# JACKSON COUNTY BOARD OF COMMISSIONERS



5/16/23

Secretary Kody H. Kinsley
NC Department of Health and Human Services
110 Blair Drive, Adams Building
Raleigh, NC 27603

RE: Proposed Statewide Medicaid Child and Families Specialty Plan (CFSP)

Dear Secretary Kinsley,

The Jackson County Board of Commissioners have been asked for the last two months to provide letters of support and/or concern regarding the proposed Medicaid Child and Families Specialty Plan that would transfer the management of care for foster care youth to a larger / statewide entity. Attached to this letter are the following letters:

1. Letter dated March 27, 2023 from Vaya Regional Health Board 1. This letter is basically in opposition of the CFSP.
2. Letter dated March 31, 2023 from your office to the LME-MCO CEOs. This letter basically states why you believe the CFSP should move forward.
3. Letter dated April 24, 2023 from the Vaya Health Board of Directors responding to your March 31, 2023 letter.

**In most of the time that these support / response letters have been exchanged, the Jackson County Department of Social Services has been housing children where placement cannot be found. It is extremely difficult to place children with higher level needs. We have had one child denied appropriate placement in over 100 attempts because no one will agree to take the child. The Jackson County Board of Commissioners agrees that these situations continue to be an urgent crisis.**

The letter from your office dated March 31, 2023 does not address the "urgent crisis" issue of placement faced on a daily basis by DSS agencies. The lack of provider and institutional capacity is the "urgent crisis". But it seems that no agency is significantly addressing issues such as staffing shortages, the lack of licensed and available foster homes and the lack of facilities (beds) to keep up with demand. The current system is not working.

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We request that the North Carolina Governor's Office, the NC Department of Health and Human Services and the NC Legislature focus on the real issue of building provider and institutional capacity. Any additional strategies to build provider and institutional capacity should be funded and implemented without having to wait for a long 18-month request for proposal process. The urgent need is immediate.

Jackson County understands that the foster care system is complex. We look forward to collaborative partnerships when addressing these issues. Any assistance on these urgent issues will be greatly appreciated.

Respectfully,

Mark Letson, Chair,
Jackson County Board of Commissioners

cc: Governor Roy Cooper
Senator Kevin Corbin
Representative Mike Clampitt
Ronnie Beale, Chair, Vaya Health Board of Directors
Brian Ingraham, Vaya Health President and CEO

Vaya Health

# Regional Board

VAYAHEALTH

March 27, 2023

Secretary Kody H. Kinsley
N.C. Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699-2000

Dear Secretary Kinsley:

As Regional Board members for Vaya Health, we recognize that caring for children and youth in foster care is one of the most important functions of government. As such, we applaud your attention to this important matter and look forward to working with you toward solutions to improving care for North Carolina's growing foster care population.

However, we write to once again share our concerns with the NCDHHS's proposed statewide Medicaid Child and Families Specialty Plan (CFSP). The plan is largely the same as the one introduced in 2022, but two major changes make the plan even less worthy of advancement now.

First, Vaya Health and the other five LME/MCOs banded together in May 2022 to address the issue of foster care youth in a collaborative effort they call the N.C. Child and Family Improvement Initiative (NCCFII). The initiative, led directly by LME/MCO CEOs, established measurable objectives to create a system that ensures seamless, timely, and appropriate access to quality behavioral health care for children, youth, and families involved in the child welfare system.

In less than one year, the progress of the NCCFII is remarkable. The LME/MCOs have:

- Implemented care manager co-location in more than half of county DSS offices to facilitate operations, communication, and placements for children and youth in foster care. Co-location is in process for 24 additional counties, and the LME/MCOs have designated DSS liaisons for those counties that have chosen not to have an embedded care manager.
- Implemented statewide, standardized policies and administrative processes to alleviate county DSS and provider agency administrative burden and facilitate access to care for the child welfare population.
- Enhanced network adequacy statewide with open enrollment and standardized in- and out-of-network reimbursement rates to ensure timely and appropriate placement in residential treatment, Psychiatric Residential Treatment Facilities, and crisis service facilities regardless of geographic location or the need for transitions of care in another part of the state.

