



**TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS**  
**FROM: DEBBIE HOLLAND, DIRECTOR OF GOVERNMENTAL RELATIONS**  
**DATE: FEBRUARY 6, 2015**  
**SUBJECT: SFY 2015-16 EXECUTIVE BUDGET ANALYSIS**

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### **General Overview of the Executive Budget**

On January 21, 2015, Governor Cuomo released his State Fiscal Year (SFY) 2015-16 Executive Budget. For 2015-16, the Governor proposes a total spending plan of \$141.6 billion which is an increase of 1.7 percent or \$1.6 billion in state funding from 2013-14. For the fifth consecutive year, Governor Cuomo proposes holding down spending growth below two percent.

The Executive Budget also includes a one-time cash infusion of \$5.4 billion from funds the state received through various financial settlements. This money is proposed to be spent as follows: \$850 million to settle OPWDD funding issues with the federal government; \$1.5 billion for upstate economic revitalization; and \$3.05 billion for infrastructure projects and other investments, including a \$1.3 billion investment in the Thruway Authority to keep tolls down and support the new construction of the Tappan Zee Bridge.

Other high profile budget items include: a \$1.7 billion Real Property Tax Credit Program to provide relief to homeowners and renters who spend at least six percent of their incomes towards paying real property taxes; and an increase of \$1.1 billion in education aid if the Legislature accepts Cuomo's 11-point education reform agenda, otherwise the Governor proposes to increase education aid by \$377 million.

In terms of mental hygiene agency funding, the Executive Budget does not propose any cuts in state aid to the LGUs.

### **The Budget Process from Here**

After the release of his Executive Budget, Governor Cuomo may amend the budget bills within thirty days of their submission to the Legislature. Over the past four budget cycles, the Governor has amended his budget twice: once under "21-day amendments," and a second time in "30-day amendments."

Upon receiving the Governor's budget, the Senate and Assembly review the bills and hold joint public hearings at which state agency commissioners and dozens of statewide associations, unions, and members of the public testify about the budget. The mental hygiene hearing will be held on February 27, and the Conference will testify. After these hearings, the Senate and Assembly will each introduce their own one-house versions of the budget (based on the Executive Budget framework), come to an agreement on the amounts of revenue available, and negotiate the final budget using budget conference committees. The State Fiscal Year begins on April 1, 2015. For the last four years, the Legislature has passed an on-time budget.

## **State Psychiatric Center Downsizing and Community Reinvestment**

The Executive Budget proposes \$15 million (fully annualized) in new funding to be reinvested into the community due to the closure of 136 state psychiatric beds. The Governor has not released information yet on where these bed reductions would take place. The funding proposal is based on reinvesting into the community \$110,000 for every inpatient bed that is closed. In addition, reinvestments would be made prior to any bed closure, and before any reduction in bed capacity is implemented a bed must be vacant for 90 days. The state is committed to spending \$7.5 million of this new funding for community reinvestment in SFY 2015-16. This builds upon the state's plan to reinvest \$44 million from the closure of 400 inpatient beds included in the 2014-15 Enacted Budget.

Once again, the Executive bypasses or "notwithstands" the Community Reinvestment Law (Section 41.55 of the MHL). In budget appropriation language (the same as last year), the Governor proposes that this reinvestment funding must be used for the expansion of state community hubs and voluntary operated services for adults and children, including, but not limited to, expanding crisis and respite beds, home and community based services waiver slots, 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, and adjustments to managed care premiums.

### Medicaid Investments for Behavior Health Initiatives

In 2015-16, the Executive is committed to spending the full \$110 million in Medicaid funding, enacted in the SFY 2014-15 Budget, for the following behavioral health initiatives: managed care start-up grants; integration of behavioral and physical health; Health Home Plus; OASAS residential restructuring, HARP home and community based services (HCBS); and Vital Access Provider (VAP) Program to preserve critical access to behavioral health services around the state.

### Transportation Assessment and Pilot Program for Persons with Disabilities

The Executive Budget recommends \$750,000 in funding to authorize DOH to contract with a third party to conduct an assessment of the mobility and transportation needs of persons with disabilities or other special needs populations. After consulting with other state agencies, including DOT, OPWDD, SOFA, OMH and OASAS, the contractor would make a recommendation for the development of an Olmstead Mobility Management Pilot Program to coordinate transportation services, maximize funding and enhance community integration.

### Office of Community Living

The Executive Budget recommends Article VII language to authorize the State Office for the Aging (SOFA,) in collaboration with other state agencies, to seek public input on the creation of an Office of Community Living to address the expansion of community living integration services for older adults and persons of all ages with disabilities. The Director of SOFA would be required to submit a report with its findings and recommendations to the Governor and the Legislature by December 15, 2015.

