

Children's Rights

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<https://www.childrensrights.org/state-of-dysfunction-for-new-yorks-mental-health-care-system/>

Public Facing Advocacy Writing

By Joshua Arocho, Staff Attorney

Access to physical and mental health care is vital for children's healthy development and well-being. It is arguably our most basic human right. Children need access to timely and appropriate home and community-based services to support their physical, cognitive, and emotional development. But every day, parents and relatives are forced to navigate fragmented health care systems to connect their children with the services especially mental health services to which they are entitled.

As a former employee of two large school systems, I've witnessed first-hand the devastating effects of bureaucratic barriers to children's access to these critical services. As an attorney, I've devoted dozens of hours to understanding the intricacies of how states choose to operate their mental health care systems and recognize that the vast majority of parents and relatives have neither the time nor luxury to engage in such an endeavor. And as a human, I'm devastated that this is how society has chosen to treat its most vulnerable population.

Across the U.S., [27 million children](#) under age 18 are covered by Medicaid a federal and state program that helps with healthcare costs for people with limited income and resources.

In New York, over two million children and adolescents participate in Medicaid. For decades, their needs have been at crisis levels. The current health care system is inadequate, inaccessible, and underfunded. This is especially true for youth from low-income families and children of color experiencing poverty and [racial discrimination](#).

Waiting hours, weeks, and even months to receive urgent mental health care (if such care is *ever* provided), thousands of Medicaid-eligible children in New York are at risk of continued decline in their mental health conditions and face illegal segregation in psychiatric hospitals and other institutions.

That's why we filed a lawsuit with Disability Rights New York, National Health Law Program (NHeLP), and Proskauer Rose LLP against New York State for denying Medicaid-eligible children their legal right to home and community-based mental health services.

According to the Centers for Medicare and Medicaid Services (CMS) and the Substance Abuse and Mental Health Services Administration (SAMHSA), home and community-based mental health services:

Children should be supported with quality mental health services in their homes and communities so they can remain with their families.

One of the children named in the case is 15-year-old C.K. He loves animals, playing video games, and watching football. For years, however, he has been in and out of hospitals, emergency rooms, and residential institutions instead of getting the care he needs to enjoy these activities in his own community. Today, he thinks about suicide and is at risk of being institutionalized again.

All he wants is to stay home with his mom and get better.

Emergency Rooms (ERs) are often the first point of care for children experiencing mental health emergencies, particularly when other services are inaccessible or unavailable. New York States children spend hours, and even days, in ERs waiting to receive care due to mental health crises. Counties across the state report that children often leave the ER without receiving proper services to help them, one county calling the emergency department a revolving door.

In 2017, [54.5% of New York children](#) with a mental or behavioral condition that needed treatment or counseling did not receive it. Children with mental health symptoms are at a higher risk of suicide. Suicide has long been one of the leading causes of death for youth aged 5 to 19 in New York, with LGBTQIA+ and Black youth disproportionately affected. Lesbian, gay, and bisexual students consider suicide at three times the rate of their non-LGBTQIA+ peers; African American children aged 5 to 12 are dying by suicide at nearly twice the rate of their white counterparts.

What's more, the U.S. Surgeon General in December 2021 [issued a statement](#) highlighting the nation's urgent need to address the nation's youth mental health crisis, which has been exacerbated by the COVID-19 pandemic. The time to act is now.

[Parents tirelessly advocate](#) for their children only to be left to navigate an under-resourced and overburdened system. All too often, families with children in crisis are given two options after waiting hours in emergency rooms: 1. go home, or 2. accept an inpatient bed that could be miles from their families.

Without access to the home and community-based services they need, children with mental health conditions are often illegally segregated and institutionalized. Instead of having the chance to get treatment and heal, they are cut off from their parents, family, school, friends, and other community supports.

This is a crisis that cannot be ignored.

Dysfunctional mental health systems do not promote well-being and healing. Children and families deserve better. Everyone should have access to affordable, appropriate, home and community-based mental health services. We will not stop fighting to ensure that New Yorks children receive the resources to which they are legally entitled to heal and reach their full potential.

Joshua Arocho is a staff attorney at Childrens Rights.

Read more about why this case is so important in this [ProPublica exclusive](#).

Advocate for the mental health needs of children.

Childhood deserves better. Take our #HealthyKidsHealthyMinds Pledge to help build awareness for this national crisis and call for change to ensure children have access to the home and community-based supports they need.

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