

2020-2021 New York State Executive Budget Proposal

OVERVIEW

On January 21st, Governor Andrew Cuomo released his Executive Budget for State Fiscal Year (FY) 2021, which begins on April 1st.

For the current year, FY 2020, the savings plan proposes to close the \$1.8 billion gap without identifying any additional immediate, substantial cuts to the Medicaid program. Going forward, the FY 2021 budget calls for \$105.8 billion in state operating funds, including \$20.0 billion in state Medicaid spending under the global cap, an increase of 3.0% from the previous fiscal year. For FY 2021, the budget aims to close a \$6.1 billion projected deficit in the general fund, including a \$2.0 billion Medicaid gap. The Medicaid gap reflects the remaining difference between estimated Medicaid expenditures and the spending limit established by the Medicaid Global Cap, which caps Medicaid growth at the ten-year rolling average of the medical consumer price index for the Department of Health (other agencies are excluded).

To address the FY 2021 Medicaid shortfall, the Governor intends to reconstitute the Medicaid Redesign Team (MRT II), which will re-convene stakeholders to identify cost-containment measures and achieve at least \$2.5 billion to close the budget gap. The MRT II, including co-chairs Michael Dowling of Northwell Health and Dennis Rivera of SEIU, will be instructed to find savings that will not impact beneficiaries or rely on an increase in local government share. It will report back before April 1st so that its recommendations may be incorporated into the enacted budget. If the MRT does not find \$2.5 billion in gap closing measures, the Governor's proposal would enact "uniform across the board" cuts to achieve the savings required.

The Governor also proposed to ensure that the State's responsibility for Medicaid growth is limited to 3% by creating an incentive structure for local governments. Counties (and NYC) that keep property tax growth within the 2% cap as well as Medicaid spending growth within the 3% cap would not face any additional local responsibility. If a county were to exceed the 2% property tax cap, it would be required to fund the additional local share of Medicaid expenses, while if a county were to exceed 3% Medicaid growth, it would be responsible to fund the excess amount. In addition, the Governor stated that counties that are able to keep Medicaid growth under 3% would be able to receive 25% of the amount saved below that threshold. Further details on this proposal are yet to be released.

As a result of these and other measures, the budget projects that state share of Medicaid growth will be at 3% in the upcoming fiscal year. A high-level list of the budget's gap-closing measures follows:

- MRT II identified savings (\$2.5 billion);
- Revisions to tax receipts forecast (\$2.1 billion);
- Local assistance savings from targeted actions and continuation of prior-year cost containment (\$1.7 billion);
- Savings in agency operations, including fringe benefits (\$360 million); and
- Other savings/revisions and administrative actions to manage costs (\$250 million).

The Governor's policy briefing book is available [here](#). The webcast can be found [here](#). The full Executive Budget proposal is available [here](#). A summary of important health care proposals follows.

DEPARTMENT OF HEALTH

The Budget proposes \$88.5 billion for Department of Health, including:

- \$76.7 billion for Medicaid (including federal, state and local share);
- \$5.3 billion for the Essential Plan;
- \$6.5 billion for remaining health programs, including:
 - \$30 million to support the operations of the State Health Information Network of New York (SHIN-NY);
 - \$10 million to support the continued development of the All Payer Claims Database (APD); and
 - \$519 million to support the operation of the NY State of Health, the State's health plan marketplace.

The Budget also proposes a series of reforms designed to ensure increased commercial coverage of Early Intervention (EI) services, including the creation of a pay and pursue model for EI services and new requirements for plans to maintain an adequate EI network (saves \$400,000).

HUMAN SERVICES

The Budget includes All Funds (federal, state, and local) spending totals, which comprise state operations, aid to localities, and capital projects, for the following agencies:

- \$5.0 billion (increase of 3.5% from FY 2020) in funding for the Office of People with Developmental Disabilities (OPWDD);
- \$4.5 billion (increase of 1.1%) in funding for the Office of Mental Health (OMH);
- \$3.8 billion (unchanged) for the Office of Children and Family Services (OCFS); and
- \$821 million (increase of 1.6%) in funding for the Office of Alcoholism and Substance Abuse (OASAS).

