

A SUMMARY OF THE GOVERNOR'S EXECUTIVE BUDGET PROPOSAL January 15, 2016

This is a preliminary summary of items in the Governor's proposed budget that are of interest. We've included more than just Mental Hygiene this year because there are items that will impact your business interests above and beyond mental health housing. We have also included some items that represent moving parts that may change by the end of the negotiations, particularly as they pertain to some of the more controversial issues related to NYC and upstate infrastructure, cuts to NYC, perceived shortfalls in AIDS funding and education, etc. So this budget may look different when it is finally passed because of the controversial nature of some of the proposals. However, the Governor has extraordinary power in this process and can, frankly, put his budget into place in order to keep government running – as Governor Paterson did when he was Governor, an action that showed the real budgeting power resides with the Governor.

There is another theme here. The Governor sometimes takes credit in an existing budget cycle for money that was allocated in a previous budget cycle. For example, if you look at the \$20 billion for housing, \$7.8 billion is to continue funding for housing and shelters that already exist – 44,000 units of existing Supportive Housing and 77,000 existing shelter beds. Or he will make an announcement about a large amount of money and only later do you find out that the amount will be allocated over many years, as is the case with AIDS funding – he announced \$200 million, was broadly congratulated and then when the budget came out it became clear that it is \$200 million over 5 years. Then, it is difficult to tease out some of this out because the budget documents are notoriously opaque.

In response to housing advocates asking for a deal in writing on the 20,000 state and 15,000 city units, a Cuomo spokeswoman implied that advocates needed to chill out, saying in an emailed statement, "the governor announced the commitment of \$20 billion and 20,000 units of supportive housing literally Wednesday." The problem with this is that \$10 billion is to retain and/or create new affordable housing not supportive housing, \$7.8 billion of the \$20 billion is to sustain what we already have (some of which were built when Mario Cuomo was Governor) and only 6,000 of the Supportive Units are funded.

So, we have prepared this summary with the realization that we do not know everything about this budget now and that we may see more changes in the end than is typical.

OMH has a budget briefing scheduled for January 19th where we will hear from top officials at OMH and have an opportunity to ask questions. DOH has a Medicaid Budget Briefing on the 20th. We will send an update on the 21st after we digest what we've learned from the two briefings. As of now, even state officials that we talk to often do not know the answers to many of our questions.

We will continue to analyze, talk to government staff and others to figure it all out.

OMH:

- **Total Expenditure:** The total of OMH Budget in the Executive Proposal for 2016-17 is \$3,960,918,000. This would be a 0.7% increase or 28.2 million more than the enacted 2015-16 final state budget.
- **COLA:** There is a 0.2% COLA in the budget that will be applied as an across the board increase. The good news is that this is not targeted to certain workers, so they are finally listening to our

pleas for an across the board increase. The statutory COLA that was passed years ago is tied to inflation, but (as you all are painfully aware) they have deferred that COLA year after year adding only smaller amounts in only a couple of years. This year they went back to the statute in a year when inflation is virtually non-existent, hence the 0.2% COLA. To put it in perspective it is two cents for every \$10 dollars of your budgets. The total for OMH is \$2.4 million.

- **No Rate Increases:** There is no money to address the continuing erosion of the rates in OMH Programs, which are now in some cases more than 40% behind inflation. This is a top priority for ACL this year, and we plan to move forward with vigorous advocacy in this area with many of our colleague associations on board.
- **Children's Mental Health:** There is an increase in Children's Mental Health Budget of \$7.5 million (from \$22.5 to \$30 million) which will be used for crisis intervention, community psychiatric support and treatment, psychosocial rehabilitation services, services from other licensed practitioners, family peer support services and youth peer training and support services.
- **Reinvestment from State Inpatient Bed Closures:** The Budget Invests \$16 Million in Additional Community Services. Building upon the community reinvestments funded in the FY 2016 Enacted Budget, this additional annual investment will be used to expand a variety of community services based on regional needs reflecting stakeholder input, and is expected to reduce the need for more costly inpatient beds. This money is typically invested in the communities where the state hospital beds have been reduced. There is a process that includes each region's stakeholders to decide on how to invest the money allocated – it can include: state and nonprofit crisis and respite beds, supported housing, mental health urgent care walk-in centers, mobile engagement teams, first episode psychosis teams, family resource centers, evidence-based family support services, peer-operated recovery centers, suicide prevention services, community forensic and diversion services, tele-psychiatry, transportation services, family concierge services, etc.

