October 23, 2020

Dr. Mandy K. Cohen, MD, MPH
Secretary, NC Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699

Mr. Trey Sutten, MBA
Chief Executive Officer, Cardinal Innovations Healthcare
550 S. Caldwell St, Suite 1500
Charlotte, NC 28202

Dear Secretary Cohen and Mr. Sutten:

On behalf of Forsyth County and Mecklenburg County, please accept this joint letter formally outlining our concerns as it relates to the behavioral health services managed, coordinated, facilitated and monitored by Cardinal Innovations. It is important for us to outline our specific concerns and to request action by the NC Department of Health and Human Services (NCDHHS) and Cardinal Innovations.

Statutory Obligations

The Local Management Entity/Managed Care Organization (LME/MCO) is responsible for managing, coordinating, facilitating and monitoring the provision of mental health, developmental disabilities, and substance abuse services in the area they serve through a network of providers. LME/MCOs are guided in part by NC General Statutes (NCGS) 122C-2 and 122C-115.4 which state:

I. Within available resources, State and local government shall **ensure that the following core services are available by LME/MCOs**:
    A. Screening, assessment, and referral;
    B. Emergency services;
    C. Service coordination;
    D. Consultation, prevention, and education.

Barriers to Services & Our County Responses

Cardinal Innovations serves as the LME/MCO for our counties and there are several challenges to accessing services. These barriers include, but are not limited to, gaps and delays in service authorization, approving lower levels of care than what was clinically recommended, limited local providers and a lack of seamless service transition during Emergency Room (ER) discharge planning and transitions to higher levels of care. These barriers often increase the length of stays in ERs and/or place residents in high risk circumstances during waiting periods for authorization or service access. Children in foster care and adult wards represent our most vulnerable populations and are heavily impacted by these barriers.

Despite our efforts to collaborate with Cardinal Innovations, we continue to experience ongoing challenges with fragmented discharge planning from ERs, gaps in service provision during high behavioral health acuity circumstances, delayed authorizations and a restricted provider network for foster children and adult wards. To no avail, we have used county dollars to pay for services pending authorization and have submitted a multitude of Member Specific

Agreements (MSAs) when Care Coordination could not secure a provider for services during high behavioral health acuity circumstances. Covering the gap to ensure the residents of our counties are safe and have seamless access to needed behavioral health services has taxed our Social Services caseworkers and created significant county costs. This is a persistent problem when seeking authorization or securing available services for Group Homes and Psychiatric Residential Treatment Facilities (PRTF).

On average, Forsyth County invests approximately $125,000 annually to cover unauthorized treatment and placement services for foster youth including, but not limited to, therapeutic foster care, Group Homes and PRTF services. It should be noted that Forsyth County has approximately 237 children in foster care (ages 0 to 17).

In contrast, Mecklenburg County funds services to help support children in care to obtain essential services that some counties cannot afford to subsidize. During the last two fiscal years, Mecklenburg County invested an average of approximately $2,400,000 annually to cover children in custody who were placed in emergency care, either upon entry into custody or following placement disruption. Many of these children were awaiting residential treatment services or other types of foster placement. It should be noted that Mecklenburg County has approximately 558 children in foster care (ages 0 to 17).

Please note, these fiscal costs pale in comparison to the potential liability exposure to local governments, NCDHHS, and Cardinal Innovations due to Cardinal Innovations' failure to timely authorize placement of persistently mentally ill individuals for the services recommended by licensed behavioral health professionals and/or attending physicians**.**

Several community stakeholders such as our District Court Judges, Guardians Ad Litem, Department of Juvenile Justice, behavioral health clinicians, and local hospitals share these concerns. Our counties routinely convene meetings with Cardinal and stakeholders with little resolution.