### Child Health Plus Rate Increase

The Executive Budget proposes Article VII language to require payment rates from Child Health Plus plans to providers for outpatient behavioral health services be equivalent to the Medicaid ambulatory patient group (APG) rates for the same services provided by OMH and OASAS clinics. These rate increases would be effective through December 31, 2016 for New York City and July 1, 2017 for the rest of the State consistent

with Medicaid APG payments for these services. Managed care organizations and providers may also negotiate different rates and methods of payment during the periods described above, subject to approval by DOH, in consultation with OASAS and OMH.

#### Health Homes and the Criminal Justice System

The Executive Budget would authorize DOH to distribute up to \$5 million (All Funds) in grants for Health Homes to establish coordination between Health Homes and the criminal justice system and for the integration of information of Health Homes with state and local correctional facilities.

#### Health Homes for Children

The Executive Budget proposes \$45 million (All Funds) in 2015-16 and \$90 million (All Funds) in 2016-17 for the implementation of Health Homes for children. The State anticipates to begin the phase-in of the enrollment of children into Health Homes on October 1, 2015.

#### Community First Choice Option

The Community First Choice Option (CFCO) allows the State to receive increased federal matching funds to provide care attendants and supports to Medicaid beneficiaries who would otherwise need to be institutionalized. The implementation of CFCO is anticipated to occur in SFY 2015-16. The Executive proposes to reinvest any additional federal funding resulting from the State's participation in CFCO toward the implementation of the State's Olmstead plan for serving individuals with disabilities in the most integrated setting possible. According to Article VII language, DOH would consult with stakeholders, relevant state agencies, DOB and the Olmstead cabinet in determining the level of investment for each of the programs under the Olmstead plan. The amount of funding available is unknown and pending federal CMS determination.

#### Transitioning Foster Care Children into Managed Care

The Executive Budget would authorize DOH to spend up to \$15 million (All Funds) on grants to facilitate the transition of children in foster care into Medicaid managed care. Funding would be used by voluntary foster care agencies for training, necessary infrastructure and organizational modifications, and investments in health information technology. The 2014-15 Enacted Budget included \$5 million (All Funds) to provide grants to foster care agencies for this purpose, and this funding has been distributed.

#### NY Connects and the No Wrong Door Initiative

The Executive Budget proposes additional State funding to maintain ongoing operational support to the New York Connects program and the "No Wrong Door" initiative as Federal Balancing Incentive Payment (BIP) funding is set to expire September 30, 2015. The Budget recommends funding of \$8.2 million to cover the rest of SFY 2015-16 and \$18.1 million (fully annualized) for SFY 2016 -17.

#### Medicaid Pharmacy - Prescriber Prevails

The Executive Budget eliminates prescriber prevails provisions for the dispensing of prescription drugs under fee-for-service Medicaid for drugs that are not on the preferred drug list.

#### Medicaid Pharmacy - Prior Authorization

The Executive Budget authorizes the Commissioner of Health to require prior authorization for fee-for-service drugs meeting the Clinical Drug Review Program criteria prior to obtaining the Drug Utilization Review Board's evaluation and recommendation.

## Cross-Agency Items

### Human Services Cost of Living Adjustments (COLAs)

The Executive Budget proposes \$112.46 million in funding to continue a two percent Cost-of-Living Adjustment (COLA) from SFY 2014-15 for direct care workers and direct service staff and provide, as promised, an additional two percent COLA for these individuals along with clinical staff for SFY 2015-16. Providers are required to attest that the money is being used for salary and salary-related fringe benefits only and are required to follow guidelines set forth by the state agencies regarding the implementation of the COLAs. The human services COLAs are associated with the following state agencies: OMH, OASAS, OPWDD, OCFS, DOH, and SOFA.

### NY/NY IV Housing Program

The Executive proposes to invest \$116 million from JP Morgan settlement funds to create 5,000 new supportive housing units statewide over the next 5 years for populations requiring additional supports.

## Other Items of Interest

### Juvenile Justice

The Executive proposes to raise the age of juvenile jurisdiction in two stages: from age 16 to 17 by January 2017 and to age 18 by January 2018. He also proposes to raise the minimum age of juvenile jurisdiction from age seven to 12 by January 2018 for all offenses except in cases of murder which would remain at age 10. Offenders younger than 18 would be prohibited from being confined in adult prisons or jails and would be incarcerated in special facilities. In addition, the Executive recommends the creation of new youth courts to deal with criminal cases involving offenders younger than 18.