Major budget proposals for each agency are described below.

OPWDD

- Allocate \$120 million in new funding to support priority program reforms;
- Allocate an additional \$15 million to support the development of independent living opportunities for individuals with intellectual and developmental disabilities; and
- Transfer responsibility for the autism awareness and research fund from DOH to OPWDD;
- Propose legislation that authorizes OPWDD to issue operating certificates for providers who offer State Plan services designated for individuals with developmental disabilities. In particular,

the legislation would transfer various oversight functions for Care Coordination Organizations (CCOs) from DOH to OPWDD.

OMH

- Allocate additional \$20 million for existing community-based residential programs;
- Allocate an additional \$12.5 million for individuals living in transitional adult homes who wish to transition to more integrated community settings;
- Allocate \$60 million to maintain and preserve community-based residential facilities;
- Extend Comprehensive Psychiatric Emergency Programs (CPEP) services for four more years and improve operational efficiency of programs by authorizing the use of satellite sites and increasing the amount of time an individual can be held for emergencies.
- Streamline the pre-admission process for youth entering Residential Treatment Facilities (RTFs);
- Establish jail-based mental health restoration programs for inmates in jail awaiting trial instead of being sent to OMH inpatient psychiatric hospitals; and
- Transfer authority of the Eating Disorder and Comprehensive Care Centers for Eating Disorders program from DOH to OMH.

OCFS

- Enact changes to comply with the Federal Family First Prevention Services Act regarding the placement of youth in qualified residential treatment programs (QRTPs), including the requirement of assessments, mandatory Family Court review and approval, and demonstration of evidence that supports continued placement in the QRTP; and
- Allocate \$75 million for the implementation of Family First prevention services.

OASAS and Opioid Crisis

- Continue to expand access to residential addiction treatment services, with the aim to open 200 new residential treatment beds by the end of FY 2022;
- Propose legislation to make fentanyl analogs, which are potentially lethal synthetic opioids, subject to the same criminal sale or possession penalties as other controlled substances, and ban fentanyl analogs that have been added to the federal schedule of controlled substances; and
- Establish and allocate \$1.5 million in funding to the Behavioral Health Parity Compliance Fund, which supports the Substance Use Disorder and Mental Health Ombudsman Program, by collecting penalties imposed on insurers who violate NY's Behavioral Health parity laws.

SUPPORTIVE HOUSING AND HOMELESS SERVICES

- Continue the ongoing \$20 billion, five-year Affordable Housing and Homelessness Initiative that supports the operation of shelters, rental subsidies, and the development and preservation of

more than 100,000 units of affordable housing (60,000 units have already been financed) and 6,000 units of supportive housing;

- Allocate \$64 million in new funding for the Homeless Housing and Assistance Program (HHAP), which funds the capital construction of housing for homeless requiring wrap-around services; and
- Allocate \$13 million to support implementation of Code Blue efforts to protect homeless individuals from winter weather conditions.

LONG-TERM CARE

- Restructure the Enhance Quality of Adult Living (EQUAL) program and set new requirements for adult care facilities to receive grants:
 - Facilities that have least 25 residents or 25% of the resident population (whichever is less) experiencing serious mental illness are able to receive grants targeted at supporting mental hygiene training of staff and independent skills training for residents.
 - Facilities that have the highest populations of residents receiving SSI are able to receive grants supporting capital improvement projects (saves \$3.27 million).

DSRIP

The budget proposal alludes to New York State's submission of the waiver request for an extension and renewal of the Delivery System Reform Incentive Payment (DSRIP) program, which has not yet received a response from the Centers for Medicare and Medicaid Services (CMS).

Budget legislation would extend regulatory waiver authority to allow providers involved in DSRIP projects or interested in replicating DSRIP projects to avoid duplicative requirements through the end of FY 2024, allowing the continuation of promising DSRIP approaches.

TRANSFORMATION CAPITAL FUNDS

Existing capital funding has been reappropriated, including the remaining Statewide Health Care Facility Transformation Program (SHCFTP) funds, of which about \$200 million have not yet been awarded. However, no new capital funding has been included in the budget.