The LME/MCOs have proven that they can quickly accomplish much to improve the parts of the system that are in their purview.

Second, the LME/MCOs are closer to the launch of Tailored Plan. As you know, NCDHHS years ago acknowledged, the General Assembly concurring, that the best way to ensure healthy outcomes for the state's complex and specialty populations was through a whole-person approach that came to

be called Tailored Plans. Later this year, Medicaid beneficiaries with serious behavioral health needs, intellectual/developmental disabilities (I/DDs), and traumatic brain injuries (TBIs) will have access to an integrated health plan that serves their needs through a public managed care organization (one of the LME/MCOs) that provides access to care for members and budget predictability to the State.

**If the best solution for the complex and, in many cases, vulnerable populations mentioned above is in a Tailored Plan operated by an LME/MCO and launching later this year, then why would the state's foster care population be treated any differently?**

Why should the state's youth in foster care wait years for NCDHHS to spend a significant amount of taxpayer dollars to: have a waiver approved by the Centers for Medicaid and Medicare Services (CMS), issue a Request for Proposals (RFP), score the proposals and award the contract, deal with lawsuits from those who did not win the contract, and then begin to implement the transition of the population from Medicaid Direct to the new administrator?

From our perspective, having a new administrator for the foster youth population in Medicaid presents other concerns. As a public board, among our chief concerns is the governance voice that communities would lose were a national commercial health plan to win the specialty plan contract. Vaya's four Regional Boards are composed of elected officials, community representatives, and others who represent the interests of those we serve. We also elect voting members to Vaya's Board of Directors. Thus, our communities have a direct say in the organization that, as an area authority, is in its essence a part of local government.

This local voice is important because there is no standard, "one-size-fits-all" approach to specialty care. We want to work with an organization that knows our communities and truly listens to its leaders and citizens. That is what we have with Vaya.

We recognize that improvements to the system for foster care can and should be made, and we ask NCDHHS to work with us and the LME/MCOs to address the upstream and downstream systemic challenges. At the same time, let us build on the solid foundation that counties have built through LME/MCOs—a legacy of stable, personalized care available through dedicated local providers who are deeply rooted in the communities they serve.

Utilizing those established foundations to develop a specialty plan for children and families served by the child welfare system will provide the time and support needed to succeed while retaining the local focus and community voice we hold dear.

Thank you for listening to our concerns.

Sincerely,

Vaya Health Regional Board 1 representing Cherokee, Clay, Graham, Haywood, Jackson, Macon, and Swain counties.

# STATE OF NORTH CAROLINA
# DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

KODY H. KINSLEY
SECRETARY

March 31, 2023

LME-MCO CEOs
*For Electronic Delivery*

LME-MCO CEOs,

I know that we share a commitment that every child grows up in a safe, nurturing family and community with the opportunity to achieve their full potential. Towards that goal, the Department of Health & Human Services remains determined to significantly improve the way we support children and families in crisis who have come to the attention of child welfare services.

Over the last several years, the Department has launched a number of initiatives toward achieving this goal: the new Division of Child & Family Wellbeing, a coordinated action plan to transform child welfare, the Governor's $1 billion behavioral health investment plan, and a plan to contract with single vendor to provide a statewide system of care for DSS-involved children and by doing so, give our county partners the always-on support and rapid-response they desperately need.

As you know, every week there are still more than 50 children with complex behavioral health needs across North Carolina who are living in DSS offices and Emergency Departments awaiting placements. This situation continues to be an urgent crisis and a top priority for the Department.

In 2020, the Department launched a Rapid Response Team (RRT) of our own staff to facilitate action and manage care across LME-MCOs and county DSSs to address the needs of these children, whose care is your responsibility to manage. Since 2021, referrals to the RRT have been required when a child is in an ED or DSS office without access to medically necessary treatment. Since then, the number of children being referred is increasing. Our team spends 122 staff hours per week on RRT activities, while also compensating LME/MCOs to manage this care. As of March 2023, there are more than 120 children with open RRT referrals, awaiting appropriate placement to get the treatment they need.