### Sale of Hypodermic Syringes

The Executive Budget proposes to remove the limit on the number of hypodermic syringes that a pharmacy can sell and discontinue the ban on advertising the availability of syringes without a prescription. Current law limits the sale of hypodermic syringes to 10 at one time, and prohibits pharmacies from advertising the availability of hypodermic syringes.

## Agency-Specific Budgets

Below are brief summaries of the appropriations and any agency-specific Article VII proposals for OASAS, OMH, and OPWDD.

### Office of Alcoholism and Substance Abuse Services (OASAS)

#### **OASAS ALL FUNDS APPROPRIATIONS:**

	2015-16 proposed	2014-15 Available	Difference	
State Ops	\$115,279,000	\$115,279,000	0	0.00%
local aid	\$471,716,000	\$460,896,000	10,820,000	2.35%
capital	\$9,500,000	\$6,000,000	3,500,000	58.33%
<b>TOTAL</b>	<b>\$596,495,000</b>	<b>\$582,175,000</b>	<b>14,320,000</b>	<b>2.46%</b>

The Executive Budget proposes \$596 million in All Funds appropriations for OASAS, which represents an increase of \$14 million from 2014-15. The Executive Budget also recommends a total workforce of 735 full time equivalent employees (FTE), representing a decrease of 26 FTEs from 2014-15.

### **Combat Heroin/Opioid Abuse Initiatives**

The Executive Budget recommends \$5 million in new funding to address the growing heroin and opioid epidemic in communities across the state. The Executive also proposes to continue \$2.8 million in funding added by the Legislature in SFY 2014-15 to combat this crisis. These combined funds would support treatment and prevention programs targeted toward opiate abuse, residential service opportunities, and public awareness and education activities.

### **Downsizing of Addiction Treatment Centers**

The Executive Budget proposes \$1.9 million in new funding for additional community services related to a five percent reduction in OASAS-operated Addiction Treatment Center capacity. This would result in a 25 bed reduction, with funds being invested into the community prior to reductions taking place.

### **Supportive Housing**

The Executive Budget proposes \$2 million in funding for 80 new apartments for families, at \$25,000 per unit, under the NY/NY III agreement for New York City.

### **Office of Mental Health**

#### **OMH ALL FUNDS APPROPRIATIONS:**

	2015-16 proposed	2014-15 Available	Difference	
State Ops	\$2,197,002,000	\$2,197,002,000	0	0.00%
local aid	\$1,414,485,000	\$1,362,391,500	52,093,500	3.82%
capital	\$312,472,000	\$90,165,000	222,307,000	246.56%
<b>TOTAL</b>	<b>\$3,923,959,000</b>	<b>\$3,649,558,500</b>	<b>274,400,500</b>	<b>7.52%</b>

The Executive Budget proposes \$3.9 billion in All Funds appropriations for OMH, which represents a net increase of \$274 million from the 2014-15 Enacted Budget. The Executive Budget also recommends a total workforce of 14,569 full time equivalent (FTE) employees, representing an increase of 189 FTEs from 2014-15. In addition, the Executive proposes an increase in capital appropriations to support the reconstruction of South Beach Psychiatric Center (Staten Island, NY) and other ongoing facility projects.

### **Balancing Incentive Payment (BIP) Funding for OMH Initiatives**

The Executive Budget includes \$68 million in Balancing Incentive Payment (BIP) funding to assist in the transition to managed care; expand health home capacity, including Health Home Plus; increase the number of children's community services with 250 additional Home and Community Based Services (HCBS) waiver slots; provide additional funding for community residences; and increase support for the Personalized Recovery Oriented Services program (PROS).

### **Criminal Justice Mental Health Services**

The Executive Budget proposes a total of \$22 million in new funding to provide additional in-prison assessments and treatment for high risk inmates (\$6 million), maintain individuals in OMH facilities when appropriate (\$8 million), and provide more aggressive community services through the use of additional Assertive Community Treatment (ACT) teams, supportive housing and related services (\$8 million).

### **Increased Funding for Supported Housing**

The Executive proposes \$10 million in 2015-16 to increase funding for Supported Housing by using a portion of the JP Morgan settlement funds. These funds would be utilized to increase rental subsidy amounts by approximately \$750 and implemented in areas facing the greatest fair market value cost pressures.

### **Other Supportive Housing Initiatives**

The Executive proposes \$20 million in new funding for additional supported apartments to facilitate the transition of individuals from adult homes (400 individuals) and nursing homes (100 individuals) to the community, as well as 1,200 additional congregate care beds primarily associated with the NY/NY III program to reduce homelessness.

