NEW YORK STATE OF OPPORTUNITY. | Department of Health | Office of Mental Health | Office of Alcoholism and Substance Abuse Services

March 13, 2015

Hal Sadowy, M.D., C.E.O.
Advocate Community Partners (AW Medical)
TALLAJ RAMON MODESTO, M.D.
1624 University Avenue
Bronx, New York 10453

Dear Dr. Sadowy:

The Department of Health (Department), the Office of Mental Health (OMH), the Office of Alcoholism and Substance Abuse Services (OASAS) are pleased to respond to the request for waivers from certain regulatory requirements submitted under the Delivery System Reform Incentive Payment (DSRIP) Program. This letter responds to the request submitted by Tallaj Ramon Modesto in its capacity as lead for the Advocate Community Partners (AW Medical) Performing Provider System under the Delivery System Reform Incentive Payment (DSRIP) Program.

Pursuant to Public Health Law (PHL) § 2807(20)(e) and (21)(e) and in connection with DSRIP Project Plans and projects under the Capital Restructuring Financing Program which are associated with DSRIP projects, the Department, OMH, and OASAS may waive regulations for the purpose of allowing applicants to avoid duplication of requirements and to allow the efficient implementation of the proposed projects. However, the agencies may not waive regulations pertaining to patient safety nor waive regulations if such waiver would risk patient safety. Further, any waivers approved under this authority may not exceed the life of the project or such shorter time periods as the authorizing commissioner may determine.

Accordingly, any regulatory waivers approved herein are for projects and activities as described in the Project Plan application and any implementation activities reasonably associated therewith. Such regulatory waivers may no longer apply should there be any changes in the nature of a project. It is the responsibility of the PPS and the providers that have received waivers to notify the relevant agency when they become aware of any material change in the specified project that goes beyond the scope of which the waiver was granted. Further, any regulatory waivers approved are only for the duration of the projects for which they were requested.

The approval of regulatory waivers are contingent upon the satisfaction of certain conditions. In all cases, providers must be in good standing with the relevant agency or agencies. Other conditions may be applicable as set forth in greater detail below. The failure to satisfy any such conditions may result in the withdrawal of the approval, meaning that the providers will be required to maintain compliance with the regulatory requirements at issue and could be subject to enforcement absent such compliance.

Specific requests for regulatory waivers included in the Advocate Community Partners (AW Medical) PPS Project Plan application are addressed below.

25.01 AW MED 2.a.i, 2.a.iii, 2.b.iii, 2.b.iv 10 NYCRR 34-1.3, 10 NYCRR 34-2.3, 10 NYCRR 34-2.4

Background and justification provided in your request:
Projects:

- 2.a.i - creation of an integrated delivery system (IDS) that is focused on evidence-based medicine and population health management
- 2.a.iii - health home at-risk intervention program for patients with one progressive chronic disease who are likely to evolve a second chronic condition
- 2.b.iii - emergency department (ED) care triage for the at-risk population
- 2.b.iv - care transitions intervention model to reduce 30-day readmissions for chronic health conditions

Project Components:

- 2.a.i - ACP has an expansive integrated network of providers who will work as team to care for patients, improving overall health outcomes by monitoring and follow up. To ensure that each patient's care is managed in a comprehensive and efficient manner, it is imperative for providers to refer patients to partners within the PPS, all of whom share the common goal of meeting project metrics.
- 2.a.iii - Primary care physicians (PCPs) will take a lead role in patient care by creating a plan to address issues related to chronic disease. This will entail referrals to appropriate providers within the PPS for clinical/testing services, to ensure that the patient's condition is monitored in a timely manner.
- 2.b.iii - Care managers (CMs) will be placed in EDs to introduce the crucial component of long term care management/coordination at the first point of service. To meet the DSRIP goal of reducing hospital readmissions, CMs/providers will work in conjunction to refer the patient to the appropriate partners within the PPS for follow up care.
- 2.b.iv - ACP will require that every ED or hospital patient has a pre-discharge planning/transitional care visit which will include referrals to providers within the PPS who will ensure that the patient is stable/compliant post-admission.

Reasons for Waiver:

Without such a waiver, providers may be deterred from referring within the IDS, for the fear of engaging in prohibited business practices. Although care management requires that a provider take a lead role in a patient's care, such provider must work with a team, whom he/she can refer to, to ensure comprehensive care and monitoring of a patient's condition. Failure to grant such a waiver will adversely impact the success of the Projects.

