



TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS
FROM: COURTNEY DAVID, DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: APRIL 11, 2018
SUBJECT: SFY 2018-19 ENACTED BUDGET ANALYSIS

General Overview of the Enacted Budget

On March 31st, lawmakers concluded the passage of the final NYS 2018-19 Budget, one day before the State's fiscal deadline and ahead of the Legislature's two week break.

The Enacted \$168.3 billion All-Funds spending plan addresses the projected \$4 billion deficit by including various tax reforms and revenue driving initiatives that help offset federal policies to increase spending, eliminate income and property tax deductibility, and impose billions of dollars in cuts to the State's health care system.

After weeks of intense negotiations, leaders agreed to a continuation of the \$4.2 billion Middle Class Tax Cut, a restructuring of the State's tax code, a \$1 billion increase to Education Aid with an additional \$7.6 billion to support higher education, a \$2.75 surcharge on for-hire vehicles in Manhattan, and a first-in-the-nation Opioid Stewardship Fund aimed at generating \$100 million annually from opioid manufacturers and distributors to fund addiction prevention, treatment and recovery programs. Leaders also agreed to \$100M in funding to support implementation of the Raise the Age initiative.

Funding for SUD Treatment and Transition Services in County Jails:

DCSs, CLMHD staff and staff from the NYS Sheriff's Association and NYSAC worked diligently to advocate for funding to counties for jail based SUD treatment and transition services. These efforts resulted in support from the Governor and Legislature as noted by the enactment of a \$3.75M appropriation in the final Enacted Budget. This appropriation was enhanced by the inclusion of language that requires OASAS to collaborate with the LGUs and Sheriffs in the development and implementation of the programs. The Conference looks forward to developing a framework of recommendations and collaborating with OASAS for implementation of the program.

OPWDD, OMH and OASAS Workforce Salary Increases

The Enacted Budget funds the workforce salary increases for OPWDD, OMH and OASAS workers included in last year's enacted budget.

Despite intense lobbying from advocacy groups, new funding was not included in the 2018-19 Enacted Budget for workforce increases beyond those included in the 2017-18 Enacted Budget.

As a reminder, the 2017-18 Enacted Budget agreement was as follows:

- Beginning January 1, 2018, OPWDD, OMH and OASAS direct care workers received a 3.25 percent salary increase.
- Beginning April 1, 2018 through March 31, 2019, OPWDD, OMH and OASAS direct care workers received an additional 3.25 percent salary increase and clinical care workers received a 3.25 percent wage increase.

Health Homes

- Continues the authority for the \$85 million for Health Home establishment and infrastructure funding appropriated in prior budgets
- Requires the DOH Commissioner to establish HH enrollment targets for the HARP and HIV/SNP MCOs and encourages collaboration between the health homes and MCO to achieve these targets
- DOH issued a memo outlining the components of \$87.7 million (All-Funds) in “savings actions” (cuts) taken in the 2018-19 Enacted Budget. We are advised that some of the savings actions are targeted to the MCOs. Some actions are expected to produce savings to the HH program as a whole.

HH Mandatory Reporters & Criminal Background Checks

- HH employees who expect to have regular contact with, children under the age of 21 and all developmentally disabled will now be mandated reporters of suspected child abuse
- Effective 10/1/18, criminal history record checks (NYS DCJS and FBI) will be required for HH, CMAs, and HCBS providers working with all developmentally disabled individuals of all ages and with individuals under the age of 21
- Effective 4/1/19, employers may temporarily approve a prospective employee to work pending the results of the criminal background only if the provider conducts appropriate direct observation and evaluation provider observation and evaluation of the employee.

State Psychiatric Center Downsizing and Community Reinvestment (Community Hubs)

The Enacted Budget calls for the closure of 100 state psychiatric beds and appropriates \$11 million to be reinvested into the community for needed services. This is the same bed number and reinvestment dollar amount as last year.

- This funding proposal represents a reinvestment of \$110,000 into the community for every inpatient bed that is closed.
- Reinvestments would be made prior to any bed closures, and before any reduction in bed capacity is implemented a bed must be vacant for 90 days.
- Residents and lawmakers from WNY have been successful with efforts to stop the Executive’s proposed merger of Western New York Children’s Hospital with the Buffalo Psychiatric Center. The Administration expects to move forward with plans to expand community-based services in the region and is exploring alternative uses for the Buffalo Center.