I appreciate that you have collectively taken steps to begin to address this crisis. In May 2022, you announced the NC Child and Family Improvement Plan, in which you named nine objectives to improve access to quality care for children in foster care. These goals included establishing a statewide provider network for residential treatment and other services, establishing rapid access to care, and increasing the capacity for crisis care across the state.

The Department has not been able to determine your progress against these nine objectives. And further, our focus is not on process changes but on the outcomes they are driving for children. All evidence available to my team suggests that, while there may be pockets of progress here and there, there is still a very long way to go.

The data show that significant change is still needed:

- From December 2022 through February 2023, 71 children were waiting for clinical care in emergency departments or DSS office/housing.

- Since 2021, we have seen no improvements in the number of children and adolescents going to the Emergency Department (~1100 per quarter) and no improvements in readmission rates (~12% being readmitted within 30 days).
- Across the state, inpatient stays for children and adolescents have become longer since 2021, increasing from 4.4 days to 11.4 days (age 3-12) and from 36 to 72 for ages 3-17.
- Length of stay has also increased since 2021. The average inpatient stay for children ages 3-12 increased from 27 days to 32 days. Average length of stay for adolescents ages 13-17 went from 28 days to 41.
- Since 2020- we have seen a decrease in the number of children served in Treatment Foster Care, Level 3-4 group homes, and PRTF and a $60,000 reduction in spend for residential services in that same time.
- We have also seen a notable decrease in spend ($15m less since 2020) in key community-based services for children and adolescents such as Intensive In Home (IIH) and Multisystemic Therapy (MST).
- PRTF readmission rates have increased, from 9% in 2021 to 15% in 2022. This speaks to lack of an adequate reentry and wraparound process to ensure that children are transitioned to adequate services within the community.
- Since 2021, DMHDDSUS customer service has received more than 100 complaints from families about children not receiving appropriate access to care. This number does not consider complaints or grievances received by LME-MCOs or other DHHS agencies.

These data points are consistent with the feedback we have received from county DSS directors that they do not see meaningful change or progress towards the seamless, standardized access to quality care that is the stated goal of your NC Child and Family Improvement Plan.

They are also consistent with the experience of the Department's Rapid Response Team, which received referrals for 235 children in 2022 so that DHHS help children find appropriate residential and community-based treatment. We do not see any appreciable change or improvement in our RRT case numbers.

I know that this work is incredibly challenging for everyone involved, including LME-MCO leadership and staff. I also know that your intentions are good, and that many of these issues are driven by deeper systemic problems that cannot be fully resolved without more investment.

Despite these challenges, we have a shared obligation to do better for these children. The status quo is not acceptable. I appreciate your efforts to begin making changes. The current pace and magnitude of change, however, is not in line with what these children need.

Thank you again for your partnership. I look forward to continued collaboration to build on the work already being done to drive transformational change in how our system delivers behavioral health services to children in the child welfare system.

With warm personal regards, I am,

very truly yours,

DocuSigned by:
D7816E4CBA6F4A8...

CC: North Carolina County Managers
North Carolina County Commissioners
North Carolina DSS Directors
North Carolina General Assembly Senate & House Health Chairs

VAYAHEALTH

**Vaya Health**
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April 24, 2023

VIA ELECTRONIC MAIL ONLY
Secretary Kody H. Kinsley
NC Department of Health and Human Services
110 Blair Drive, Adams Building
Raleigh, NC 27603

Secretary Kinsley:

On behalf of the Vaya Health Board of Directors, we are writing in response to the Department's March 31, 2023 letter about NCDHHS initiatives to strengthen supports and improve outcomes for children in the foster care system, including the proposed Children & Families Specialty Plan (CFSP). Typically, we would not include legislative leaders and other stakeholders on correspondence of this nature, but we feel compelled to make sure those who were copied on the Department's letter have the benefit of Vaya's perspective, which we offer with respect and in a spirit of thoughtfulness, integrity, and transparency.

We agree with the Department's assessment that many of the issues impacting outcomes for children in foster care, which are not unique to North Carolina, "are driven by deeper systemic problems that cannot be fully resolved without more investment." Yet, the Department's letter implies that the shortcomings of the current system are primarily the result of LME/MCOs. This implication is misplaced.