Response to waiver request:

Referrals. No waiver needed. The PPS requested waivers of 10 NYCRR § 34 related to referrals. No regulatory waiver is needed for purposes of permitting referrals of patients between PPS partners, provided that decisions to refer are clinically based and appropriate documentation is made thereof.

25.02 AW MED 2.a.i 10 NYCRR 600.9(c)

Background and justification provided in your request:
Project:

- 2.a.i - creation of an integrated delivery system (IDS) that is focused on evidence-based medicine and population health management

Project Components:

- 2.a.i - ACP will create an IDS comprised of hundreds of providers working in conjunction to provide comprehensive patient care. Success or lack thereof will affect the PPS and the DSRIP program as a whole, hence, as contemplated by the DSRIP Program, partners within the PPS share in funds flow as an incentive to meet project metrics and the overall goals of the DSRIP program.

Reasons for Waiver:

Without such a waiver, the PPS may not be permitted to share in DSRIP funds received by the hospitals to the extent that such funds are viewed as the total gross income or net revenue of a medical facility. Integration, as a core component of the DSRIP program, may not be achieved if funds do not flow throughout the PPS, including from hospitals to other providers within the PPS, who must work as a team to achieve success in the DSRIP program.

Response to waiver request:

Revenue Sharing. Approved. The PPS requested a waiver of 10 NYCRR § 600.9, pertaining to revenue sharing. The waiver is approved to the extent that the regulation otherwise would prohibit providers from receiving DSRIP incentive payments distributed by the PPS Lead.

25.03 AW MED 2.a.i 10 NYCRR 405.1(c)

Background and justification provided in your request:
Project:

- 2.a.i - creation of an integrated delivery system (IDS) that is focused on evidence-based medicine and population health management

Project Components:

- 2.a.i - ACP will form an IDS with an organizational structure comprised of committed leadership, clear governance and communication channels. ACP's leadership, in consultation with advisory and functional committees, will be largely responsible for decision-making that will ensure that the PPS meets project metrics and the overall goals of the DSRIP program.

Reasons for Waiver:

While it is not contemplated for the PPS to become co-operator of any hospitals, it is possible that some of the centralized collaborations within the PPS might be viewed as involving the PPS in one or more of the functions set forth this regulation, and therefore, a waiver is being sought to avoid this unintended result.

Response to waiver request:

Administrative Services. No waiver needed. The PPS requested waivers of 10 NYCRR §§ 405.1(c). No waiver is needed to the extent the PPS is performing administrative functions for purposes of administering PPS activities. However, if the PPS is performing functions described in 10 NYCRR § 405.1(c) and, thus, acts as the active parent of another entity, it will require establishment as set forth in § 405.1(c).

25.04 AW MED 2.a.i 10 NYCRR 600.9(d), 10 NYCRR 405.3(f)

Background and justification provided in your request:
Project:

- 2.a.i - creation of an integrated delivery system (IDS) that is focused on evidence-based medicine and population health management

Project Components:

- 2.a.i - ACP will form an IDS with an organizational structure comprised of committed leadership, clear governance and communication channels. To facilitate the achievement of clinical and operational objectives, it is imperative for ACP to contract with third party vendors. Contracting for crucial PPS centralized administrative services, such as information technology, will ensure that the PPS functions uniformly and partners can focus on providing the best clinical care to meet project metrics and the overall goals of the DSRIP program.

Reasons for Waiver:

Without such a waiver, there might be ambiguity concerning whether management contract approval might be required, and/or each PPS partner might have the onus of utilizing its own resources to perform PPS-related administrative services. Many partners have joined an IDS that can arrange such services through a governing body so that they may focus on the provision of quality clinical care. The requirements and burden of management contract oversight by the State will deter integration of providers and will ultimately compromise project implementation.

Response to waiver request:

Administrative Services. No waiver needed. The PPS requested waivers of 10 NYCRR §§ 600.9 and 405.3(f). No waiver is needed to the extent the PPS is performing administrative functions for purposes of administering PPS activities. However, if the contracting entity is assuming the primary responsibility for managing the day-to-day operations of an entire facility or a defined patient care unit of the facility, a management contract is needed and must be reviewed by the Department of Health.