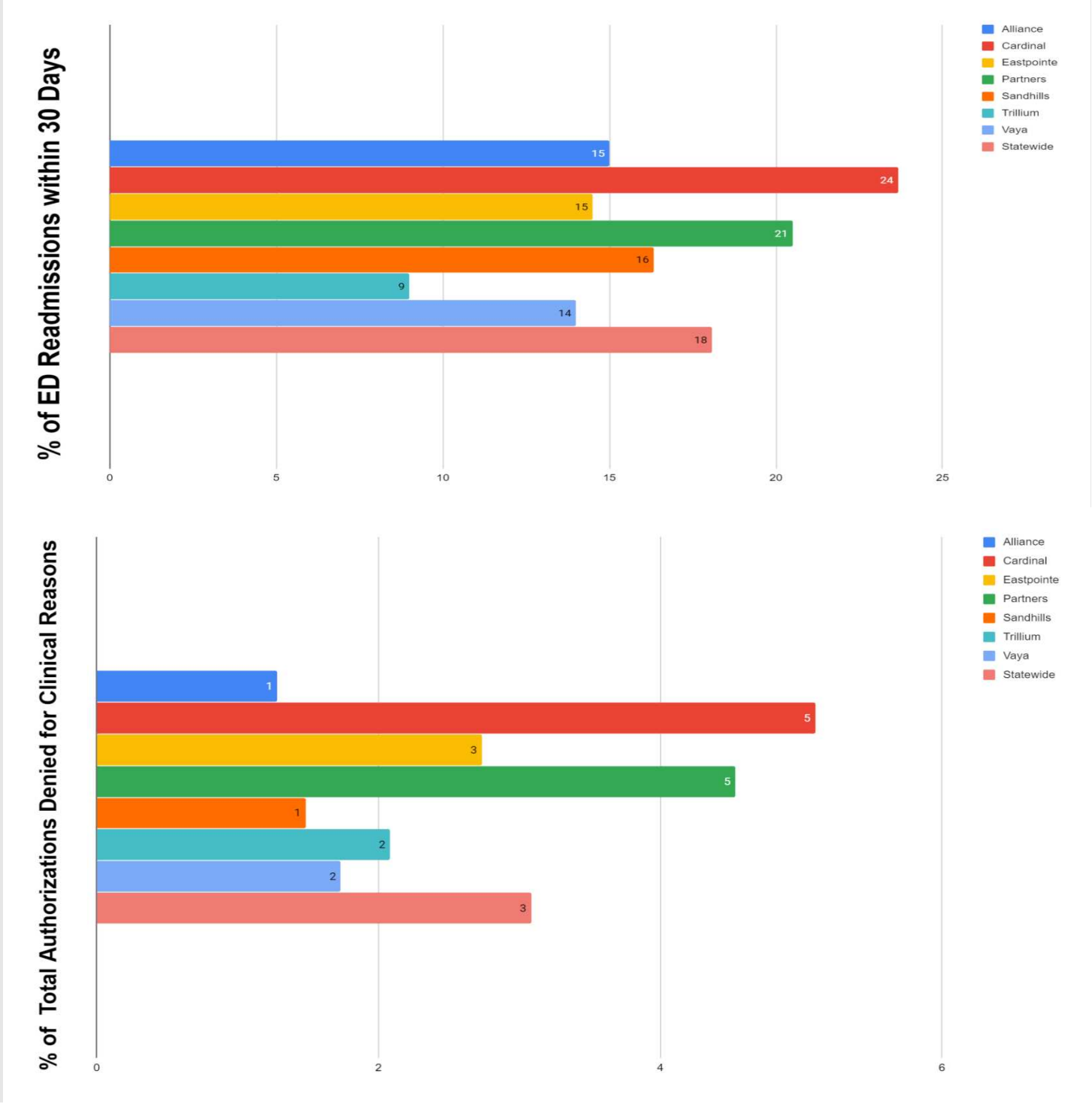
Performance Management

Based on comparative data provided by the NCDHHS Division of Mental Health Services (Period Under Review 7/19-12/19) on Managed Care Organizations Performance, Cardinal Innovations is under-performing or is an outlier in several key areas. The key areas of under-performance that are most relevant to the referenced concerns are the following:

1. Percent of Emergency Department Readmissions within 30 days
2. Percent of Total Authorizations Denied for Clinical Reasons

The below data highlights how our residents with high behavioral health needs experience instability due to frequent ER visits. Based on feedback from Social Services caseworkers, discharge planning from the ER to local enhanced service providers is fragmented due to the limited network of service providers and/or treatment authorization delays. This results in our residents with the greatest behavioral health needs cycling in and out of emergency and/or crisis intervention services. Under these circumstances, our counties have concerns regarding how the provider network will meet the needs of youth seeking enhanced behavioral health services due to new legislation regarding Raise the Age.

Click here to access the full LME/MCO Performance Profile by NCDHHS.