The proposed CFSP would move the child welfare population outside of local management and jeopardize complex partnerships between Vaya, counties, and providers that have been developed to meet local needs over many years. We firmly believe these children and their families are best served through Vaya's existing public model across our 31 counties. We recognize that the Department is responsible for all 100 counties and that the CFSP is intended to improve care statewide. However, it continues to be unclear how a new statewide Medicaid waiver will address the longstanding systemic issues, or how much an additional Medicaid managed care plan will cost the state to implement. Ultimately, we trust that the North Carolina General Assembly will decide the right course of care for DSS-involved children, and Vaya will absolutely support the legislature's direction. **If the CFSP is authorized to move forward, Vaya is 100% committed to continue helping our local communities during the interim period because this is the right thing to do for these vulnerable children.**

We agree that much work remains to be done by all stakeholders to solve the complex problems impacting the foster care system. None of us can solve these problems alone. Unfortunately, the March 31 letter does not address the primary reason why children are waiting for placements**: lack of provider and institutional capacity exacerbated by the pandemic. In economic terms, the demand is outpacing supply.** This disparity between supply and demand stems from:

- Overall population growth in North Carolina, the third fastest growing state in the country.

- A **sharp increase in behavioral health need and acuity due** to the public health emergency and other issues.
- **Staffing shortages** across all healthcare sectors, **including at state-operated facilities**.
- The **lack of licensed and available foster homes**, as well as barriers to kinship placement.
- Failure to proactively build or fund enough facilities (beds) to keep up with the increased demand.
- Division of Health Service Regulation **licensure delays** and oversight activities.

The Department's letter describes the situation as an "urgent crisis" and a "top priority for the Department"**, but the proposed CFSP is not designed to begin impacting care for this population until at least December 2024, over 18 months from now.** Vaya is managing care for this population in our 31 counties through the Medicaid Direct contract right now. We can provide integrated care for these children upon the launch of Tailored Plans in October 2023 if the foster care population is added to Tailored Plans. In the meantime, we are already providing critical support to our communities. Our staff at all levels are collaborating with DSS agencies in an "all hands on deck" approach (including weekends and after hours) to overcome barriers and find placements for deeply traumatized children in crisis.

Vaya's Board of Directors, all four regional boards representing all 31 of Vaya's counties, as well as nine individual counties and the Vaya CFAC, believe we provide meaningful support and have already expressed their opposition to the proposed CFSP in writing. Many of our DSS directors also oppose the CFSP and strongly advocate for Vaya to continue to manage services for DSS-involved children and families. They have serious doubts, as do we, that a commercial insurance company can replicate the local knowledge, dedication, and commitment that Vaya currently offers.

As noted in a recent article from North Carolina Health News, "**[t]heir fears are not unfounded.** States such as Georgia and Illinois have a statewide health contract with large insurers for their foster care population and have experienced issues with oversight and gaps in care."[1] These issues are well documented. In August 2022, Georgia's Division of Child and Family Services described them in a scathing letter to the head of Georgia's Medicaid agency[2], noting that the insurance company who holds the statewide foster care contract:

- is "difficult to reach, even during normal business hours"
- applies a narrow definition of medical necessity that is "more restrictive than state and federal standards" resulting in denials of needed care, including for suicidal youth (forcing them to hire more attorneys to litigate authorization denials)
- provides zero care coordination, "increasing the risk of 'hoteling,' which is when DFCS cannot find a suitable home for the child and must temporarily house them in a county office or hotel"
- offers no subacute residential treatment options
- fails to coordinate treatment services, causing kids to unnecessarily re-enter foster care
- does not pay providers "in a timely fashion" causing providers to leave the network "for this reason"

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[1] https://www.northcarolinahealthnews.org/2023/04/19/nc-mental-health-organizations-push-back-against-plan-to-streamline-care-for-foster-children/; https://www.gpb.org/news/2023/01/25/unmet-needs-critics-cite-failures-in-health-care-for-vulnerable-foster-children