25.05 AW MED 2.a.i, 2.a.iii, 3.b.i, 3.c.i, 3.d.iii 10NYCRR 415.3(d)(1),10NYCRR 751.9(n),10NYCRR 763.2(a)(10),10NYCRR 766.1(a)(11),10NYCRR 794.1(a)(10)

Background and justification provided in your request:
Projects:

- 2.a.i - creation of an integrated delivery system (IDS) that is focused on evidence-based medicine and population health management
- 2.a.iii - health home at-risk intervention program for patients with one progressive chronic disease who are likely to evolve a second chronic condition

- 3.b.i – evidence-based strategies for disease management in high risk/affected populations (adult only/cardiovascular health)
- 3.c.i -.evidence-based strategies for disease management in high risk/affected populations (adults only/diabetes care)
- 3.d.iii – evidence-based medicine strategies for asthma management

Project Components:

- 2.a.i - ACP will create an IDS comprised of providers who understand the importance of and actively utilize platforms for interconnectivity such as electronic health records (EHR) systems and health information exchanges (HIEs) such as the RHIO/SHIN-NY.
- 2.a.iii - The PPS will coordinate care on both a clinical and community level to address the global needs of a patient to improve overall health outcomes. It is imperative that providers have the ability to share patient health information (PHI) with entities such as community based organizations (CBOs) and social services.
- 3.b.i - ACP will require interconnectivity between health professionals as well providers in community based and ambulatory care settings. PHI sharing is vital to ensure that all aspects of a patient's cardiovascular health are addressed and monitored, such as compliance with the Million Hearts Campaign recommendations.
- 3.c.i - ACP will require interconnectivity between care coordination teams that will consist of a variety of providers including physicians, diabetes educators, behavioral health providers, and community health workers. PHI sharing is vital to ensure that diabetic patients are successful in self-management.
- 3.d.iii - ACP will require interconnectivity between PCPs, specialists, and community based organizations to ensure that asthma management is regionally coordinated. PHI sharing is vital to monitor the affected population.

Reasons for Waiver:

Without such a waiver, providers will be required to obtain consent from patient at every point of care in which PHI sharing is required. This will cause inefficiency and interruption in care, as affected populations will be inundated with consent forms.

Response to waiver request:

Consent. No waiver needed. The PPS requested regulatory waivers to the extent available to permit the use of a common consent form across providers. No regulatory waiver is needed for this purpose. The agencies are collaborating on the development of a consent model that would facilitate the ability of PPS providers to appropriately coordinate care and will share that model in the near future.

25.06 AW MED 2.b.ov 10 NYCRR 400.9

Background and justification provided in your request:
Project:

- 2.b.iv - care transitions intervention model to reduce 30-day readmissions for chronic health conditions

Project Components:

- 2.b.iv - Every ED or hospital patient will be required to have a pre-discharge planning and transitional care visit. Visits will be coordinated with partners within the PPS, who have attested to participation with ACP and share in the common goals, as set forth by ACP and the DSRIP program.

Reasons for Waiver:

Without such a waiver, partners within the PPS will be required to execute separate transfer and/or affiliation agreement with approved facilities. This would impede the functionality of the PPS, which has participation agreements in place with PPS partners, representing virtually all facets of healthcare delivery/care.

Response to waiver request:

Transfer and affiliation agreements. No waiver needed. The PPS requested waivers of 10 NYCRR § 400.9, which require transfer and affiliation agreements between providers. The participation agreements in place with the PPS partners will be deemed to meet this requirement.

5.07 AW MED 2.b.iii, 2.b.iv 10 NYCRR 405.9(f)(7)

Background and justification provided in your request:
Projects:

- 2.b.iii - emergency department (ED) care triage for the at-risk population
- 2.b.iv - care transitions intervention model to reduce 30 day readmissions for chronic health conditions

Project Components:

- 2.b.iii - Care managers (CMs) will be placed in EDs to introduce the crucial component of long-term care management/coordination at the first point of emergency care. To meet the DSRIP goal of reducing hospital readmissions, CMs and providers will work in conjunction to refer and transfer the patient to the appropriate partners within the PPS for follow-up care.
- 2.b.iv - ACP will require that every ED or hospital patient has a pre-discharge planning/transitional care visit which will include referrals/visits to providers who will ensure that the patient is stable/compliant post-admission.

Reasons for Waiver:

Without such a waiver, source of payment may be construed as applying to DSRIP funds flow and could deter a hospital from transferring a patient to a more appropriate care setting. To ensure the success of the PPS and reduce avoidable hospital readmissions, it is imperative for hospitals and EDs to have the ability to direct patients to facilities more suited for providing preventative services in a geographically-convenient location.

