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Update on New York State's 1115 Waiver Amendment Request

On July 20, 2023, New York Medicaid Director Amir Bassiri provided an update on the status of the New York Health Equity Reform (NYHER) 1115 waiver amendment request at the United Hospital Fund Annual Medicaid Conference. During his presentation, Mr. Bassiri noted that the State is close to final agreement on its request with the Centers for Medicare and Medicaid Services (CMS), with waiver approval anticipated this fall. The central goals of New York's proposal remain unchanged from its waiver amendment application submitted last year—the State is looking to integrate the delivery of social care into the health care system and advance health equity in Medicaid.

Based on the current state of discussions with CMS, Mr. Bassiri highlighted the components of the waiver that: 1) will most likely be included in the approved waiver; 2) are still in active negotiations with CMS; and 3) will *not* be included in the final waiver. Because the waiver request would amend New York's existing waiver, which is authorized through March 2027, the amendment would be for a three-year period.

Components Likely to Be Included in Approved Waiver

The Department of Health (DOH) has reached "conceptual agreement" with CMS on the following components, which are very likely to be included in the approved 1115 waiver amendment:

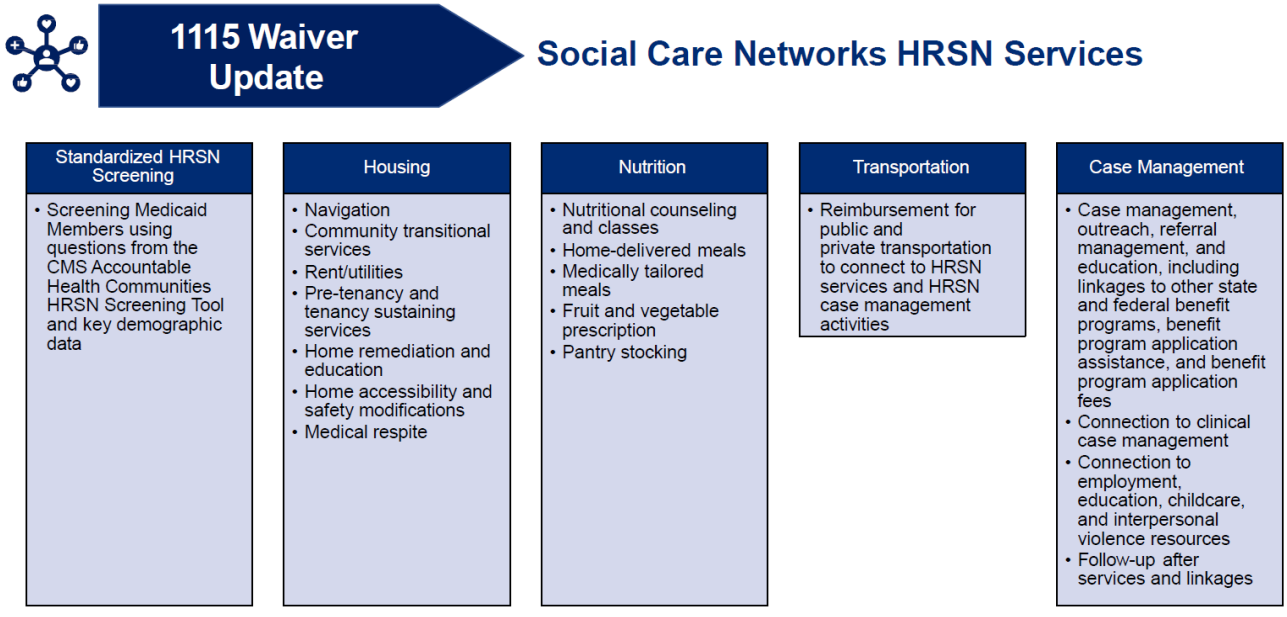
1. Social Care Networks (formerly referred to as Social Determinant of Health Networks or SDHNs) and health-related social needs services
2. Workforce investments
3. Primary care delivery system investments

1. Social Care Networks and Health-Related Social Needs Services

As proposed in the State's 1115 waiver amendment request, New York will establish Social Care Networks (SCNs) to formally manage the delivery of health-related social needs (HRSN) services to Medicaid members. HRSN services will include interventions in several domains, including housing, nutrition, transportation, and case management (see Graphic 1). DOH intends to competitively procure a minimum of nine SCNs statewide—one SCN per rate region and up to five SCNs in New York City.