HOUSING

- ACL is very encouraged by the capital commitment to affordable and supportive housing outlined in this budget proposal for FY 2017-2021. HCR's capital budget over the next five years is more than double its historic levels of approximately \$200 million annually. Although it is an unprecedented investment in affordable/supportive housing at the state level there is nothing in the budget that helps to sustain the housing programs that all of ACL's members operate. New is always good but sustainability is the issue over the long term.
- The Governor announced a \$20 billion investment in affordable housing, homeless housing, and homeless services, although \$7.8 billion is from previous years:
 - \$10 billion is for a five year plan to create and preserve 100,000 affordable units across the state. This is not special needs housing.
 - \$10.4 billion: We've put quotes from the Governor's Briefing Books in italics so you can see how it is being introduced. *"Governor Cuomo proposes an historic \$10 billion commitment to combat homelessness".* (Briefing Book p. 208)
 - *"The Governor proposes \$2.6 billion for 6,000 new supported beds, 1,000 emergency shelter beds and other homeless services. Moreover, the Governor's plan will fund the construction of 20,000 new supportive housing beds across the state."* (Briefing Book, p. 208). We are unsure how this works financially.
 - The promise of 20,000 new supportive housing beds across the state over 15 years is quite unformed as of now. We think that the 6,000 is part of this count

so that 14,000 would be developed in the out years beyond 5 years. The NY/NY IV Campaign, of which ACL is on the Steering Committee, will be working with the city and the state to try to nail down some of the specifics and to get a real commitment on paper. We also hear that services and operating may come from this pot of money, which may reduce the total number developed. At this point, we do not believe that any of this money will be used for more scattered site beds. These all will likely be capital beds. Moreover, all of this money will be managed by the Department of Housing and Community Renewal – none will go through OMH. That creates a real problem for providers that want to create new housing for people with serious mental illnesses. OMH's process has always made it possible for non-profits to compete with private developers, ensuring that some projects had units for people with MH diagnoses. We will not be able to compete with for profit developers if we don't have access to pre-development dollars. Also, developers can get the same number of points added to their applications for special needs populations whether they intend to serve seniors, the physically disabled or people with mental illnesses. Most likely they will not choose people with mental illnesses, the most difficult population to serve. Without OMH's role we fear that all of this new housing will go to other populations. We've already started a conversation with HCR and OMH on this issue and will continue to talk to them. We think we've already made some progress, partly because we've been pushing back on this starting two years ago, which is when they first starting talking about this as a possible plan for the future. Both OMH and HCR have initially suggested ways the overcome the problem. Come to the May 10-11 Management Symposium to hear more about how all of this will work.

- \$7.8 billion to continue funding existing units and beds. This part of the historic \$10.4 billion is not new. The only new money is \$2.6 billion, which is very good but it is a little less than historic. *“This more than \$2.6 billion in funding for permanent supportive housing and other services over the next five years is in addition to the \$7.8 billion we expect to spend over the next five years through our continuing commitments in support of 44,000 supportive housing units, 77,000 shelter beds around the state, and other homelessness-related services. New York’s total financial commitment to address homelessness over this five-year period will be more than \$10.4 billion.”* (Briefing Book, p. 208)
- Shelter Issues: *To restore the public’s trust in the shelter system the state must improve the conditions of the shelters it supervises and regulates. The state will partner with State Comptroller Thomas DiNapoli to audit shelters statewide, New York City Comptroller Scott Stringer to review and inspect New York City shelters, and Buffalo Comptroller Mark J.F. Schroeder to review and inspect.*
- Strategy to Reduce Homelessness: *New York will also invest new resources over three years to specifically address vulnerable populations experiencing homelessness. To coordinate this and other funding the state will utilize the existing federal Department of Housing and Urban Development Continuum of Care model that engages localities and not-for-profit providers in developing and implementing data-driven strategies to address homelessness in specific populations such as victims of domestic violence, runaway and homeless youth and formerly incarcerated individuals. Each jurisdiction will be required to demonstrate that their proposals are consistent with their most recent HUD Continuum of Care reports and have the support of their local Continuum. For those areas of the state without a Continuum of Care, the state will partner with*

them on the necessary planning and engagement processes to ensure local level partnership.

▪ **Housing Pipeline:**

- There are 1200 New York/New York III units scheduled to open along with 800 other residential pipeline beds from a variety of initiatives, e.g., Adult Home Scattered Site, Nursing Home Scattered Site, Forensic Scattered Site, etc.

STATE EDUCATION DEPARTMENT: SOCIAL WORK EXEMPTION: The Governor proposes extending the social work exemption for another 5 years. The section from the Article VII Health and Mental Hygiene bill appears below. This was worded in the strongest terms possible. This is an issue that ACL has been involved in for many years now, working against the Legislature lifting the exemption, which would have opened many jobs up to a requirement to have licensed social workers – it would have broken the bank of many non-profit providers assuming you could even find enough licensed social workers. Moreover, there was very ambiguous language that could have required social workers in residential positions that do not require them now. Clinics would have had to replace many non-licensed social workers with licensed social workers. We wanted a permanent exemption but, assuming this passes the legislature, we'll fight it again in 5 years.

Part J – Extends for five years the long-time exemption from licensure for individuals working in certain programs and services that are regulated, operated, funded or approved by the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), the Office for Alcoholism and Substance Abuse Services (OASAS), the Department of Health (DOH), the State Office for the Aging (SOFA), the Office of Children and Family Services (OCFS), the Department of Corrections and Community Services (DOCCS), the Office of Temporary and Disability Assistance (OTDA) and/or local governmental units or social service districts

Purpose:

This bill would extend for five years the exemption for certain social work and mental health professional licensure requirements of persons employed by a program or service operated, regulated, funded or approved by OMH, OPWDD, OASAS, DOH, SOFA, OCFS, OTDA, DOCCS, and/or local governmental units or social services districts.

Summary of Provisions and Statement in Support:

This bill would amend Chapter 420 of the Laws of 2002, as amended by Chapter 57 of the Laws of 2013, in relation to the licensure of social workers and other mental health professionals, amends subdivision a of section 17-a of Chapter 676 of the Laws of 2002, as amended by Chapter 57 of the Laws of 2013, and amends section 16 of Chapter 130 of the Laws of 2010, as amended by Chapter 57 of the Laws of 2013. These laws include provisions that exempt from licensure individuals working in programs that are regulated, operated, funded or approved by OMH, DOH, SOFA, OCFS, DOCCS, OTDA, OASAS, OPWDD, and/or local governmental units or social services districts. Chapter 57 of the Laws of 2013 extended the exemption to July 1, 2016.

The existing licensure exemption has been in place since 2002. There has been no evidence to show that the added cost associated with eliminating the exemption would improve outcomes. Programs licensed, regulated, funded or approved by State agencies and/or local government units or social services districts are subject to State oversight, monitoring and regulation. These programs must comply with detailed State regulations, and, if funded by Medicaid, applicable Medicaid regulations and standards established by the Centers for Medicare and Medicaid Services. Other State and federal agencies that provide oversight of these programs include the DOH, U.S. Department of Health and Human Services, U.S. Department of Justice, New York State Office of the Medicaid Inspector General, New York State