Response to waiver request:

Admission, Transfer and Discharge. No waiver needed. The PPS requested waivers of 10 NYCRR § 405.9(f)(7), which provide important protections related to the admission, transfer or discharge of patients from in-patient settings, including prohibiting decisions about admission, transfer or discharge based on source of payment. No regulatory waiver is needed for purposes of permitting transfers and discharges of patients between PPS partners, provided that decisions to admit, transfer or discharge are clinically based and appropriate documentation is made thereof.

25.08 AW MED 3.a.i 14 NYCRR 551.8

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities, where availability and provision of behavioral health services are crucial to address the immediate and long-term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to meet the application requirements for a Comprehensive PAR review. The State will likely be delayed in granting approval, as it will receive numerous applications for review from other PPSs. Such a delay will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.09 AW MED 3.a.i 14 NYCRR 599.5

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long-term needs of patients. Incorporating an OMH-licensed out-patient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to apply for an operating certificate. Although DSRIP is a five-year program, the operating certificate may only be effective for up to three years; such a limitation will impose an additional burden on the facility to apply for renewal taking focus away from provision of clinical care. Further, the State will likely be delayed in issuance, as it will receive numerous applications from other PPSs. Such a delay will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.10 AW MED 14 NYCRR 599.9, 14 NYCRR 599.10, 14 NYCRR 599.11, 14 NYCRR 599.12(a)

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to

establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long-term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to meet the staffing, treatment planning, case record, and premises requirements promulgated under both OMH, and to some extent, Department regulations. Such duplicative requirements will likely be burdensome and deter such facilities from engaging in integrated care, adversely affecting the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.11 AW MED 3.a.i 14 NYCRR 587.5, 14 NYCRR 85.4, 14 NYCRR 573.1

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to apply for an operating certificate. Although DSRIP is a five-year program, the operating certificate is valid only for a shorter period; such a limitation will impose an additional burden on the facility to apply for renewal. Further, the State will likely be delayed in issuance as it will receive numerous applications from other PPSs. Such a delay will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request**:**

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.12 AW MED 3.a.i 10 NYCRR 401.1

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to apply for an operating certificate because these facilities will serve urban populations within the four counties covered by the PPS, and it is probable that such facilities will provide medical services comprising more than five percent of their total annual visits. The State will likely be delayed in issuance as it will receive numerous applications for review from other PPSs. Such a delay will

deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.13 AW MED 3.a.i 10 NYCRR 83.5, 10 NYCRR 83.10

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden of registering with the Department at least twice during the five-year DSRIP program. Further, the facility will be responsible for meeting the required report and audit provisions, in addition to similar requirements likely in ACP's compliance policies and procedures. Such duplicative administrative burden will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.14 AW MED 2.a.iii, 2.b.iv 10 NYCRR 401.2(b)

Background and justification provided in your request:
Project:

- 2.a.iii - health home at-risk intervention program for patients with one progressive chronic disease who are likely to evolve a second chronic condition
- 2.b.iv - care transitions intervention model to reduce 30 day readmissions for chronic health conditions

Project Components:

- 2.a.iii - The PPS will coordinate care on both a clinical and community level to address the global needs of patients to improve overall health outcomes. Patients who are not able to travel to facilities, due to either health or transportation issues, need the provision of necessary care at home. Home care ensures that patients of low mobility are still monitored and treated for chronic conditions.
- 2.b.iv - ACP will require that every ED or hospital patient has a pre-discharge planning/transitional care visit which will include referrals to providers who will ensure that the patient is stable/compliant, post-admission. A patient's post-admission condition may limit his/her ability to travel to a facility to receive appropriate follow up care; home visits are a viable and necessary alternative to ensuring that the patient is compliant and monitored.

Reasons for Waiver:

Without such a waiver, providers within the PPS will be limited to provision of care in facilities that have obtained operating certificates. Further, providers will be unable to provide care through home visits as the operating certificates issued to partners throughout the PPS are likely for more traditional facilities. It is neither possible nor practical for providers to obtain operating certificate for the homes they intend to visit to administer care.

Response to waiver request:

Off-Site Services or Home Visits. Approved. The PPS requested waivers of 10 NYCRR § 401.2(b) for the purpose of allowing practitioners affiliated with Article 28 providers to

provide services outside of the certified service site. The request is approved, contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan and associated state regulations, both of which are being pursued by the Department. In addition, the Department will explore, through Value-based Payment options, incorporating more flexibility for home visits, telemedicine and team visits.

