

# **LEGAL CONSIDERATIONS** **for North Carolina Medicaid** **Waivers**

**NC Council of Community Programs**  
**Spring Policy Forum 2010**

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# **“Mother”**

**Chapter 122C of the  
North Carolina General Statutes**

**“LME” Law**

**State-funded Care**



# “Father”

United States Code, Title 42,  
Chapter 7, Subchapter XIX,  
Section 1396a et seq.

(a.k.a. Title XIX of the Social Security Act)

“Medicaid” Law

Federally-funded Care



# The Waiver Gene

Ability to “waive” the North Carolina state Medicaid plan and replace it with more effective and efficient plans.

...fee-for-service Medicaid to be replaced with managed Medicaid...

1915(b) plans for MH, SA

1915(c) plans for DD

# **“Godparents”**

**Code of Federal Regulations, Title 42,  
Chapter IV, Part 400 et seq.**

**“Managed Care” Law**

**Prepaid Inpatient Health Plan**

# A “Waiver LME” is...

- An Area Authority (state)
- Operating as Prepaid Inpatient Health Plan (federal)
- Managing Medicaid waivers (state & federal)

...a Managed Behavioral  
Healthcare Organization

# MBHO

- Health Insurer
- Wholly Owned by the People of North Carolina and the Consumers it Serves
- Public versus Private:
  - ✓ Funding Remains in the System
  - ✓ B3 Services, Not Profits
  - ✓ Direct Accountability
  - ✓ Local Presence

# Key Issues

- **Compliance**
  - Most heavily regulated industry in the U.S.
- **Risk**
  - Shift from State to MBHOs
- **Transactional Support**
  - Fluid Environment

# Compliance

- ALL Apply ALL the Time to EVERY Action:
  - Federal law, Federal regulations
  - State Law, State Regulations
  - Contract Requirements
  - Plan (Waiver) Provisions
  - Case Law
  - Entitlement, Unique to Medicaid Plans
  - Behavioral Health Sector Specifics



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# Risk

- Transition from a Vertical Public System to a Publicly Financed Contract System
- Risk Shifts from State to Contractors
- Contractors Compete in [Quasi] Free Market
- Risk Layers
- Integration of Collateral Considerations

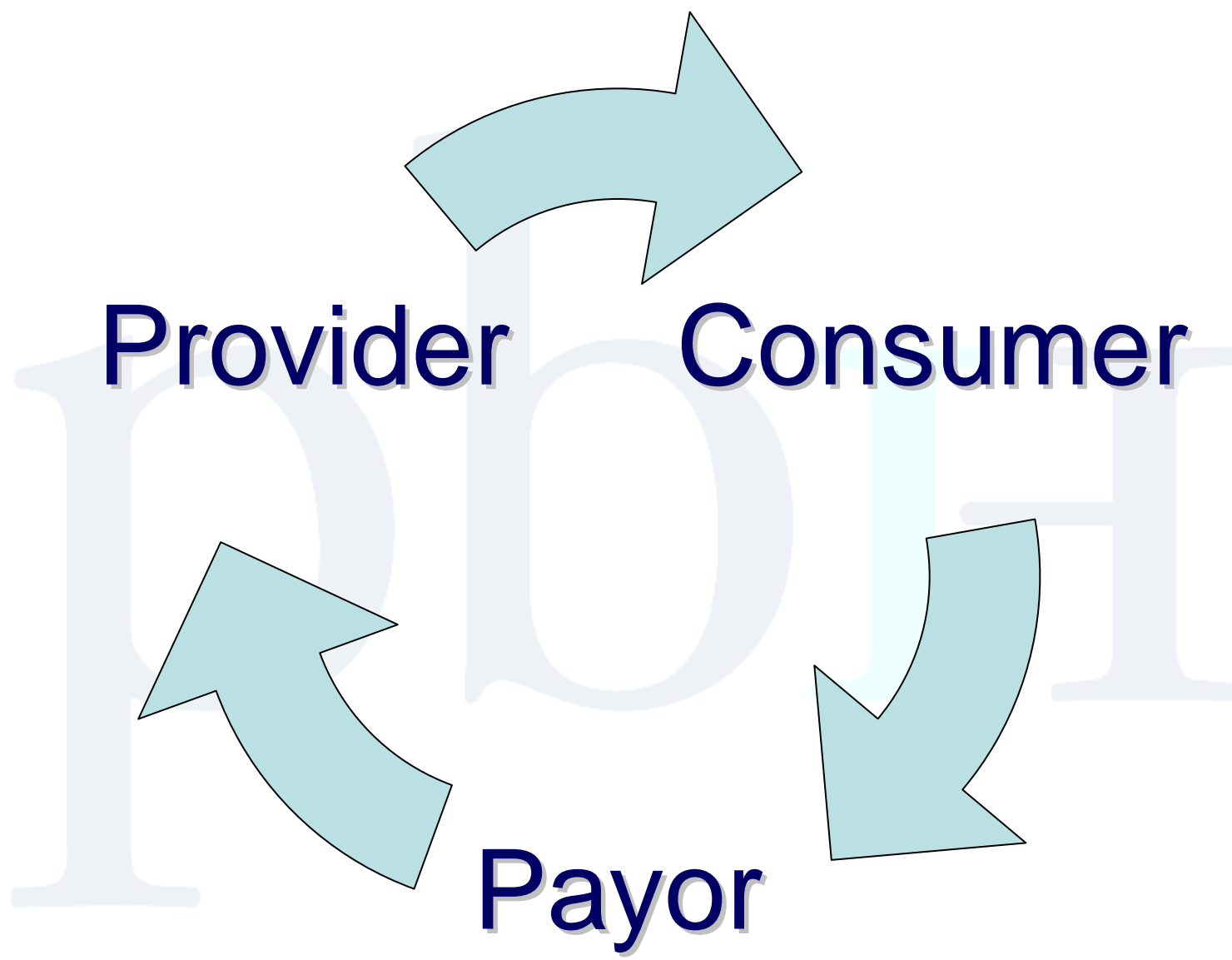
# The Product...

- **Managed Healthcare:** A system that provides for the coordination of health services to control price, volume, delivery site, and intensity of health services provided, to maximize the health of the insured, and maximize the value of health benefits; a philosophy in which the goal is a system that delivers quality, cost effective health care by monitoring and recommending utilization of services, and controlling cost of services.

**Provider**



**Consumer**



**Provider**

**Consumer**

**Payor**

# Transactional Support

- Inherent Tensions in Health Sector Due to 'Market' Structure
- Political Subdivision of the State versus Contractor to the State
- Local Public Agency versus At-Risk Health Insurer
- Customer versus Consumers, Owners versus Customer
- Regulator versus Business Partners for Providers

# Main Considerations...

- ✓ Healthcare versus Government Services
- ✓ Environment and Trends
- ✓ Resource Allocation
- ✓ Sense of Adventure