### **Sexual Offender Management and Treatment Act (SOMTA) Program**

The Executive proposes a \$5.7 million increase in funding for the SOMTA Program to support an additional 50 beds and 100 FTEs.

### **OMH-related Article VII Budget Bill Proposals:**

#### **Education for Children in OMH Hospitals**

The Executive proposes to extend for three years, until June 30, 2018, a pilot program to authorize OMH to enter into agreement with the State Education Department (SED) for local school districts and Boards of Cooperative Education Services (BOCES) to provide educational services for children and youth residing in OMH hospitals and to modify the pilot by allowing for any alternative educational programs to also be provided by BOCES. The purpose of the pilot program is to provide students residing in OMH hospitals with educational programming that is comparable to that which they would otherwise be entitled to receive in their home school districts.

#### **OMH and OPWDD Facility Directors as Representative Payees**

The Executive Budget would extend for three years the ability of OMH and OPWDD facility directors who act as representative payees to use a person's funds for the cost of their care and treatment consistent with federal law and regulations.

### **Office for People With Developmental Disabilities**

#### **OPWDD ALL FUNDS APPROPRIATIONS:**

	2015-16 proposed	2014-15 Available	Difference	
State Ops	\$2,131,811,000	\$2,031,811,000	\$100,000,000	4.92%
local aid	\$2,242,380,500	\$2,342,380,500	(\$100,000,000)	-4.27%
capital	\$18,000,000	\$48,910,000	(\$30,910,000)	-63.20%
<b>TOTAL</b>	<b>\$4,392,191,500</b>	<b>\$4,423,101,500</b>	<b>(\$30,910,000)</b>	<b>-0.70%</b>

The Executive Budget proposes \$4.39 billion in All Funds appropriations for OPWDD in SFY 2015-16 which represents a decrease of \$30.9 million from 2013-14. The Executive Budget also recommends a year-end workforce target of 18,637 full time equivalent (FTE) employees, an increase of 50 positions from 2014-15.

#### **Balancing Incentive Payment (BIP) Funding for OPWDD Initiatives**

The Executive Budget includes \$177 million in Balancing Incentive Payment (BIP) funding to make strategic investments to transform services and supports to more integrated, community-based opportunities; increase employment opportunities for individuals with developmental disabilities; implement electronic health record systems; and support the system's transition towards managed care.

#### **Transition of Individuals to the Community**

The Executive continues the plan to downsize the state-operated developmental center system with the closings of the Brooklyn Developmental Center by December 31, 2015 and the Broome Developmental Center by March 31, 2016. The Executive Budget recommends \$42 million in funding to transition 249

individuals from institutional to community-based settings. This includes transitioning 109 individuals from developmental centers and 100 individuals from Intermediate Care Facilities (ICFs) to not-for-profit operated community settings. An additional 40 individuals would move to state-operated community residences. The Executive also proposes 13 pilot programs to provide 100 state employees with the opportunity to provide services in the community for people with developmental disabilities.

### **OPWDD Service Expansion**

The Executive budget proposes \$120 million in funding to be spent over the next two years to support expanded services throughout OPWDD's continuum of care, including certified and non-certified residential opportunities, day programs, employment, case management, and respite services for qualifying individuals. This level of support would provide up to 3,500 new or expanded opportunities for individuals with developmental disabilities, with funding allocated based on the specific needs of the individuals.

### **Federal Medicaid Reimbursement Review**

The Federal government has disallowed \$1.26 billion in Medicaid reimbursement for services provided to residents of state-operated Intermediate Care Facilities from April 1, 2010 through March 31, 2011. The State formally requested CMS reconsider the disallowance, which was denied. A subsequent appeal has been filed with the Health and Human Services Departmental Appeals Board (DAB). During the appeals process, the State may retain the disallowed funding. If DAB does not rule in the State's favor, the State may pursue action in Federal Court. The Executive proposes to set aside \$850 million of the one-time settlement funds received by the state to settle any future OPWDD funding issues with the federal government.

### **OPWDD-related Article VII Budget Bill Proposals:**

#### **Expansion of Nurse Practice Act Exemption for Direct Care Staff in OPWDD Non-Certified Settings**

The Executive Budget proposes technical amendments required to implement the 2014-15 Enacted Budget expansion of the Nurse Practice Act exemption for direct care staff working in non-certified settings funded, authorized or approved by OPWDD. As OPWDD continues to assist individuals with developmental disabilities in moving from larger, institutional facilities to smaller, homelike settings that are integrated in the community, greater flexibility is needed in the performance of health-related tasks.