

2023 State of the State Health Care Proposals

OVERVIEW

On January 10th, Governor Kathy Hochul delivered her second State of the State speech, which outlined her policy agenda for the 2023 Legislative Session. The accompanying State of the State Book, entitled “Achieving the New York Dream,” describes the Governor’s proposed agenda across 14 sections. Two sections focus on health care issues, Section II (“Fixing the Continuum of Care for Mental Health”), which plans a \$1 billion investment into new inpatient and outpatient behavioral health capacity, and Section IV (“Building a Health Care System for New York’s Future”), which contains proposals for new reforms to the health care delivery system, including the creation of a new Commission on the Future of Health Care. Other sections outline the Governor’s plans for housing development, public safety, economic development, civil rights (including disabilities initiatives), child care, and governmental operations.

Further details, including legislative language for proposals that require funding appropriations, will be included in the Governor’s upcoming Executive Budget and Financial Plan, which are to be submitted to the State Legislature in February.

A summary of the Governor’s health care-related proposals is provided below. The full State of the State book is available [here](#).

HEALTH SYSTEM TRANSFORMATION

Commission on the Future of Health Care

The Governor proposes to create a new Commission on the Future of Health Care that will provide ongoing guidance on transforming the State’s health care delivery system. The Commission will guide statewide and regional planning activities and make recommendations for policies that can improve the system. In particular, the Commission will shape a new strategy for allocation of State subsidies for financially distressed hospitals, which have increased to a total of \$2.7 billion as of State Fiscal Year (SFY) 2023.

Capital Funding

On top of the SFY 2023 allocation of \$1.6 billion (which has not yet been opened for applications), the Governor intends to propose additional capital funding for health care transformation, but the amount is not specified. New funding would be aligned with the recommendations of the Future of Health Care Commission.

In addition, the Governor will propose a technology-specific capital program to support technological investments that support the State’s transformation goals. Funds might be used for “advanced clinical technologies, cybersecurity tools, and other technological upgrades,” among other purposes.

CON Reform

The Governor proposes to streamline the Certificate of Need (CON) process by:

- Raising the cost threshold for projects that need to file a CON. Currently, projects with total cost under \$15 million for general hospitals and \$6 million for other facilities require only a limited review, and projects with costs under \$30 million for general hospitals and \$15 million for other facilities are subject to an administrative-only review.
- Reviewing the definition of “public need.” Currently, determinations of need may be based on factors that include population demographics, utilization patterns, prevalence of conditions, and accessibility of services.

Other CON reforms will also be considered.

Private Sector Transactions

The Governor intends to take actions to ensure that “significant private sector health care transactions” are aligned with the State’s goals for the health care system, including “financial sustainability, access, and quality of care.”

MEDICAID AND INSURANCE

Expansion of Preventive Services

The Governor intends to enact various expansions of preventive services under Medicaid, including:

- Increasing funding for supportive housing;
- Expanding screening for social determinants of health (SDH) needs and adverse childhood experiences (ACE)
- Expanding coverage of therapy, nutrition, and doula services; and
- Increasing rates of dental care and vaccination of children.

Primary Care Coverage and Rates

The Governor proposes to:

- Increase Medicaid reimbursement rates for primary care, in particular for nurse practitioners. Previously, as part of the SFY 2022-23 Budget, the Department of Health (DOH) increased fee-

for-service rates for evaluation and management (E&M) codes to 70 percent of the Medicare rates.

- Provide expanded primary and urgent care services in the state’s shelter system for people facing housing insecurity.
- Expand Medicaid coverage to include community health worker (CHW) services.
- Increase reimbursement for school-based health centers (SBHCs).
- Promoting integrated physical and behavioral health care through:
 - “Relaxing licensure restrictions” for licensed Article 28, 31, and 32 programs. Currently, the State has established volume thresholds under which such programs may provide services that are otherwise regulated under other licenses.
 - Allowing Medicaid to reimburse services provided by “additional types of licensed mental health providers” in community health centers. Currently, licensed clinical social workers (LCSWs) are permitted to provide psychotherapy services in federally qualified health centers (FQHCs).
 - Establishing a new working group on integrated care.