Graphic 1. SCN HRSN Services

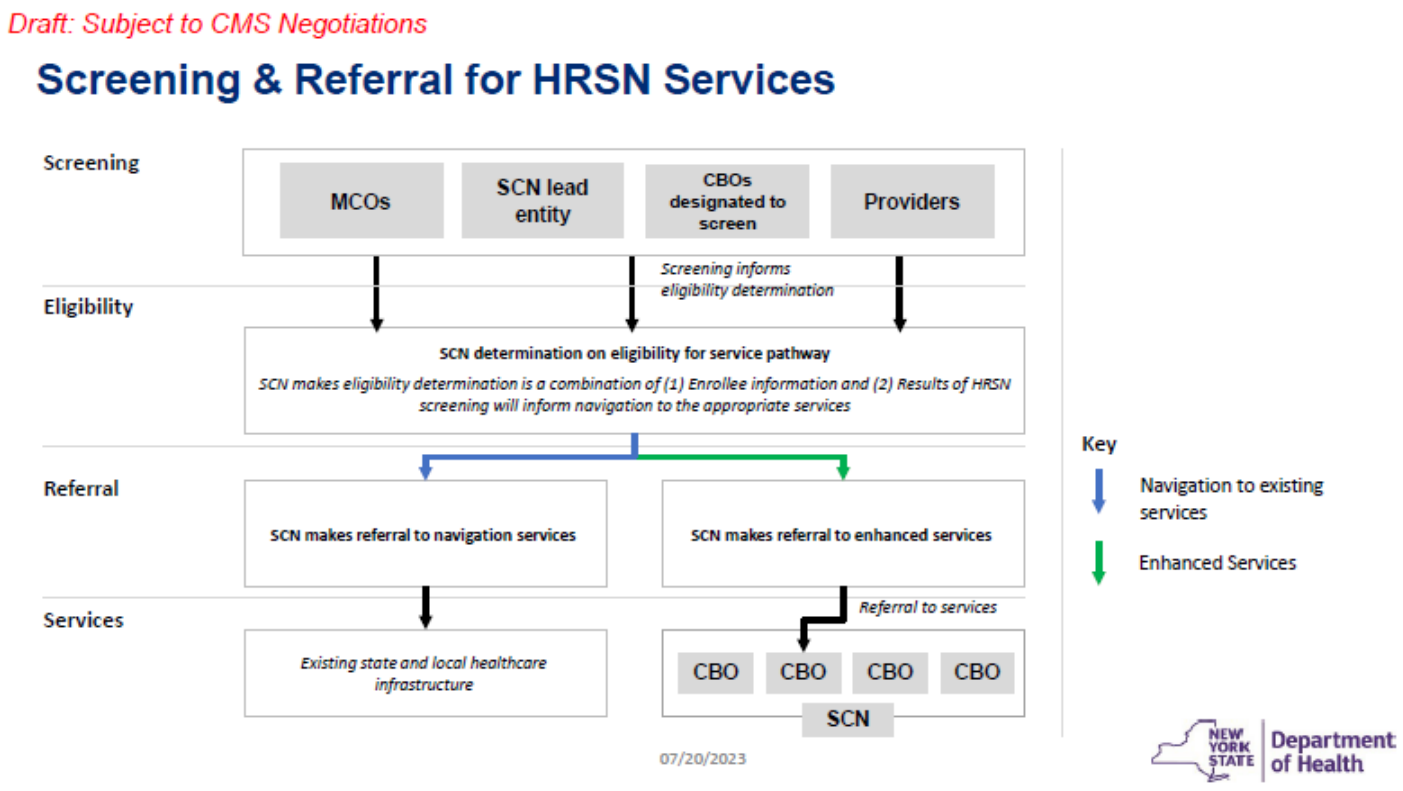
Draft: Subject to CMS Negotiations



Various stakeholders—including SCNs, Medicaid Managed Care Organizations (MCOs), providers, and designated community-based organizations (CBOs)—will administer standardized HRSN screenings using questions from the CMS Accountable Health Communities HRSN Screening Tool. Mr. Bassiri noted that while entities will have some flexibility to modify the screening tool, there will be core requirements to facilitate standardized collection and reporting of screening data to DOH. SCNs will determine a member's eligibility for services; those eligible for approved waiver services will be referred to the appropriate CBO and those who are not will be directed to other existing resources (see Graphic 2). Mr. Bassiri noted that screening to determine HRSN service eligibility will be a primary focus in the first year of the waiver.

