid program, and enable the extension of coverage to certain individuals who would otherwise be without health insurance.

In 2015, as part of the 1115 Demonstration, NYS created Health and Recovery Plans (HARPs). HARPs are comprehensive Medicaid special needs plans serving people age 21 and older with serious mental illness and/or substance use conditions. They offer an enhanced benefit package, including a suite of rehabilitation and recovery services called Behavioral Health Home and Community Based Services (BH HCBS) and are required to employ specialized staff with behavioral health expertise to ensure integration of care. BH HCBS are also available to people enrolled in HIV Special Needs Plans (HIV SNPs) who meet HARP eligibility criteria.

The Department is seeking to improve access to BH HCBS for people with serious mental illness and/or substance use disorders by removing administrative requirements associated with services authorized pursuant to Section 1915(c) of the Social Security Act, which have resulted in lower than expected service utilization. The Depart-

ment has found HARP enrollees require rapid engagement and immediate connection to a service in order to successfully engage and establish trusting relationships with providers. To increase access to these important and cost-effective services, New York will transition BH HCBS to a new service array called Behavioral Health Adult Rehabilitation Services (BH ARS).

This proposal will have minimal beneficiary impact and will improve service access. Approximately 140,000 people are enrolled in a HARP. Between five and six thousand HARP members annually access adult BH HCBS. Despite numerous attempts to improve access to adult BH HCBS, fewer than 4% of HARP members have received any of these services. These proposed changes streamline access to care by eliminating the need for an independent assessment of BH HCBS eligibility, remove settings restrictions on service access, and make Adult BH ARS available to all HARP members and HARP-eligible HIV SNP members based on a recommendation from a licensed practitioner of the healing arts. Of the existing HCBS array, only two underutilized services are being eliminated. The following table shows how services will transition from BH HCBS to BH ARS.

BH HCBS	Services Post Transition to BH ARS
Psychosocial Rehabilitation	Psychosocial Rehabilitation (including PSR with special focus on vocational and educational goals)
Community Psychiatric Support and Treatment	Community Psychiatric Support and Treatment
Empowerment Services – Peer Supports	Empowerment Services – Peer Supports
Family Support and Training	Family Support and Training
Short Term Crisis Respite	Crisis Intervention- Already available to all Medicaid Managed Care recipients
Intensive Crisis Respite	Crisis Intervention- Already available to all Medicaid Managed Care recipients
Education Support Services	Consolidated under PSR
Pre-Vocational Services	
Transitional Employment	
Intensive Supported Employment	
Ongoing Supported Employment	
Habilitation	Removed - Beneficiary goals and needs more appropriately addressed via PSR
Non-Medical Transportation	Removed

Funding for Adult BH HCBS is already included in the HARP premium (monthly HARP premiums range from \$1,233 to \$2,656 depending on region). This proposal does not grant any additional benefits to the HARP population. It primarily changes the way some benefits are accessed. Given these factors, the State does not anticipate any impact on the annual average demonstration cost of \$40 billion and, therefore, the State does not anticipate any impact on Budget Neutrality of the demonstration resulting from the adoption of this amendment.

Written comments will be accepted at: 1115waivers@health.ny.gov or by mail at Department of Health, Office of Health Insurance

Programs, Waiver Management Unit, 99 Washington Ave., 7th floor, Suite 720, Suite 1208, Albany, NY 12210

All comments must be postmarked or emailed by 30 days from the date of this notice.

## PUBLIC NOTICE

Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology. The following changes are proposed:

### Non-Institutional Services

Effective on or after July 1, 2020, the Ambulatory Patient Group (APG) reimbursement methodology is revised to include recalculated weight and component updates to reflect the APG policy updates.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative is (\$284,000).

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

## PUBLIC NOTICE

Department of State

F-2020-0104

Date of Issuance – June 17, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0104, Jay Morrow is proposing to repair a wooden breakwall and installing rip rap backfill with wooden breakwall area. The stated purpose is to repair structures damaged by high water,

utilizing rip rap rock to help prevent erosion and damage with the wooden breakwall structure.

The proposal is for 1752 Lake Road in the Town of Webster along Lake Ontario.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0104ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, July 17, 2020.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

F-2020-0238

Date of Issuance – June 17, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0238, General Motors LLC (GE) is proposing the installation of wedge-wire screens at their existing GE Tonawanda Engine facility water intake structure located on the eastern shore of the Niagara River in Tonawanda, New York. The purpose of the proposed wedge-wire screens is to meet New York State Department of Environmental Conservation impingement and entrainment requirements for the issuance of a water withdrawal permit.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0238GeneralMotors.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or July 17, 2020.

*Comments should be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State

F-2020-0362

Date of Issuance – June 17, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities