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New York State FY 2017 Enacted Budget Highlights

MAJOR FUNDING PROVISIONS

$15 Minimum Wage

The budget increases the statewide minimum wage from $9 per hour to $15 per hour, to be phased in gradually over at least three years (depending on geographic area), as follows:

- For employers with more than 10 employees in New York City, the minimum wage will rise by $2 each year on December 31st, starting this year, until it reaches $15 on December 31, 2018.
- For smaller employers in NYC, the minimum wage will rise by $1.50 each year until it reaches $15 on December 31, 2019.
- For employers in Westchester or on Long Island, the minimum wage will rise by $1 each year until it reaches $15 on December 31, 2021.
- For employers in the rest of the State, the minimum wage will rise by $0.70 each year until it reaches $12.50 on December 31, 2020. Every year afterwards, it will be increased on an indexed schedule to be determined by the Division of Budget until it reaches $15.

Starting in 2019, the Division of Budget will conduct an analysis to determine whether economic conditions may require these increases to be delayed.

The following appropriations have been made (in the Aid to Localities bill) to support the expenses of providers related to the minimum wage increase in FY 2017 (January 2017 through March 2017):

- Office for People with Developmental Disabilities (OPWDD): $4.1 million
- Office of Alcoholism and Substance Abuse Services (OASAS): $800,000
- Office of Mental Health (OMH): $600,000
- Special act school districts and special education schools: $1.1 million

An unspecified amount may also be appropriated for DOH providers. These increases are separate from a 0.2 percent cost-of-living adjustment (COLA) also included in the bill.

The State intends to adjust Medicaid rates to account for costs associated with the higher minimum wage. Increased provider expenses due to these minimum wage increases are expected either to cause adjustments to the Medicaid Global Cap or to not be counted against it.

Health Care Transformation Fund and Capital Funding Pools

The budget allocates $200 million for capital funding for health care facility transformation projects. This funding will support mergers, consolidations, acquisitions, or other restructuring initiatives that are part of an overall transformation plan to create a financially sustainable health care system. Eligible providers must offer acute inpatient, outpatient, primary, home care, or residential health care services.

DOH may award these funds without a competitive process. However, applicants will be judged on various criteria, including long-term sustainability, alignment with DSRIP, and access to alternative financing. Funds will be dependent on achieving metrics and milestones to be determined by DOH.

DOH will prioritize applicants who were not funded under the Capital Restructuring Financing Program (CRFP) or the Essential Health Care Provider Support (EHCPS) Program. Projects that receive funds from last year's Kings or Oneida County capital pools are ineligible for funding.

At least $30 million will be allocated for community-based providers, defined as Article 28 diagnostic and treatment centers, Article 31 mental health clinics, or Article 32 substance abuse clinics, primary care providers, or home care providers.

Vital Access Provider Funding

The budget contains the following appropriations for safety net providers:

- $212 million to meet existing commitments of the Vital Access Provider (VAP) program;
- $137 million for the Vital Access Provider Assurance Program (VAPAP), which provides funding for safety net providers in severe financial distress;
- $50 million for services to "preserve critical access to essential behavioral health and other services in targeted areas," which likely represents existing commitments.

These funds may be eligible for federal matching dollars.

Clinic Uncompensated Care Pool

The budget allocates $54.4 million for the Diagnostic and Treatment Center Uncompensated Care Pool, which expired in 2014. This amount represents the state share only of the $108.8 million total pool. DOH is continuing to work with CMS to seek approval for the remaining federal share.

MEDICAID REFORM

Medicaid Global Cap

The Medicaid Global Cap has been extended through FY 2018, tied as before to the ten-year rolling average of the medical consumer price index.

New York City Contribution

No provision was included in the final budget to require New York City to provide significant new funding for the Medicaid program, as had been proposed in the Executive Budget.

Medicaid Eligibility for High-Needs Inmates

The State may seek federal approval to provide transitional Medicaid benefits, such as medical care, pharmacy, and care coordination, to high-needs inmates starting 30 days prior to release.

Health Home Criminal Justice Pilot

A $5 million appropriation from the previous year may be partly used to establish a criminal justice pilot program to enroll incarcerated, Health Home-eligible individuals.

Health Information Technology (HIT)

The following HIT appropriations were approved:

- $35 million for the Statewide Health Information Network for New York (SHIN-NY).

- $10 million for the establishment of the All Payer Claims Database.
- $10 million for "information technology projects" undertaken by DOH.

Physician Excess Medical Malpractice Pool

The physician excess medical malpractice pool has been extended through June 30, 2017.

MANAGED CARE PROVISIONS

Health Republic Settlement Fund

The State will establish a settlement fund for amounts received in connection with the bankruptcy of Health Republic in FY 2017. This money will be paid out after Health Republic has been liquidated.

Medicaid Copays for Medicare Advantage (MA)

For qualified Medicare beneficiaries (QMBs) who are enrolled in a Medicare Advantage plan, Medicaid will now pay only up to 85 percent of the Medicare copay for most services. The excluded services are ambulance services and psychology, for which the full copay will still be paid.

Penalties for Late or Inaccurate Encounter Data

DOH will have the authority to impose penalties on managed care organizations (MCOs) that submit late or inaccurate encounter data. The penalties will be:

- 1.5 percent of Medicaid revenue for late submissions;
- 0.5 percent of Medicaid revenue for inaccurate submissions; and
- 0.5 percent of Medicaid revenue for submissions that result in "a rejection rate in excess of ten percent of [DOH]-developed benchmarks."

Extension of Mandatory APG Rates

Mandatory APG rates for behavioral health providers have been extended as follows:

- Through March 2018 for New York City;
- Through June 2018 elsewhere; and
- Through June 2018 for all services provided to children under 21.

PHARMACY PROVISIONS

Maximum Price Increase for Generic Drugs

The State may require drug manufacturers to provide rebates to the Medicaid program for generic drugs with price increases that result in costs over 300 percent of the state maximum acquisition cost (SMAC) for a given drug. The amount refunded will be limited to the amount by which the price exceeds the limit. Single source drugs and innovator multiple source drugs are excluded from this provision.

State Negotiation of Drug Prices

The existing provision allowing the State to negotiate drug prices for certain specialty drugs (e.g., antiretrovirals and Hepatitis C treatments) has been expanded from drugs only for Medicaid managed care enrollees to include drugs for all Medicaid recipients.

Prior Authorization for Opioids

MCOs will require prior authorization if a patient receives more than four prescriptions for opioid analgesics in a 30-day period, unless certain exceptions (e.g., hospice) apply.

BEHAVIORAL HEALTH

Social Work Licensure Exemption

The current exemption for non-licensed direct care staff providing social work services under the auspices of a licensed or approved agency has been extended by two years, through June 2018. A workgroup will be established to try to come to a consensus on how to eventually end this exemption.

Sharing of Behavioral Health Records

The budget authorizes the exchange of patient information between facilities licensed under the mental hygiene law and MCOs, behavioral health organizations (BHOs), Health Homes, or other entities authorized to coordinate care. Written consent is still necessary where required by federal law (i.e., for protected substance use information).

Opioid Treatment

The budget includes $25 million to address heroin and opiate use and addiction disorders. Funds may be used for treatment, recovery, and prevention services, including housing development. An additional $10 million in funding was also included for capital needs.

DEVELOPMENTAL DISABILITIES

Notification of IRA Closure

If an Individualized Residential Alternative (IRA) facility is closed, OPWDD must notify the legislature and affected unions at least 45 days beforehand, unless in exceptional circumstances. This provision expires at the end of FY 2018.