Increased Rates for Reproductive Services

The Governor proposes to increase Medicaid reimbursement rates for reproductive health providers.

Expanding the Medicaid Buy-In Program

The Governor intends to submit a request for a waiver to expand eligibility the Medicaid Buy-In program. Currently, this program allows individuals with disabilities who have incomes of up to 250% of the federal poverty level (FPL) to be eligible for Medicaid coverage, typically subject to a premium. The State of the State Book does not specify the proposed new income level for eligibility.

Long-Term Care

While the State continues to establish its new Master Plan on Aging, the Governor is proposing several smaller initiatives to improve access to long-term care services, which would:

- Expand the availability of care teams to provide home care;
- Provide new respite services for high-need family caregivers;
- Establish new quality reporting and accreditation requirements for assisted living residences; and
- Implement new quality improvement initiatives in nursing homes.

Mental Health Coverage

The Governor proposes to expand and improve commercial and Medicaid coverage of mental health services, including by:

- Prohibiting insurance plans from denying coverage for medically necessary mental health services;
- Closing coverage gaps for behavioral health services when individuals leave hospitals or emergency departments;
- Adopting new accessibility standards for behavioral health services, including appointment availability and geographic requirements; and
- Ensuring payment parity for behavioral health telehealth services.

Essential Plan Reforms

The Governor proposes to explore more options for improving the Essential Plan, which provides coverage to New Yorkers with incomes between 138% and 200% of FPL and some lawfully present immigrants not eligible for Medicaid. Possible reforms include:

- Further reductions to cost sharing;
- Increased reimbursement rates;
- Expanded coverage of mental health and social services; and
- Requiring plans to spend more on patient care, likely through increasing the required Medical Loss Ratio (MLR).

MENTAL HEALTH AND SUBSTANCE USE SERVICES

Inpatient Services and Admission/Discharge Processes

The Governor proposes to increase the number of inpatient psychiatric beds available by 1,000. This will consist of requiring Article 28 community hospitals to bring back into operation 850 beds that are currently “offline” and by opening 150 new adult beds in State-run psychiatric hospitals. Hospitals that are deemed non-compliant with their operating certificate by not bringing the appropriate number of inpatient psychiatric beds back in operation may be fined up to \$2,000 per violation per day by the State. These beds are projected to serve over 10,000 individuals annually.

The Governor also proposes the following to improve the admission and discharge planning processes:

- Develop new standards for hospital admissions and increase state-level oversight;
- Create 50 new Critical Time Intervention (CTI) Care Coordination Teams to provide wraparound services for discharged patients (i.e., housing, job support);

- Require emergency departments and inpatient providers to discharge high-risk, high-need individuals into immediately available wraparound services, including CTI Care Coordination;
- Require outpatient programs to provide immediate and ongoing appointments for high-risk individuals during the discharge process, ensuring a “warm handoff” of care.

Outpatient Services

The Governor proposes a significant expansion of publicly supported behavioral health outpatient services through new or expanded programs, as follows:

- 12 Comprehensive Psychiatric Emergency Programs (CPEP) statewide;
- 42 Assertive Community Treatment (ACT) teams, with 22 teams in New York City and 20 teams in the rest of the state;
- 26 Certified Behavioral Health Clinic (CCBHC) demonstration sites statewide, supplemented by an Indigent Care Pool (ICP);
- 8 Safe Options Supportive (SOS) teams, with 5 teams in New York City and 3 in the rest of the state;
- Expanded capacity at 20 Article 31 mental health clinic sites; and
- Additional access to Health Home Plus care management services.

School-Based Services

The Governor proposes to increase the availability of mental health services in schools by requiring commercial insurance plans to reimburse for school-based mental health services at parity with Medicaid reimbursement. The Governor would also increase Medicaid rates for Article 31 school-based satellite clinics and school-based wraparound services. The Governor’s proposal would include annual school-based partnership and capacity grants that would provide start-up funding for school-based services.

Housing

The Governor proposes capital and operational funding for the establishment and operation of 3,500 new residential units for New Yorkers with mental illness. This plan would create:

- 500 Community Residence Single Room Occupancy (CR-SRO) units;
- 900 Transitional Step-down units;
- 600 Licensed Apartment units; and
- 1,500 Supportive Housing units, half of which would be scattered-site rental units and half of which would be new construction or renovated facilities completed over the next five years.

This would include “new budgetary authority for OMH residential capital.”

WORKFORCE AND SERVICES

Licensure and Scope of Practice

The Governor intends to propose reforms to expand the scope of practice for various types of health care providers. Several such proposals were included in the previous Executive Budget, but were omitted from the final 2022-23 Enacted Budget. The new State of the State book does not specify which scope of practice proposals the Governor will pursue.

The Governor will also bring back last year's proposal to join the Interstate Medical Licensure Compact and the Nurse Licensure Compact, making it easier to transfer licensure between states.

Staffing Agency Reporting Requirements

To address the increasing use of contract staff and traveling nurses, the Governor proposes to require health care staffing agencies to register and report data about their operations, including information on their utilization and costs.

EMS Reforms

The Governor proposes reforms to the Emergency Medical Services (EMS) system that resemble the proposals included in the previous Executive Budget, but not passed in the final 2022-23 Enacted Budget. They include:

- The establishment of regional EMS organizations to coordinate EMS agencies;
- Expanding EMS providers' ability to provide care in the community; and
- Permitting ambulances to treat in place or triage patients by taking them to urgent care clinics.

Nurses for Our Future

The Governor seeks to expand the Nurses for Our Future program, which offers scholarships to nurses who commit to working in a nursing position in New York for a set period of time after graduation.

CONSUMER PROTECTIONS

The Governor proposes a set of new consumer protections in health care, including:

- Requiring hospitals to use a uniform application form for individuals seeking financial assistance from hospitals;
- Requiring pharmaceutical manufacturers to publicly report changes in drug prices in advance; and
- Exploring the creation of a new Health Guaranty Fund, which would provide a backstop if a health insurer becomes financially impaired or insolvent.

PANDEMIC AND EMERGENCY PREPAREDNESS

Modernization of the Public Health Reporting System

The Governor proposes to overhaul the state’s system for health data reporting by creating a new, real-time health monitoring and surveillance system. This system would expand the scope of public health data by including data on chronic conditions and SDH risk factors. It would seek not only to improve the response to public health crises, but also to “drive broader health care insights.”

The Governor will establish a DOH Program Office to oversee this effort, which will start by expanding the State’s existing pilot program to automate reporting of hospital bed capacity.

Additional Resources for Emergency Readiness

DOH will “commit additional staff resources” to expand emergency response plans, conduct emergency response training, and ensure appropriate stockpiles are maintained.

OTHER PROPOSALS

Indexing the Minimum Wage to Inflation

The Governor proposes to begin indexing the regional minimum wage to inflation, as measured by the Consumer Price Index for urban wage earners (CPI-W) for the Northeast region. However, annual increases would be capped and an “off-ramp” would be available under certain conditions.

Matching Funds for SBIR and STTR Grants

The Governor proposes to provide matching grants to companies that apply for funding through the federal Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

Consumer Experience in Government

The Governor will direct agencies to begin focusing on improving the consumer experience of government services. For example, the State will seek to simplify the process of applying for the Child Care Assistance Program for families receiving other types of benefits, including Medicaid, through the removal of redundant paperwork.

Unified ID for NYS

The Governor proposes to create the “One ID for New York State” initiative, which would unify all state agency logins through a single NY.GOV ID+ account. Individuals will be able to access multiple types of state benefits without having to create multiple accounts.

Reforms to Civil Service Jobs

The Governor seeks to amend the Civil Service Law to make it easier to recruit personnel into the civil service by allowing agencies to “continuously recruit” for some positions, add to the pool of qualified candidates at more regular intervals, and enabling hybrid exam procedures.