Children's Behavioral Health Services

- An additional \$10 million in capital funding will be combined with last year's appropriation for a total of \$20 million that will be made available to RTFs and county operated clinics through a future OMH RFP.
- \$30 million (All Funds) was restored in the budget for the Medicaid benefit package for children to realign the six new SPA services with the integration of children's services into managed care under the Children's 1115 Waiver. We are expecting further details to emerge soon. As of this writing, no information is available about the direction the state is heading.

Statewide Health Care Facility Transformation Program III

The Enacted Budget includes \$525 million in capital funding to create a third round of the Statewide Health Care Facility Transformation Program.

- The program will provide funding to support capital projects, debt retirement, working capital and other non-capital projects that facilitate health care transformation and preserve or expand access to essential health care services to eligible applicants, as determined by the DOH Commissioner.
- The Enacted Budget sets-aside specific amounts available to specific provider types. The set aside amounts are:
 - \$60 million for CBOs; CBOs are defined as Art. 28 D&TCs; Art. 31, 32 and 16 clinics; primary care providers, home care providers and hospice providers.
 - \$45 million for nursing homes; and
 - \$20 million for Assisted Living Programs (ALPs).
- As in the two previous grant programs, Art. 31 and 32 providers are eligible to apply for funding. In this third round, Children's RTFs are eligible to apply for funding to access debt restructuring and retirement and do not have to apply under the set aside for community based organizations.
- Art. 16 DD clinics, Hospice, Children's RTFs and the Assisted Living Programs (ALPs) are all newly eligible this year.

OMH Supported Housing

The Enacted Budget accepts the Executive proposal of \$10 million in new funding to preserve access and enhance support for existing supported housing and single residence occupancy (CR-SRO and SP-SRO) programs.

Medicaid Pharmacy - Prescriber Prevails

The Enacted Budget rejects the Executive proposal to eliminate prescriber prevails provisions in both Medicaid fee-for-service and Medicaid Managed Care.

Medicaid Pharmacy – Opioid Monitoring & Prescribing

The Enacted Budget establishes inappropriate prescribing of opioids as an unacceptable practice in the Medicaid program.

- Applies to patients taking opioids for longer than 3 months and excludes Medicaid reimbursement for prescribing outside of treatment plan and requires written treatment plans for these patients which follow generally accepted national, professional or governmental guidelines. Does not apply to cancer treatment, hospice or palliative care.

Prohibits Prior Authorization for Outpatient SUD Treatment

The Enacted Budget includes language to prohibit prior authorization for outpatient, intensive outpatient, outpatient rehabilitation and opioid treatment provided by OASAS-certified facilities that are within the insurer's provider network.

- If the facility notifies the insurer within 48 hours of the patient's initial treatment start date and the treatment plan, coverage cannot be subject to review for the first two weeks of treatment.
- Each facility will be required to perform a patient clinical assessment at each visit and consult with the insurer to confirm that the facility is using the appropriate evidence-based/peer reviewed clinical tool utilized by the insurer and designated by OASAS to ensure the treatment is medically necessary
- Insurers may deny coverage for any portion of the initial two weeks of treatment, if the treatment was deemed not medically necessary and contrary to insurer-designated, OASAS approved, evidence-based/peer reviewed tool. If such coverage is denied, the patient is liable for the copayment, coinsurance, or deductible required.

Cross-Agency Items

Deferment of the Human Services Cost of Living Adjustment (COLA)

The Enacted Budget accepts the Executive proposal to defer the human services Cost-of-Living Adjustment (COLA).

(Generates \$19 million)

- The Enacted Budget includes a deferral of the statutory human services COLA until after March 31, 2019 and restores for FY 2019-22.
- Eliminates DOH's authority to provide COLAs for human services providers

Minimum Wage Increase

The Enacted Budget increases the amount of Minimum Wage monies to \$703 million in Medicaid spending above the Cap.

