



**TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS**  
**FROM: COURTNEY DAVID, DIRECTOR OF GOVERNMENTAL RELATIONS**  
**DATE: APRIL 5, 2019**  
**SUBJECT: SFY 2019-20 ENACTED BUDGET ANALYSIS**

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### **General Overview of the Enacted Budget**

Lawmakers worked into the early morning of April 1<sup>st</sup> to pass this year's 2019-20 Enacted Budget, missing the midnight deadline for approval before the start of the State's next fiscal year. However, in the wake of pending legislative pay raises, contingent on an on-time budget, the State's Comptroller deemed the budget's passage sufficient and within the allowable time-frame so that the anticipated salary increases would officially go into effect. A late-night resolution was also approved giving substantial salary increases to the Governor and his Lieutenant, Kathy Hochul.

The Enacted \$175.5 billion Budget, holds spending within the 2% growth cap and is being considered a major win for the Governor as many of the priorities outlined in his Executive budget proposal were approved as part of the final three-way agreements. In the end, Leaders agreed to a permanent 2% property tax cap, a 3.7% increase (\$1 billion) to School Aid, a ban on plastic bags with the option for localities to impose a 5 cent fee on paper bags, NYC congestion pricing said to raise more than \$1 billion a year for the City's ailing public transit system, raising the age for the purchase of tobacco products from 18 to 21, and the reshaping of the State's criminal justice system aimed at reducing the number of incarcerated individuals. Leaders also restored \$550 million in Medicaid cuts to hospitals and nursing homes as proposed by the Governor in his 30-day amendments in the wake of pending federal health care changes.

An agreement was also included to restructure the State's 2018 Opioid Tax Initiative, deemed unconstitutional late last year, with new language including a pass-through provision that allows costs incurred by the companies as a result of the tax to now be passed onto the consumer. A measure, pharmacists and patient advocates strongly opposed.

Shortly after the budget was approved, several Senators in the Republican Minority came out against the Democratically controlled agreements, saying the new tax increases will severely restrict business growth and make NY even more unaffordable. In response, the Senate and Assembly Majorities pushed back by promoting a fiscally responsible budget that strengthens local governments, firms up infrastructure and continues the fight against the State's opioid crisis.

Looking ahead, the legislature will break for two weeks beginning April 15<sup>th</sup> and we expect several remaining issues which did not make it into the final enacted budget will be considered prior to the end of the 2019 Regular Legislative Session scheduled to conclude on June 19<sup>th</sup>. Marijuana legalization will hold top billing over negotiations these next few months. CLMHD staff will continue to monitor this issue closely, as well as hundreds of bills we've identified to be of interest or concern and provide updates as they become available.

### **Funding for SUD Treatment and Transition Services in County Jails**

Over the past several weeks, CLMHD staff spent numerous hours educating legislators in both Majorities on the need for increased funding for jail based SUD treatment and transition services. Our advocacy efforts to secure \$7 million in funding in this year's budget successfully resulted in the inclusion of a \$4.75M appropriation for the continued development of these critical, life-saving programs.

Additionally, strong attempts to mandate program specifics, particularly a provision to require all county programs to include all available forms of medication-assisted treatment (MAT) was ultimately defeated and not included as part of the final appropriation language. This provision, if approved, had the potential to trigger enormous fiscal implications on the counties, projected at over a hundred million dollars. Defeating these efforts was a major accomplishment given the Assembly's staunch support for the inclusion of this measure. The final language continues the requirement for OASAS collaboration with the LGUs and Sheriffs in the development and implementation of these programs.

### **2.9% Cost of Living Adjustment (COLA) for the Human Services Workforce**

The Enacted Budget accepts the Executive proposal to defer the 2.9% increase for a Cost-of-Living Adjustment (COLA) for the human services workforce (*\$140 million in savings*)

Despite intense lobbying efforts by behavioral health/human services advocates, CLMHD, and the initiation of a major grassroots campaign, the 2.9% COLA for the human services workforce fell off the negotiating table as part of the final agreements. Instead, the final enacted budget included workforce funding for direct care staff that serves about 80% of the behavioral health workforce.

### **OPWDD, OMH and OASAS Workforce Salary Increases**

The Enacted Budget includes a 2% increase for direct care staff salaries (title codes 100 and 200 on CFR lines) in OPWDD, OMH and OASAS, effective January 1, 2020. On April 1, 2020, an additional 2% increase will go into effect and include clinical staff on the 300 lines.

### **OMH Supported Housing**

The Enacted Budget accepts the Executive proposal of \$10 million in new funding to for existing supported housing and single residence occupancy (CR-SRO and SP-SRO) programs. CLMHD worked alongside the Bring It Home Campaign to request \$32 million over the next 5 years. This request was ultimately rejected in final agreements.

### **Behavioral Health Parity**

The Enacted Budget includes language to strengthen the State's behavioral health parity laws within the commercial market and includes funding to increase staff at the Department of Financial Services and the Department of Health to facilitate managed care plan compliance and network adequacy.

OMH and OASAS will work to develop standards for establishing medical necessity so that plans can no longer continue to prohibit coverage under other medical necessity terms.