Mitigation Efforts and Recommendations

To mitigate the concerns for our "high service need" populations, our counties conduct internal discharge planning meetings on a regular basis to proactively coordinate service delivery amongst staff and with placement agencies. In addition, our staff meet regularly with Cardinal Innovations staff to discuss cases that are deemed high risk. In spite of these regular meetings, we remain challenged with securing seamless, timely and medically-necessary services for our "high service need" consumers.

This letter highlights concerns related primarily to our Social Services departments that our county administrations have elevated before, but these challenges are not isolated. Other areas of county government including public health, our criminal justice and court systems, services for people experiencing homelessness and services for people with intellectual and developmental disabilities, experience significant difficulties in helping residents access needed behavioral health services.

Of equal importance, the challenges and barriers faced by residents who do not have formal supports to navigate the existing system should be taken into consideration. Our counties' leadership and staff hear from many consumers, family members, clergy and advocates about significant barriers in their efforts to access and understand the behavioral health services in our communities. The toll these challenges take on our residents, families, congregations and entire communities are tremendous and cannot be quantified.

Please note the following recommendations to address the problems we have outlined:

1. Authorize or deny requests for enhanced behavioral health services within a timeframe of 72 hours or less when medical necessity and/or a Comprehensive Clinical Assessment for "high service need" is submitted (adult wards, foster youth & individuals with two or more occurrences in the ER within 60 days).

2. Provide seamless behavioral health service provision for high acuity circumstances (as based on medical necessity criteria and/or a Comprehensive Clinical Assessment) to decrease the length of ER stays and the probability of failed discharge planning to appropriate services.

3. Increase provider accountability for timely authorization by tracking the date of treatment placement and sanctioning penalties when authorization submission is not timely.

4. Increase timely access to therapeutic foster home services by discontinuing the requirement for provider agencies to contract their individual therapeutic foster homes with Cardinal Innovations. This process is rigorous and delays these homes being available to provide services. Provider agencies should be able to submit foster homes when new homes are licensed by the agency instead of a quarterly basis. These new homes should be immediately added to the Cardinal network and made available for children in need of therapeutic foster care services.

5. Improve access to State-funded behavioral health services for people who are indigent and do not have Medicaid. These residents are often in need of services but are unable to access them due to a lack of income or health insurance. The amount of State funding available and how to access this resource remains unclear to many staff, service providers, and residents.

6. Improve the ease of navigation of behavioral health services for community members and consumers who do not have case-management support. This includes raising awareness of the services that are available, simplifying the process for residents to issue and resolve complaints and ensuring that residents have access to services that are clinically recommended.

Varying levels of staff and elected officials from each of our counties have continued to address concerns directly with Cardinal Innovations over the years with little to no resolution. While Cardinal Innovations is willing to engage in meetings, we are simply tired of continuing to meet without any meaningful results. We are seeking action. Cardinal Innovations' lack of action and seeming unwillingness to resolve the multitude of issues that continue to negatively impact our most vulnerable residents must stop.

NCDHHS is the single state agency designated to administer or supervise the administration of the state's Medicaid program under Title XIX of the Social Security Act. 42 U.S.C. § 1396a(a)(5); N.C. Gen. Stat. § 108A-54. The NCDHHS's

Division of Medical Assistance (DMA) is responsible for the day to day administration of the Medicaid program.[1] As the head of the single state agency responsible for administering the Medicaid program in North Carolina, NCDHHS, remains accountable for the administration of the Medicaid program through contracts with LME/MCOs.[2]

Therefore, our counties are joining together in an effort to seek prompt resolution from both NCDHHS and Cardinal Innovations as our residents cannot continue waiting. If resolution is not met, we will have no choice but to explore additional options as defined in NCGS 122C-115.

By Monday, November 9, 2020, we request that Cardinal Innovations provide Forsyth and Mecklenburg counties with a corrective action plan that includes a deadline for resolving these issues. We look forward to your response.

Sincerely,

J. Dudley Watts, Jr.
Forsyth County Manager

Dena R. Diorio

Dena Diorio
Mecklenburg County Manager

CC: Forsyth County Board of Commissioners
Mecklenburg County Board of Commissioners

[1] L.S. v. Delia, NO. 5:11-CV-354-FL, 3-4 (E.D.N.C. Mar. 29, 2012)

[2] L.S. v. Delia, NO. 5:11-CV-354-FL, 19-20 (E.D.N.C. Mar. 29, 2012)