DOH has yet to finalize the populations that will be eligible for HRSN services; however, Mr. Bassiri noted that New York will likely focus on vulnerable populations, including formerly justice-involved individuals, pregnant women and their children, children under 21 years of age, and individuals with substance use disorders. Each SCN will be required to establish interoperability with the NYS Medicaid Data Warehouse and the Statewide Health Information Network for New York (SHIN-NY) to manage and share HRSN screening, referral, and service delivery data across stakeholders as appropriate.

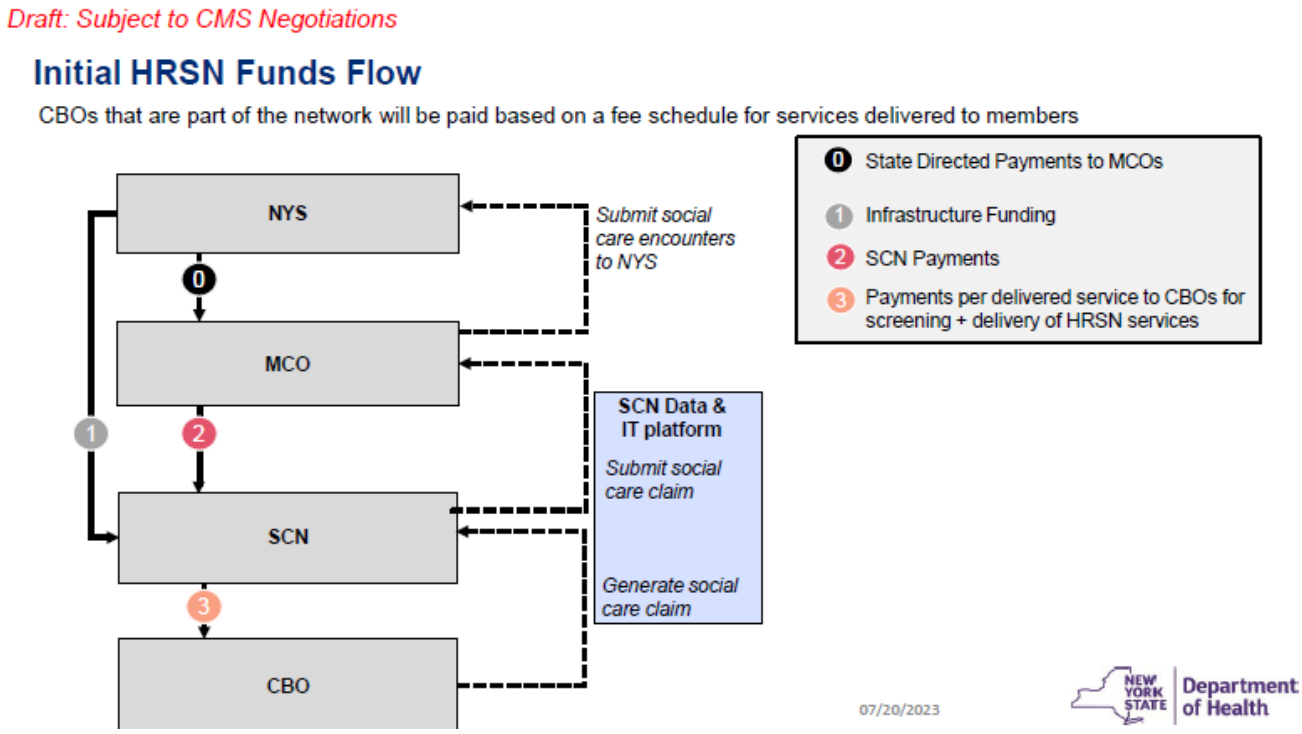
Graphic 2. Screening & Referral for HRSN Services



Initial HRSN Funds Flow

In the first year of the waiver, funding to SCNs will flow through MCOs under State Directed Payment arrangements—MCOs will reimburse SCNs based on submissions of social care claims. SCNs will pay CBOs for delivery of HRSN services on a fee-for-service basis (see Graphic 3). DOH envisions that SCNs will become permanent entities of New York's care delivery system—contracting with MCOs and paying CBOs for HRSN service delivery—beyond the waiver period. Mr. Bassiri noted that ultimately, the goal is to move toward risk adjustment of MCO premiums based on Medicaid members' social factors.

Graphic 3. Initial HRSN Funds Flow



2. Workforce Investments

New York has conceptual agreement with CMS on its proposals to develop career pathways training programs for health care workers, as well as leverage high-performing Workforce Investment Organizations (WIOs) to manage training programs for various clinical and non-clinical roles that provide physical health, behavioral health, and social care services. Additionally, like Massachusetts' approved 1115 waiver, DOH will also implement a loan forgiveness program for specific providers (e.g., psychiatrists, dentists, nurse practitioners, and pediatric clinical nurse specialists) who commit to working for Medicaid-enrolled providers in specified health care shortage areas.

