May 28, 2014

Jason Helgerson
Medicaid Director
NYS Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

RE: DSRIP Project Toolkit

Dear Mr. Helgerson:

On behalf of LeadingAge New York, I am pleased to provide comments on New York's Delivery System Reform Incentive Payment (DSRIP) Toolkit. LeadingAge NY represents over 500 not-for-profit and public providers of long-term and post-acute care (LTPAC) and senior services throughout the state.

LeadingAge New York has been supportive of the concept of the waiver and the opportunity to strategically reinvest savings derived from Medicaid redesign into the health care system. However, we remain concerned that DSRIP and the projects outlined in the toolkit fail to give enough attention to the population of frail elderly Medicaid beneficiaries receiving LTPAC services and the providers that serve them.

Simply put, a more prominent role for LTPAC services is needed. Any serious effort to reduce avoidable admissions and readmissions must engage with LTPAC providers, given the significant Medicaid beneficiary volume and dollars at issue. Successful management of elderly and disabled individuals in the community requires involvement of LTPAC providers. The toolkit does not recognize the fundamental role of such providers, however. The toolkit should expressly identify these providers as potential participants in appropriate projects, and projects should be broadened to allow inclusion.

Also of concern is that the publically available safety net data on the DSRIP web page fails to accurately identify all of the LTPAC providers that actually meet the definition of a "safety net provider". We appreciate the Department's efforts to rectify some of the errors in the safety net data, however we understand that there remain some issues to be resolved and that some home care agencies providing services under contract with Medicaid managed care plans may not be captured. While we also appreciate the recent clarification that Assisted Living Programs (ALPs) will be eligible for non-hospital based "safety-net" provider designations, adult day health care programs – which fulfill an important safety net function – are still not safety net designated. We also respectfully urge the Department of Health (DOH) to specifically identify the opportunities for LTPAC providers to participate in each DSRIP project now, before PPSs and project selections are solidified.

Below are comments and questions on specific projects in the toolkit:

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- **Project 2.a.i: Create Integrated Delivery Systems that are focused on Evidence Based Medicine and population Health Management** appears to incorporate one of the fundamental objectives of DSRIP. This project and DSRIP in general raise questions and concerns about state and federal anti-trust laws. It is critical important for DOH to address these issues now, as providers make decisions about participation, resources, cost and other implications.
- **Project 2.a.v: Create a medical village/alternative housing using existing nursing home infrastructure** contemplates the transformation of nursing home space into other home and community based services. While the core components mention compliance with the *Olmstead* decision, there is insufficient detail about how the provider can be ensured that such a transformation would not violate the federal home and community based settings (HCBS) regulations which put forth standards for the provision of Medicaid-covered services under waiver programs. While the regulations provide an avenue for HCBS to be provided on the campus of an institution to serve Medicaid-eligible people, "heightened scrutiny" is mandated, the details of which have yet to be fully understood. It is critical that PPSs proposing to take on Project 2.a.v understand this important policy issue.
- **Project 2.b.vi: Transitional Supportive Housing Services** is intriguing and could be a great support to a segment of the population coming out of acute care but not yet ready to return home. We are unclear, however, if developing such a service would require adult care facility or assisted living licensure. While this is intended to be a short term program and more "medicalized" than most assisted living, we are concerned that PPSs could unwittingly be developing a service that could trigger the statutory requirements for assisted living licensure. We ask that DOH provide greater clarity about its intention here.
- **Project 2.b.vii: Implementing the INTERACT project** is a narrowly defined but positive project; we have received positive feedback from our member organizations regarding the use of INTERACT. We understand that the assisted living INTERACT tool will be available shortly and suggest it be considered for this project as well.
- **Project 2.c.ii: Expand Usage of Telemedicine in Underserved Areas to Provide Access to otherwise Scarce Services** is again, a critical component of system redesign and yet perhaps too narrow. Telehealth, deployed by home health agencies, can also help to manage care in the community and prevent hospitalizations and emergency department use. The project should be broadened to incorporate these opportunities as well. In addition, the State may need to invest in certain rural areas to ensure the broadband connectivity capability exists to enable such technology to be deployed.
- **Project 3.a.v: Behavioral Interventions Paradigm in Nursing Homes** seems to reference a specific program, and yet we are unfamiliar with it. If there is a specific BIPNH model, we ask that the Department provide more information on it in the toolkit. We also suggest that DOH consider including in this project implementation of evidence-based practice interventions for managing behavioral and psychological symptoms of dementia in nursing home residents. Reducing off-label use of anti-psychotic drugs among this population is a federal and state policy priority and should be reflected in this project as a potential activity.
- We were disappointed to see the removal of a project in the previous DSRIP program draft that contemplated the co-location of primary care and congregate settings such as assisted living or housing. There is tremendous opportunity to reduce hospitalizations and emergency room visits in these settings. Without fundamental reform, assisted living settings are extremely limited in what services they can provide directly. This project seemed to provide an avenue to

help address these limitations. We encourage DOH to consider other ways in which we can assist adult care facility, assisted living and other congregate settings to reduce unnecessary trips to the hospital and emergency department for their frail elderly residents.

HIT and Information Exchange in LTPAC Settings

The effective and efficient deployment of health information technology (HIT) and health information exchange (HIE) is fundamental to the success of the underlying goal of reducing avoidable hospital use and achieving the Triple Aim. DSRIP coalitions will need to have a data agreement in place to share and manage data on system-wide performance, and to invest in technology to strengthen PPS ability to serve target populations and pursue project goals. Furthermore, DSRIP metrics and several DSRIP projects require adoption of EHRs and engagement in HIE (e.g., under Care Transition Intervention for SNF Residents, hospitals and SNFs will be expected to have shared EHR system capability and RHIO HIE access for electronic transition of medical records by the end of DSRIP Year 3).

However, LTPAC providers have been ineligible for federal meaningful use incentives and had limited access to other funding programs such as HEAL-NY. Without financial assistance, many LTPAC providers lack the resources to purchase and implement EHRs and exchange health information. For these reasons, additional resources should be dedicated to supporting adoption of EHRs in the LTPAC sector and HIE between LTPAC providers and hospitals, practitioners and other providers. Capital funds allocated in the budget, as well as other resources, should be dedicated to this purpose.

Waivers of Barriers to Accomplishing DSRIP Objectives

Statutory language in the final 2014-15 State budget allows for the waiver of regulations that pose barriers to the objectives of DSRIP. We presume, however, that a waiver or amendment of statute is not permitted without legislative change. Is the Department willing to consider other changes? What is the process and timeframe for a regulation to be waived?

Thank you for the opportunity to provide input on the DSRIP Project Toolkit. LeadingAge New York is intrigued by the creative approaches the State is envisioning to realign the service delivery system, and we look forward to commenting on other aspects of DSRIP and otherwise working with DOH on implementation of the demonstration. If you have any questions on our input, please do not hesitate to contact us at (518) 867-8383.

Sincerely,

Daniel J. Heim
Executive Vice President