The purpose of the current exemption is to allow for greater State and local government flexibility in the delivery of services. Since many State-operated and local programs rely on social workers, psychologists, clinical coordinators, and other professionals to perform counseling, psychotherapy, and case management, failure to make the exemption permanent would have a significant negative impact on the delivery of services and may require the State and local governments to lay off professionals who do not meet current licensing standards, and replace them with licensed individuals. This proposal compliments and supports the on-going Medicaid Redesign Team (MRT) initiative establishing Behavioral Health Homes as the current fee-for-service Behavioral Health benefits transition to managed care. Extending the current exemption will avoid the adverse impact on the MRT Health Home initiative. The MRT team concluded that the impact on the quality of care would be profound, including the loss of culturally competent staff, and loss of certain master's level professionals. It would also cause disruptions in client care and loss of services.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because the additional costs resulting from new licensure requirements for the State and entities licensed and regulated by the State would be \$325 million annually. These additional costs primarily result from replacing current non-licensed staff with more expensive licensed staff, and re-classifying existing titles to higher grade levels. This does not include unemployment costs resulting from layoffs that may occur if the existing exemption is not extended. Extending this exemption would enable the State and those programs and services that it regulates, operates, funds or approves to continue providing quality services in the most cost effective manner. This bill would take effect immediately.

CRIMINAL JUSTICE

- The budget creates an Independent Special Counsel to review cases of police-involved civilian deaths, many of which involve people with mental health conditions.
- It includes a \$1 Million commitment to "Raise the Age" of criminal culpability from 16 to 18. Beginning in August 2016, 16 and 17 year old youth will be housed at Hudson Correctional Facility, currently a DOCCS operated facility that is being rehabbed to house and serve younger offenders.
- NY will provide citizens who enter the criminal justice system the opportunity to rehabilitate, return home, and contribute to their communities through a Comprehensive Re-entry Initiative. Included in it are transitional housing, employment, and immediate access medical/mental health services.
- There's \$7.5 million for college-level education programs for incarcerated individuals and \$1 million for Alternatives to Incarceration for high-risk, high-need populations.

MEDICAID

Medicaid Redesign

- The total Medicaid budget is \$63 billion less than last year primarily because \$50 million has been moved
- The budget documents review the distribution to date of New York's \$8 billion, 5 year Medicaid waiver. In the first two years, \$1.7 billion has been awarded under the waiver.
 - \$963 million to 25 Performing Provider Systems (PPSs)
 - \$280 million for Health Homes and other reform initiatives;

- \$500 million for financially distressed safety net hospitals whose viability is critical to achieving ongoing reforms.

It also refers to the \$2.5 billion in capital investments to make infrastructure improvements to stabilize health care providers to further advance transformation goals. Medicaid Redesign

WORKFORCE

Minimum Wage Increase: The Executive Budget includes provisions to further increase the minimum wage to \$10.50 in New York City and \$9.75 in the remainder of the State, effective July 1, 2016, gradually increasing the minimum wage to \$15.00 in New York City on December 31, 2018 and across the rest of the State on July 1, 2021.

Paid Family Leave (PFL): Under Gov. Andrew Cuomo's employee-funded paid family leave plan, employees could receive up to about \$500 a week while on leave caring for a child or sick family member, depending on their wages. All private employees would be covered and State and local government employers would be able to opt-in to coverage through collective bargaining or other agreements.

The bill defines family leave as any leave taken by an employee to provide physical and psychological care for a family member, including biological, adopted and foster children, as well as stepchildren, a legal ward and the child of a domestic partner. It also includes care for parents, grandparents, grandchildren, siblings, spouse or domestic partners.

Employees would initially be able to get [35 percent of their](#) average weekly wage — not to exceed 35 percent of the statewide average weekly wage — after working four or more consecutive weeks at a location as well as job protections and protection against retaliatory actions.

The administration estimates that in 2018, when the law is set to go into effect if the Legislature approves it, individuals stand to earn up to \$509 a week while on leave for taking care of a relative. (The statewide average weekly wage as of 2014 was \$1,266.44, according to the state Department of Labor.) The wage percentage that workers would get while on family leave would rise to 40 percent in 2019 and to 45 percent in 2020. It would be capped at 50 percent every year thereafter.