Other Items of Interest

Raising the Age of Adult Criminal Responsibility to 18

The following overview was provided courtesy of NYSAC:

The Enacted Budget includes \$100 Million to Implement Raising the Age of Criminal Responsibility. Proposals to delink Raise the Age reimbursements by the state from the property tax cap were not adopted. The budget also did not support proposals from the Legislature to ensure New York City would also receive 100 percent reimbursement for their Raise the Age costs.

The funding will be allocated for:

- Services and expenses related to raising the age of juvenile jurisdiction, including but not limited to, juvenile delinquency prevention services, law enforcement services, transportation services including transportation provided by sheriffs, court operational expenses and services, adolescent offender facilities, detention and specialized secure detention services, probation services, placement services, specialized housing services,

aftercare services, program oversight and monitoring services, local presentment agency costs, costs of local governments within a county and the city of New York.

- Funds shall be available for incremental state costs associated with raise the age and to reimburse eligible counties and the city of New York for incremental costs associated with raise the age-related expenditures, pursuant to section 54-m of the state finance law.
- Counties and the City of New York shall submit a comprehensive plan, in a form and manner prescribed by the Office of Children and Family Services (OCFS), the Division of Criminal Justice Services (DCJS), in consultation with other applicable executive state agencies, as approved by the director of the budget, identifying eligible incremental costs for which reimbursement will be requested. Plans will be reviewed by the OCFS and DCJS, and other related executive state agencies and approved by the director of the budget.
- Counties and the City of New York may amend such plans, as needed, and resubmit for review by the OCFS and DCJS and approval by the director of the budget.

Social Work Licensure

The Enacted Budget includes an extension of the scope of practice language for social workers.

- State Education Department (SED) guidance to be issued by 9/30/18
- SED will develop regulations and the state oversight agencies will respond with any concerns they have with the guidance or regulations, workforce impact or services disruptions.
- Clarifies that programs and services operated, regulated, funded, or approved by OMH, OASAS, OPWDD, OCFS, DOCCS, OTDA, NYSOFA, DOH will not need to get a corporate practice waiver to employ and offer supervised experience for the professions under articles 153 (psychology), 154 (social work), and 163 (mental health practitioners).
- Clarifies tasks and assignments of unlicensed persons. Tasks include but are not limited to: developing services and recovery plans, advising and evaluating clients about services, doing assessments, including adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management, peer services.
- As part of a multi-disciplinary teams, a person without a license can “assist in the development of or implementation of a behavioral health services or treatment plan” as long as the team has a professional licensed under Art 131 (medicine), 139 (nursing), 153 (psychology), 154 (social work), or Art 163 (mental health practitioners).
- Under supervision, Masters prepared psychology, social work and licensed mental health counselors and marriage and family therapists can work up to the scope of practice of their licensed supervisor (LCSW, Dr., Psychologist). Staff to continue providing diagnostic services in supervised settings.
- Includes a grandfathering clause for the current workforce, allowing anyone working now or hired a year after the regulations are issued, at a program regulated, funded, or approved by the impacted state agencies, can continue working indefinitely in like settings under the current exemption.

Telehealth

The Enacted Budget expands the use of telehealth by including special needs and additional OASAS & OPWDD providers.

- Includes hospitals serving special needs populations; OASAS Credentialed Alcoholism and Substance Abuse Counselors (CASAC); Early Intervention providers; Article 16 clinics, and certified and non-certified day and residential programs operated by OPWDD
- Includes interactive queries conducted through communication technologies or by telephone as remote patient monitoring
- Requires DOH, OMH, OASAS and OPWDD to coordinate on the issuance of a single guidance document that outlines each agency’s regulations or policies including reimbursement to address barriers to care.

Medicaid False Claims Act

The Enacted Budget add provisions to the Medicaid False Claims Act by requiring the Attorney General to issue an annual report to Legislature including the funds recovered by the Medicaid Fraud Unit pursuant to the False Claims Act for the preceding year.

Justice Center for the Protection of People with Special Needs

The Enacted Budget decreases the Executive proposal and includes \$44 million (All Funds) appropriation for the Justice Center.