OTHER

- Extend the authority of the Department of Financial Services to set rates for medical malpractice insurance and extends but reduces the hospital excess liability pool to reimburse current year premiums;
- Add a three percent surcharge on Certificate of Need construction projects, exempting projects funded solely from State grant funding, to produce \$70 million in revenue.

- Save \$17 million by reauthorizing the Health Care Reform Act (HCRA) through the end of FY 2023, which includes the following provisions:
 - Extend the continuation of the Medicaid inpatient hospital reimbursement methodology and collection of HCRA surcharges and assessments, including the Covered Lives Assessment;
 - Extend the Home Care Workforce Recruitment and Retention Program and Personal Care Workforce Recruitment programs;
 - Discontinue select public health programs, including several Doctors Across NY (DANY) programs.

PHARMACY

The Budget proposes legislation intended to reduce the price of pharmaceuticals that would:

- Regulate the registration and licensure of Pharmacy Benefit Managers (PBMs);
- Create a drug accountability board within the Department of Financial Services (DFS) that is authorized to conduct prescription drug price investigations;
- Enable the Superintendent of Financial Services to investigate and impose injunctions in cases where the price of a prescription drug has increased by more than 100% within a one-year time period; and
- Extend the Medicaid drug cap.

WORKFORCE

The Budget makes a number of proposals regarding investments in the healthcare workforce and statutory changes affecting the scope of practice of certain licensed provider types:

- Appropriate \$265 million (an increase of \$51 million) to support provider costs for minimum wage and related fringe benefits cost increases;
- Allocate an additional \$170 million to support targeted compensation increases for direct care and clinical staff at OPWDD, OMH, and OASAS facilities;
- Amend Education Law to expand the scope of assistance for licensed pharmacists, clarifying the tasks, settings, and allowable number of technicians or unlicensed individuals assisting a pharmacist;
- Allow pharmacists and nurse practitioners to conduct collaborative drug therapy management if department-certified and to administer adult immunizations recommended by the Advisory Committee on Immunizations Practices (ACIP); and
- Clarify that licensed pharmacists must satisfy certain educational requirements and clinical experiences or practice agreements with a physician.

Enhancing Physician Integrity and Accountability

The Governor proposes to introduce a set of reforms to allow DOH to more effectively investigate, discipline, and monitor physicians and other providers licensed in New York State:

- Enact periodic renewal requirements for physicians to maintain their license and ability to practice in New York;
- Strengthen disciplinary oversight and allow for the expeditious removal of physicians who are a risk to the public; and
- Ensure that patients are able to access information on the professional conduct of licensed physicians.

HEALTH RELATED CONSUMER PROTECTIONS

To improve coordination between payers and providers, the Governor proposes:

- Additional requirements for when an insurer may deny payment for medically necessary services;
- Administrative requirements for payers when requesting documentation for payment purposes as well as various measures to incentivize timely claims payments;
- Creating a health care work group to identify cost reduction strategies in health care administration;
- Shortening the timeframe for payers to conduct administrative operations such as prior authorizations and appeal determinations;
- Requiring payers to provisionally credential physicians to practice in a network during a full plan credentialing process;
- Expanding the independent dispute resolution process to include inpatient services following an emergency room visit;
- Requiring all hospitals to participate in the Independent Dispute Resolution process to resolve billing disputes between hospitals and insurers; and
- Distinguishing medical debt from other consumer debt and shortening the statute of limitations to collect unpaid medical debt from six years to three years.

OTHER MEDICAID

- Create a dedicated unit of the Office of the Medicaid Inspector General (OMIG) to monitor and investigate Medicaid Managed care payments and hire additional staff to improve program efficiency.

OTHER PUBLIC HEALTH

- Prevent antimicrobial resistance by requiring all licensed or certified individuals that provide direct patient care in a general hospital or nursing home to participate in antibiotic stewardship programs and antimicrobial resistance and infection prevention training programs; and
- Implement a comprehensive tobacco control agenda that includes measures such as the prohibition of vapor products sales.