3. Primary Care Delivery System Investments

Mr. Bassiri noted that the State's primary care system is foundational to improving population health and advancing health equity. However, New York is falling behind on spending on primary care; while in 2020, the national average of spending on primary care across all payors was 12%, New York spent 8%, a percentage that Mr. Bassiri pointed out is likely even lower in the State's Medicaid program.

As part of the 1115 waiver amendment request, New York intends to implement a statewide approach to advance primary care and support Medicaid primary care providers in moving toward advanced value-based payment (VBP). To do so, New York will leverage its Patient Centered Medical Home (PCMH) infrastructure. In the first two years of the waiver, all PCMH practices will receive enhanced PMPMs for their Medicaid managed care patients; in the third year, these enhanced payments will transition to a bonus payment structure, linking payments to quality and efficiency. After the waiver demonstration, DOH envisions transitioning this funding to advanced VBP.

The State also sees CMS' Making Care Primary (MCP), a new, voluntary Medicare primary care model that increases investments in primary care, as a strong complement to New York's goal to advance primary care. DOH intends to find opportunities to align components of PCMH and PCM models (e.g., streamline quality measures

across programs), where feasible to reduce the administrative burden for Medicaid primary care providers and promote their readiness to participate in multi-payor VBP arrangements.

While New York has conceptual agreement with CMS on these aforementioned components of the 1115 waiver amendment request, these elements are still subject to final approval by CMS.

Components Still in Active Negotiations with CMS

DOH and CMS continue to have discussions around the Health Equity Regional Organizations (HEROs) concept and New York's proposal related to stabilizing safety net providers.

Health Equity Regional Organizations (HEROs)

Per Mr. Bassiri, CMS expressed concerns about the time it would take to effectively stand up *regional* HEROs as proposed in the State's 1115 waiver amendment request. As a result, DOH is now proposing a single, statewide independent HERO entity to support: health outcome and social care data aggregation; regional needs and assessment planning; VBP design and development; and program evaluation. The statewide HERO would have "subregional focuses" to ensure regions could lift up local priorities while simplifying the need for DOH to oversee multiple HEROs.

DOH would be working with stakeholders in each region on VBP models to: address the social and health care needs of the region in the initial year of the waiver; act on the design of the VBP arrangements in final year of the waiver; and ultimately, implement the changes through the VBP Roadmap and MCO contracts to ensure sustainability.

Stabilizing the Safety Net

DOH is still in the process of negotiating the potential incentive funding structure intended to help stabilize financially distressed safety net hospitals and develop their necessary capabilities to participate in advanced VBP arrangements, as proposed in the 1115 waiver amendment request. DOH expects that this will be the final component of the waiver to be negotiated with CMS.

Components That Will Not Be Included in Approved Waiver

Two components of DOH's proposed 1115 waiver amendment request—**targeted in-reach services for justice-involved populations** and **digital health and telehealth infrastructure investments**—will *not* be included in the approved waiver. Mr. Bassiri noted that DOH remains committed to advancing both the justice-involved populations and digital health infrastructure initiatives and will pursue these components under different or future authorities.

Mr. Bassiri shared interest in exploring a path with CMS to allow the state 18 months for planning and preparation and five years for operations for the justice-involved initiative. CMS would like states to model proposals for making certain Medicaid services available to justice-involved populations prior to release on California's request, which CMS approved earlier this year, and subsequent CMS guidance. Mr. Bassiri noted this would enable the state to offer a targeted set of Medicaid services to justice-involved individuals for up to 90 days prior to release, as opposed to the 30 days initially requested by New York in its proposal.

Mr. Bassiri was also asked whether New York considered including a **continuous enrollment for children up to 6** proposal—similar to requests approved by CMS in Oregon and Washington—in its 1115 waiver amendment request. Mr. Bassiri noted the State is discussing with CMS but may run into challenges with including this

proposal in the approved waiver since it was not included in the State's initial request. However, he made it clear that New York is committed to pursuing the request through a subsequent waiver.

Looking Ahead

Manatt will continue to closely monitor developments related to New York's 1115 waiver amendment request as negotiations between DOH and CMS progress. We also will share a detailed analysis of the waiver amendment once it is approved (anticipated this fall). In the meantime, please do not hesitate to contact a member of the Manatt team with any questions.