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:

	Executive Proposed	Enacted	Difference
State Operations	\$135,472,000	\$135,472,000	\$0
Aid to Localities	\$561,500,000	\$573,405,000	\$11,905,000
Capital	\$90,000,000	\$100,000,000	\$10,000,000
TOTAL	\$786,972,000	\$808,877,000	\$21,905,000

OASAS Workforce Salary Increase

The Enacted Budget continues the State’s 2017-18 commitment to provide a 3.25 percent salary increase to OASAS direct care workers, beginning April 1, 2018 through March 31, 2019.

The Enacted Budget includes the following Legislative additions:

- \$2M – NYCED hiring of substance abuse prevention and intervention specialist
- \$1.5M – Assembly member items
- \$1.5M – Independent SUD and Mental Health Ombudsman
- **\$3.75M – Jail Based SUD Program**
- \$250K - Saratoga Hospital - Medical Management Program
- \$100K - Addicts Rehabilitation Center Foundation, Inc

- \$50K - YES Community Counseling Center
- \$600K - Family and Children's Association
- \$425K - Save the Michaels of the World, Inc.
- \$425K - Thomas Hope Foundation, Inc.
- \$225K - New York State Alliance of Boys and Girls Club, Inc
- \$175K - Our Lady of Lourdes Memorial Hospital, Inc.
- \$70K - Council on Alcohol and Substance Abuse of Livingston County, Inc.
- \$70K - Chenango County Community Services Board d/b/a Chenango County Behavioral Health Services
- \$50K - National Committee for the Furtherance of Jewish Ed
- \$50k - Rockland Council on Alcoholism, Inc.
- \$40K - Safe Foundation, Inc.
- \$25K - Camelot of Staten Island, Inc.
- \$350K - Implementation of a Recovery Community and Outreach Center
- \$250K - Implementation of an Adolescent Clubhouse

Capital Projects

The Enacted Budget includes \$10 million in new capital funding to support residential bed and opioid treatment program development.

Combat Heroin/Opioid Abuse Initiatives

The Enacted Budget increases the Executive proposal and includes an additional \$30 million to address the heroin and opiate epidemic. These funds will continue to support prevention, treatment and recovery programs targeted toward chemical dependency, residential service opportunities, and public awareness and education activities.

OASAS-related Article VII Budget Bill Proposals:

Opioid Stewardship Fund

The Enacted Budget includes language requiring manufacturers and distributors engaged in the sale of opioids to pay into fund with a max fund total of \$100M. Pay in calculated by a share of sale based on morphine milligram equivalent. MAT and opioids used for hospice/palliative care exempt – penalties, up to \$1M will be assessed to payers passing along costs to consumers. Funds accessible by OASAS for prevention, treatment and recovery services and to help support the I-STOP program. Effective dates: 7/1/18-6/30/24.

Independent Substance Use Disorder and Mental Health Ombudsman

The Enacted Budget includes \$1.5 million to establish an independent Substance Use Disorder and Mental Health Ombudsman, effective September 30, 2018.

- Operated and selected by OASAS, in consultation with OMH for assisting individuals with SUD and/or mental health illness to ensure they receive appropriate health insurance coverage.
- Duties to include: identify, investigate, refer and resolve complaints made by or on behalf of consumers or providers relative to health insurance coverage access to initial and continuing health care or network adequacy.

Certified Peer Recovery Advocate Services Program

The Enacted Budget includes language to establish a Certified Peer Recovery Advocate certification.

Certified Peer Recovery Advocate Services Programs will involve participant-centered services that emphasize knowledge and wisdom through lived experiences in which peers are encouraged to share their own personal experience and first-hand knowledge of substance abuse, addiction, and recovery to support the recovery goals of individuals who use drugs and or alcohol.