Other key provisions included are as follows:

- Provides for 28 days of in-patient SUD services before plans can deny any continuation coverage;
- Allows for 14 days of in-patient psychiatric services for youth, prohibiting barriers associated with prior authorization;
- Ensures access to prescribed medications for treatment of substance use related conditions without prior approval;
- Requires behavioral health co-payments to be equal to primary care co-payments;
- Authorizes OMH and OASAS to approve clinical review criteria used by utilization review agents; and
- Requires insurers to post additional information on their websites regarding their in-network providers of mental health and substance use disorders.

The provisions outlined above will become effective January 1, 2020.

#### **Extension of Ambulatory Patient Group (APG) Rates**

The Enacted Budget extends the requirement for managed care plan to pay APG rates for Article 31 and 32 clinics, and Child Health Plus until March 31, 2023.

#### **Behavioral Health Vital Access Programs (VAP)**

The Enacted Budget provides \$50 million to allow for the continuation of OMH inpatient VAP, as well as OASAS residential VAP.

#### **Deadline for Extension HH Criminal Background Checks**

The Enacted Budget includes the waiver of DOH criminal background checks for Health Home Serving Children staff and HCBS direct care staff until 7/1/2019.

#### **Continuation of PPS Waiver of State Regulations**

The Enacted Budget allows for the continuation of DOH, OASAS, OMH and OPWDD authority to waive any regulatory requirements, as necessary to implement DSRIP/PPS projects.

#### **Applied Behavioral Analysts**

The Enacted Budget accepts the Governor's proposal to provide Medicaid coverage for applied behavioral analyst services for children with Autism Spectrum Disorder.

#### **Statewide Health Care Facility Transformation Program III**

The Enacted Budget accepts the Governor's proposal to use \$300 million in capital funding out of the remaining \$525 million for Round II grants appropriated last year to provide grants for applicants that did not receive a distribution from Round II grants. Awardees will be notified of funding by May 1, 2019 and an RFP for the remaining \$225 million will be announced at a later date.

**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.
- **Continuation of Drug Cap** - The Enacted Budget extends the cap on Medicaid spending on drugs.
- **Pharmacy Benefit Manager (PBM) Spread Pricing** – The Enacted budget restricts PBMs from any form of spread pricing in contracts or other arrangement with plans. Spread pricing is defined as any amount charged or claimed by the PBM in excess of the amount paid to pharmacies on behalf of the plan less an administrative fee.

**Other Items of Interest**

**Opioid Tax**

The Enacted Budget includes language that builds off of last year’s enactment of the Opioid Stewardship Act, which has been deemed unconstitutional, to establish an opioid excise tax on manufacturers and distributors/wholesalers for every opioid unit sold in the State. The new provision continues the State’s anticipated \$100 million in revenue to fund prevention, treatment and recovery services.

The tax will be calculated as such:

- a quarter of a cent per morphine milligram equivalent when the wholesale acquisition cost (WAC) is less than \$.50; or
- one and a half cents per morphine milligram equivalent when the WAC is \$.50 or more.

The tax does not apply to opioid sales for hospice or addiction treatment.

**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	\$138,287,000	\$138,287,000	\$0
Aid to Localities	\$574,051,000	\$579,206,000	\$5,155,000
Capital	\$90,000,000	\$90,000,000	\$0
<b>TOTAL</b>	<b>\$802,338,000</b>	<b>\$807,493,000</b>	<b>\$5,155,000</b>

The Enacted Budget provides \$807,493,000 million in All Funds spending.

Funding is continued for the following programs approved in last year’s budget:

- \$1.5M for the independent SUD and mental health ombudsman
- **\$3.75M jail-based SUD treatment and transition services**
- \$700,000 for two additional Recovery & Outreach Center
- \$250,000 for an additional Adolescent Clubhouse
- \$2M for NYC Ed hiring of SUD specialists

The Enacted Budget also includes new appropriations for programs to be funded in SFY 2019-20:

- **\$1M additional for jail-based SUD treatment and transition services**
- \$350,000 loan forgiveness/scholarship program for OASAS provider recruitment

Local appropriations are as follows:

- \$175K - Saratoga Hospital - Medical Management Program
- \$100K - Addicts Rehabilitation Center Foundation, Inc
- \$80k - Rockland Council on Alcoholism, Inc.
- \$600K - Family and Children's Association
- \$450K - Save the Michaels of the World, Inc.
- \$100K - Safe Foundation, Inc.
- \$25K - Camelot of Staten Island, Inc.
- \$225K - New York State Alliance of Boys and Girls Club, Inc

SFY 2018-19 funding was not continued for the following:

- \$50K - YES Community Counseling Center
- \$425K - Thomas Hope Foundation, 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

### **Minimum Wage Increases**

The Enacted Budget includes \$6.7 million to support the costs of minimum wage increases.

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

The Enacted Budget 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**

#### **Expanding Access to Buprenorphine in Hospitals**

The Enacted Budget includes provisions to require all hospitals statewide to develop protocols for their emergency departments to address opioid use disorder based on the standard of care for treatment or referral for treatment.