PFL coverage will be provided by insurance carriers, the State Insurance Fund (SIF), or self-insured employers. In order to limit premium volatility, the Superintendent of Financial Services will determine whether coverage provided by carriers and SIF will be experience rated or community rated. Finally, this bill sets forth a dispute resolution process.

The paid family leave program would be funded by employee paycheck deductions, not to exceed 60 cents a week. Effective April 2016.

Workers Compensation Reform: This is a \$7 billion system. The bill would:

- Continue support for the World Trade Center Volunteer Fund;
- Create a new pooling agreement freeing employers' committed reserves;
- Redesign current operations to ensure the system will provide more timely and appropriate medical and wage replacement benefits to workers;
- Provide broader and more accessible options for medical care by expanding the list of eligible providers;
- Make hearings more accessible through flexible scheduling and use of virtual hearings; and
- Streamline Workers' Compensation Board processes and administration to expedite decision making.

OTHER ITEMS OF NOTE:

Aids Funding: The Governor announced at the Apollo Theater on December 1st on World AIDS DAY an investment of \$200 million to meet the goals of the “End the Epidemic” Task Force, which met and made recommendations to end the epidemic by 2020. It would be an 8% increase in AIDS funding. The AIDS world rejoiced until the actual budget came out and it became clear that it was really \$40 million a year for 5 years, a 1.6% increase this year. The Treatment Action Group estimated that implementing all of the recommendations of the task force would cost \$2.25 billion in new Medicaid spending. In addition, they recommended another \$600 - \$700 million in housing assistance dollars.

Breast Cancer: The governor proposes a \$91 million investment in breast cancer initiatives including:

- \$15 million outreach and public education campaign
- 59.5 million for more mobile mammography vehicles
- \$11.6 for more health care workers
- \$5 million from the Venture Capital Fund for research

Health Information Technology: 32 million patient records are able to be shared by health care providers. At the end of 2015, more than 90% of acute care hospitals and 86% of community health centers statewide were connected to the SHIN-NY. To date, the state has invested \$116 million to develop HIT infrastructure capable of sharing information to support and inform consumers, providers, payers, and other health care stakeholder. The budget book cites a \$40 million investment in 2016, but we can't be absolutely certain that this is in the 2016/2017 budget rather than in the previous 2015/16 budget.

NYC: The Governor has proposed that NYC pick up its increases to Medicaid, something that no other municipality must do. However, the governor's position is that NYC is not subject to the 2% property tax cap imposed a few years ago on all municipalities except NYC. It is a total of \$180 million this year and \$476 million next year. In addition, the governor proposes that the state reduce funding for CUNY by \$485 million but offsets that by promising \$240 million to settle labor disputes. The news is going back and forth on how bad this all is for NYC. The final word had not been spoken yet.

Automatic Voter Registration at DMV would be possible.

Early voting: This would allow early voting up to 12 days in advance of Election Day, so there would be no more absentee ballots to deal with when you come to the Sagamore!

Infrastructure: The Governor has promised \$22 billion in infrastructure investments upstate and the MTA region but some have pointed out that it is really only \$20 billion because some of last year's money is included. Upstaters want parity with the amount being invested in NYC, which includes LaGuardia Airport, Long Island Railway, and Penn Station, etc.

School Aid: Although school aid could be increased by nearly \$1 billion in the Governor's proposal, school advocates want double that.

In summary – this year's budget negotiations will be intense. Upstate infrastructure, AIDS, school aid, NYC and others will look to add or restore money to their areas. Combined it is billions of dollars that will be subject to disagreement.

WE WILL HAVE TO BE IN THERE ALL SESSION TO PROTECT OUR NEW HOUSING MONEY.

COME TO ACL LEGISLATIVE DAY ON MARCH 14th in Albany. DETAILS TO FOLLOW.