- Certified services may include, but are not limited to:
 - developing recovery plans;
 - raising awareness of existing social and other support services;
 - modeling coping skills;
 - assisting with applying for benefits;
 - accompanying clients to medical appointments;
 - providing non-clinical crisis support, especially after periods of hospitalization or incarceration;
 - accompanying clients to court appearances and other appointments;
 - working with participants to identify strengths;
 - linking participants to formal recovery supports, including, but not limited to, medication assisted treatment;
 - educating program participants about various modes of recovery, including, but not limited to, MAT;
 - peer engagement coordination with hospital emergency services to assist any patient that has been administered an opioid antagonist by a medical provider to establish connections to treatment, including, but not limited to, medication assisted treatment and other supports after an opioid overdose reversal or after discharge from another substance abuse related emergency department visit; and
 - peer engagement coordination with law enforcement departments, fire departments and other first responder departments to assist an individual that has been administered an opioid antagonist by a first responder to establish connections to treatment, including, but not limited to, MAT and other support services after an opioid overdose reversal.

Children and Recovering Mothers Program

The Enacted Budget includes \$1 million for the establishment of the Children and Recovering Mothers Program aimed at providing health care providers, hospitals, and midwifery birth centers with guidance, education and assistance when providing care to expectant mothers with SUD. Includes the creation of a workgroup of stakeholders including, but not limited to, hospitals, local health departments, obstetricians, midwives, pediatricians, and SUD providers to study and evaluate barriers and challenges in identifying and treating expectant mothers, newborns and new parents with SUD.

Office of Mental Health

OMH ALL FUNDS APPROPRIATIONS:

	Executive Proposed	Enacted	Difference
State Operations	\$2,283,857,000	\$2,286,397,000	\$2,540,000
Aid to Localities	\$1,537,554,000	\$1,544,514,000	\$6,960,000
Capital	\$424,472,000	\$434,472,000	\$10,000,000
TOTAL	\$4,245,883,000	\$4,265,383,000	\$19,500,000

OMH Workforce Salary Increase

The Enacted Budget continues the State’s 2017-18 commitment to provide a 3.25 percent salary increase to OMH direct care workers, beginning April 1, 2018 through March 31, 2019.

The Enacted Budget includes the following Legislative additions:

Local Organizations:

- \$925K Crisis Intervention Teams and other mobile crisis programs
- \$500K Children's Prevention and Awareness Initiatives
- \$400K FarmNet
- \$200K Comunilife, Inc.
- \$175K North Fork Mental Health Initiative
- \$175K South Fork Mental Health Initiative
- \$100K Mental Health Association in New York State, Inc.
- \$100K North Country Behavioral Healthcare Network
- \$50K Misaskim Corp.
- \$3.74M Joseph P. Dwyer Veteran Peer to Peer Services
 - \$185K Broome County
 - \$135K Cattaraugus County
 - \$185K Chautauqua County
 - \$100K Columbia County
 - \$185K Dutchess County
 - \$185K Erie County
 - \$185K Genesee, Orleans, and Wyoming
 - \$185K Jefferson County
 - \$185K Monroe County
 - \$185K Nassau County
 - \$185K Niagara County
 - \$185K Onondaga County
 - \$185K Orange County
 - \$185K Putnam County
 - \$145K Rensselaer County
 - \$185K Rockland County
 - \$185K Saratoga County
 - \$185K Suffolk County

- \$185K Warren and Washington Counties
- \$185K Westchester County
- \$210K UALBANY School of Social Welfare

Develop Residential and Crisis Capacity

The Enacted Budget accepts the Executive proposal to authorize \$50M in new local capital spending to enable the expansion of crisis respite capacity in the community to avoid unnecessary emergency room visits and inpatient hospitalization.

Residential Treatment Facility (RTF) Pilot Projects

The Enacted Budget continues the State’s commitment to provide \$5 million for expenditures related to RTF transformation pilots beginning July 1, 2018 through September 15, 2019.

School Mental Health Resource and Training Center

The Enacted Budget includes \$1 million to create a Resource Center to help schools provide mental health education as part of their kindergarten through 12th grade curriculum, as required by Chapter 390 of 2016.

- The Center will provide instruction to schools as they begin implementing the curriculum and may also provide web-based training and resources, professional development through Continuing Teacher and Leader Education (CTLE) credits, and information about school-related mental health practices happening around the nation.
- The 2016 statute does not require teachers, or other instructional staff, to diagnose or intervene in a student mental health issue.