**Office of Mental Health**

**OMH ALL FUNDS APPROPRIATIONS:**

	Executive Proposed	Enacted	Difference
State Operations	\$2,285,033,000	\$2,286,397,000	\$1,364,000
Aid to Localities	\$1,576,049,000	\$1,582,571,500	\$6,522,500
Capital	\$534,472,000	\$534,472,000	\$0
<b>TOTAL</b>	<b>\$4,395,554,000</b>	<b>\$4,403,440,500</b>	<b>\$7,886,500</b>

The Enacted Budget provides \$4,403,440,500 million in All Funds spending.

Funding is continued for the following programs approved in last year’s budget:

*Local Appropriations:*

- \$175K South Fork Mental Health Initiative
- \$200K Westchester Jewish Community Center
- \$412,500K Crisis Intervention Teams and other mobile crisis programs
- \$400K FarmNet
- \$175K North Fork Mental Health Initiative
- \$100K Mental Health Association in New York State, Inc.
- \$150K NYS Psychiatric Association
- \$150K Medical Society of NYS
- \$150K National Association of Social Workers – NYS Chapter
- \$3.735M 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

The Enacted Budget also includes new appropriations for programs to be funded in SFY 2019-20:

- \$300K for a Joseph P. Dwyer Veteran Peer to Peer Pilot Program in NYC
- \$225K for the Mobilization for Justice Mental Health Project

SFY 2018-10 funding was not continued for the following:

- \$500K Children's Prevention and Awareness Initiatives
- \$200K Comunilife, Inc.
- \$100K North Country Behavioral Healthcare Network
- \$50K Misaskim Corp.

**Minimum Wage Increases**

The Enacted Budget includes \$8.4 million to support the costs of minimum wage increases.

**Community Reinvestment**

The Enacted Budget continues OMH community reinvestment by providing \$5.5 million growing to \$11 million fully annualized for community-based services expansion tied to the closure of additional beds at State OMH Facilities. There is no targeted number for additional psychiatric bed closures at this time.

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

**Jail-Based Restoration to Competency Programs - Rejected**

The Enacted Budget rejects the Governor’s proposal to authorize two county pilots to establish voluntarily restoration to competency programs in local jails and could have provided up to \$850,000 in Capital funding to offset county costs.

**Office for People with Developmental Disabilities**

**OPWDD ALL FUNDS APPROPRIATIONS:**

	Executive Proposed	Enacted	Difference
State Operations	\$2,244,027,000	\$2,244,027,000	\$0
Aid to Localities	\$2,478,267,000	2,478,267,000	\$0
Capital	\$99,400,000	\$99,400,000	\$0
<b>TOTAL</b>	<b>\$4,821,694,000</b>	<b>\$4,821,694,000</b>	\$0

The Enacted Budget accepts the Governor’s proposal and provides \$4,821,694,000 million in All Funds spending.

Funding is continued for the following programs approved in last year’s budget:

*Local Appropriations:*

- \$240K - Jawonio, Inc.
- \$150K - Best Buddies International, Inc.
- \$150K - Special Olympics New York, Inc.
- \$50K – Epilepsy Foudation of Northeastern NY

SFY 2018-19 funding was not continued for the following:

- \$500K - New York Alliance For Inclusion and Innovation
- \$315K - Women's League Community Residences, Inc.
- \$150K - Project Refuah, Inc.
- \$150K - ACHIEVE, Broome Chenango Tioga, "the Chapter"
- \$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.

### **Minimum Wage Increases**

The Enacted Budget includes \$47.4 million to support the costs of minimum wage increases.

### **Support for OPWDD's Transition to Managed Care**

The Enacted Budget applies ongoing Department of Health (DOH) Global Cap resources to support the initial costs of transitioning the OPWDD service delivery system to managed care, with long-term savings expected through improved efficiency in the coordination and delivery of services. In addition, \$5 million has been added to improve provider readiness through the development of best practices and performance measurement and outcome monitoring tools.

### **OPWDD Efficiencies**

The Enacted Budget authorizes OPWDD to continue to work with DOH and CMS to identify and implement efficiencies across their programming, this includes direction to "reconcile" room and board financial support against actual room and board costs and a proposal to modify rate methodology to reduce administrative and general reimbursement to 15% in accordance Executive Order #38.

### **Integrated Outpatient Services**

The Enacted Budget includes Article 16 clinics, along with Article 28, 31 and 32 clinics in the efforts to develop integrated licensure requirements, as required in the SFY 2018-19 Enacted Budget.

### **OPWDD Services Development**

The Enacted Budget accepts the Governor's proposal and provides an additional \$30 million (state share) and fully annualized at \$120 million in additional funding available for priority programming:

- Expand the Availability of Certified Housing Supports in the Community
- Support More Independent Living
- Provide More Day Program and Employment Options
- Increase Respite Availability

### **OPWDD Independent Living Expansion**

The Enacted Budget accepts the Governor's proposal and provides \$15 million in Capital funding to expand independent living opportunities.