[2] https://www.documentcloud.org/documents/23577647-broceletter202208

Given the experience of our sister state and other states that have followed this path, we understand the concerns of our constituent counties. As a matter of public policy, we think it is in the best interest of members and taxpayers to offer a regional approach that respects the choice of those counties that wish to continue with their LME/MCO partner and **ensures rural counties are not disadvantaged by a statewide approach**. In our view, this is a better solution than creating an entirely new health plan or asking LME/MCOs to bid on a statewide solution, which would not leverage our local infrastructure and relationships. **To be clear, we are not suggesting that Vaya is perfect. We are eager to partner with the Department on solutions to the complex child welfare system problems facing North Carolina.** Under separate cover, we are sending the Department a Fact Sheet that includes examples of Vaya's efforts to proactively improve the child welfare system

We are also collaborating with other LME/MCOs through the NC Child and Family Improvement Initiative (NCCFII). The letter indicates the Department has not been able to determine NCCFII's progress and that our initiatives are process-oriented and have not been focused on clinical outcomes. This is simply not accurate. The Initiative has created measurable improvements, minimized provider burden, and is already moving to accomplish a set of phase two objectives. It's unfortunate that despite our several attempts to meet with you to discuss NCCFII efforts, we were never able to connect. Nevertheless, we have provided regular updates about our work to the Department and never received any questions or feedback.

We were also deeply concerned by the **misleading data points** in the Department's letter as well as the recent "monthly dashboard of key outcomes of the Behavioral Health System" distributed to legislators and other stakeholders. The Department's data fails to acknowledge the impact of the pandemic, includes outliers that are likely skewing the averages, lacks important context, does not explain the data sources or methodology used, and implies systemic issues across all LME/MCOs. **The data does not align with Vaya's performance**. Our specific concerns and questions about the data are also included in the Fact Sheet we are sending to the Department under separate cover.

Ultimately, this work should not start when these children and families "come to the attention of child welfare services" and it should not be delayed until December 2024. We must devote significantly more attention and resources to strengthening families, keeping them intact, and safely avoiding the traumas of family separation, state intervention in children's lives, and institutional care in a locked facility. We must all commit to stopping the epidemic of kids in crisis and addressing the reasons why natural and kinship supports are unable to adequately care for the needs of our children. Vaya stands ready to work with the Department to develop cross-system solutions that will:

- Prevent family separation and crisis events that traumatize children;
- Support provider recruitment efforts and increase staffing in facilities so that beds are available;
- Increase statewide crisis bed capacity;
- Recruit qualified therapeutic foster care families, remove barriers to kinship placements, and provide better support and training for all caregivers;
- Expand innovative, evidence-based services and programs that make a difference;
- Improve the flow of information, across the system and at the level of care for each child;
- Reduce administrative barriers for providers; and

- Move toward a goal of zero institutional admissions for children and youth, other than short-term respite or crisis placements while wrap-around services are arranged in their home community.

Vaya has a profound knowledge and substantial understanding of the unique needs of our local communities, stretching back decades. This 50-year legacy of established local partnerships with county DSS staff, County Commissioners, regional Provider Councils, Consumer and Family Advisory Committees, and community-based organizations, cannot be replicated by a commercial plan. We live, work, play, and worship in these counties. We are deeply invested in helping our communities become stronger and healthier. We believe the Department can leverage our experience and community investments to strengthen supports and improve outcomes for the child welfare population **now**.

At your first opportunity, we would welcome the chance to discuss these issues further and work with you to build a better, more sustainable system to help North Carolina's children and families.

Sincerely,

Ronnie Beale
Chair, Vaya Health Board of Directors

Brian Ingraham
Vaya Health President and CEO

CC: Chairs, House Committee on Health; Senate Committee on Health Care; House Appropriations, Health and Human Services Committee; Senate Appropriations on Health and Human Services Committee; Joint Legislative Oversight Committee, Health and Human Services
Jay Ludlam, Deputy Secretary for NC Medicaid
Kelly Crosbie, Director, DMHDDSUS
Kevin Leonard, Executive Director, NC Association of County Commissioners
Sharnese Ransome, Executive Director, NCACDSS
Vaya Region DSS Directors
Vaya Health Board of Directors and Regional Board Members
Vaya Health Executive Leadership Team