OMH-related Article VII Budget Bill Proposals:

Jail-Based Restoration to Competency Programs - Rejected

CLMHD opposed this proposal to authorize counties to voluntarily establish restoration to competency programs in a local jail and provided up to \$850,000 for county costs. This proposal has been included in the Governor’s budget for the previous four years. Each year, at the request of the Conference, the Legislature rejects the Governor’s proposal.

Behavioral Health/Primary Care Integration

The Enacted Budget includes provisions to define who is governed as an Article 28 facility so that such facilities are not limited in the amount of mental health services to be provided.

- Revises statutes limiting the ability to streamline such licensure and clarifies that primary care services providers licensed by Article 28 of the Public Health Law, mental health service providers licensed by Article 31 of the Mental Hygiene Law, and SUD providers certified under Article 32 of the MHL, can each provide the other type of services without obtaining additional operating certificates as long as they are authorized pursuant to an integrated services regulations of DOH, OMH and OASAS.

Office for People with Developmental Disabilities

OPWDD ALL FUNDS APPROPRIATIONS:

	Executive Proposed	Enacted	Difference
State Operations	\$2,198,136,000	\$2,198,386,000	\$250,000
Aid to Localities	\$2,403,530,000	\$2,405,835,000	\$2,305,000
Capital	\$96,400,000	\$96,400,000	\$0
TOTAL	\$4,698,066,000	\$4,700,621,000	\$2,555,000

OPWDD Workforce Salary Increase

The Enacted Budget continues the State’s 2017-18 commitment to provide a 3.25 percent salary increase to OPWDD direct care workers, beginning April 1, 2018 through March 31, 2019.

The Enacted Budget includes the following Legislative additions:

- \$500K - New York Alliance For Inclusion and Innovation
- \$315K - Women's League Community Residences, Inc.
- \$310K - Jawonio, Inc.
- \$200K - Special Olympics New York, Inc.
- \$150K - Project Refuah, Inc.
- \$150K - ACHIEVE, Broome Chenango Tioga, "the Chapter"
- \$100K - Best Buddies International, Inc.
- \$100K - Syracuse University
- \$100K - In the Driver's Seat
- \$75K - Bonim Lamokom Zichron Moshe Dov, Inc.
- \$75K - Pesach Tikvah - Hope Development, Inc.
- \$55K - Developmental Disabilities Alliance of Western New York
- \$50K - HASC Center, Inc.
- \$50K - Life's Worc, Inc.
- \$50K - The ARC Foundation of Rockland, Inc
- \$25K - Otsar Family Services, Inc

Extension of Developmentally Disabled Independent Residential Alternative

The Enacted Budget extends this program to 3/31/2020.

Extension of Facility Directors to Act as Rep Payees

The Enacted Budget accepts the Executive proposal to extend the authority for facility directs to act as representative payees for three years.

First Responder Training – Autism and I/DD

The Enacted Budget includes \$250,000 for the development of a training program and associated materials for first responders involved in emergency situations with individuals with autism spectrum disorder and other developmental disabilities and includes recommendations for policies and procedures and regulations for ongoing training and retraining programs for all current and new police officers

OPWDD New Community Based Service Opportunities

The Enacted Budget accepts the Executive proposal that leverages \$120 million (All Funds) for the fifth consecutive year for program reforms. \$30 million in additional funding was included to support the development of new community based services opportunities, and requires at least \$5 million to support services specifically for individuals that are living at home and whose caregivers are increasingly unable to provide care for them.

OPWDD Transition to Managed Care

The Enacted Budget modifies the Executive proposal to reject the permanent extension to authorize transition; makes various technical changes to the managed care ownership requirements; requires the new waiver be consistent with the existing waiver requirements; and requires a report to the Legislature, by December 31, 2022 on the quality and outcomes of such managed care services.

The OPWDD system will transition to managed care in phases, beginning with the development of regional Care Coordination Organizations (CCOs), an enhanced care coordination model, before a transition to a fully capitated rate structure. Beginning in late 2017, CCOs are expected to begin operations and will be rolled out on a regional basis. Enrollment on a voluntary basis in managed care is expected in 2019, and the transition to managed care is planned to be completed within five years. Medicaid Global Cap resources would be used to support the initial start-up costs of transitioning the OPWDD service delivery system from a fee-for-service payment structure to managed care.