25.15 AW MED 3.a.i 10 NYCRR 401.1

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden to apply for an operating certificate because these facilities will serve urban populations within the four counties covered by the PPS, and it is probable that such facilities will provide medical services comprising more than five percent of their total annual visits. The State will likely be delayed in issuance as it will receive numerous applications for review from other PPSs. Such a delay will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.16 AW MED 3.a.i 10 NYCRR 83.5, 10 NYCRR 83.10

Background and justification provided in your request:
Project:

- 3.a.i - integration of primary care and behavioral health services

Project Components:

- 3.a.i - Behavioral health services must be integrated in alternative settings to increase accessibility and promote comprehensive care. ACP proposes to establish one or more urgent care facilities where availability and provision of behavioral health services are crucial to address the immediate and long term needs of patients. Incorporating an OMH licensed outpatient program into such a facility will ensure that patients with multiple needs are addressed in an integrated setting, potentially preventing avoidable hospital admissions and readmissions.

Reasons for Waiver:

Without such a waiver, urgent care facilities will have the burden of registering with the Department at least twice during the five-year DSRIP program. Further, the facility will be responsible for meeting the required report and audit provisions in addition to similar requirements likely in ACP's compliance policies and procedures. Such duplicative administrative burden will deter providers from participating in integrated care and adversely affect the meeting of Project metrics.

Response to waiver request:

If the urgent care facility in reference is not licensed as an Article 28, please provide us with more detailed information and we will make a determination on a case-by-case basis.

If the urgent care facility in reference is licensed as an Article 28:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

25.17 AW MED 2.a.iii, 2.b.iv 10 NYCRR 401.2(b)

Background and justification provided in your request:
Project:

- 2.a.iii - health home at-risk intervention program for patients with one progressive chronic disease who are likely to evolve a second chronic condition
- 2.b.iv - care transitions intervention model to reduce 30 day readmissions for chronic health conditions

Project Components:

- 2.a.iii - The PPS will coordinate care on both a clinical and community level to address the global needs of patients to improve overall health outcomes. Patients who are not able to travel to facilities, due to either health or transportation issues, need the provision of necessary care at home. Home care ensures that patients of low mobility are still monitored and treated for chronic conditions.
- 2.b.iv - ACP will require that every ED or hospital patient has a pre-discharge planning/transitional care visit which will include referrals to providers who will ensure that the patient is stable/compliant, post-admission. A patient's post-admission condition may limit his/her ability to travel to a facility to receive appropriate follow up care; home visits are a viable and necessary alternative to ensuring that the patient is compliant and monitored.

Reasons for Waiver:

Without such a waiver, providers within the PPS will be limited to provision of care in facilities that have obtained operating certificates. Further, providers will be unable to provide care through home visits as the operating certificates issued to partners throughout the PPS are likely for more traditional facilities. It is neither possible nor practical for providers to obtain operating certificate for the homes they intend to visit to administer care.

Response to waiver request:

Off-Site Services or Home Visits. Approved. The PPS requested waivers of 10 NYCRR § 401.2(b) for the purpose of allowing practitioners affiliated with Article 28 providers to provide services outside of the certified service site. The request is approved, contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan and associated state regulations, both of which are being pursued by the Department. In addition, the Department will explore, through Value-based Payment options, incorporating more flexibility for home visits, telemedicine and team visits.

In cases where waivers are approved, the agencies will send letters directed to the providers which otherwise would be responsible for complying with the regulatory provisions at issue. Providers further will be advised that agency staff who conduct surveillance activities will be notified that these regulatory waivers have been approved; however, they should maintain a copy of their waiver letters at any site subject to surveillance.

Please note that the Department of Health will publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any

questions regarding the foregoing, may be sent by email to DSRIP@health.ny.gov with Regulatory Waiver in the subject line.

Thank you for your cooperation with this initiative. We look forward to working with you to transform New York's delivery system.

Sincerely,

Howard A. Zucker, M.D., J.D.
Acting Commissioner
New York State Department of Health

Ann Marie T. Sullivan, M.D. Commissioner
New York State Office of Mental Health

Arlene González-Sánchez
Commissioner
New York State Office of Alcoholism
And Substance Abuse Services