

**TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS**  
**FROM: DEBBIE HOLLAND, DIRECTOR OF GOVERNMENTAL RELATIONS**  
**DATE: FEBRUARY 4, 2014**  
**SUBJECT: SFY 2014-15 EXECUTIVE BUDGET ANALYSIS**

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

On January 21, 2014, Governor Cuomo released his State Fiscal Year (SFY) 2014-15 Executive Budget. In his budget, he proposes to spend a total of \$137.2 billion in State and federal funds (not including federal Hurricane Sandy relief aid and Affordable Care Act incentive payments) and anticipates a surplus of \$500 million in 2014-15. This represents an overall increase of \$1.8 billion or 1.3 percent from 2013-14. Thus, Governor Cuomo proposes holding down spending growth below two percent, for the fourth consecutive year.

Some high profile budget items include: reducing taxes by more than \$2 billion by 2016-17; increasing education aid by almost four percent; providing \$1.5 billion over a five year period to fund a statewide universal full day pre-K program; proposing a \$2 billion Smart Schools Bond Act to increase children's access to the latest technology; and providing \$1.2 billion in capital funding to help hospitals, nursing homes, and long term care facilities restructure to increase and improve community based care. As part of the Governor's tax reform plan, homeowners with annual incomes of \$500,000 or less would be eligible for a two year property tax freeze only if: 1) in year one, local governments stay within the two percent property tax cap; and 2) in year two, local governments also implement an approved plan to save at least one percent a year for three years through sharing or consolidating services.

In terms of mental hygiene agency funding, we are advised that state aid levels are flat and the Executive Budget does not propose any cuts in state aid to LGUs.

## **The Budget Process from Here**

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

Having received the Governor's budget, now the Senate and Assembly will review the bills and begin holding joint public hearings at which state agency commissioners and dozens of statewide associations, unions, and members of the public will testify about the budget. The mental hygiene hearing will be held on February 11, 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, 2014. For the last three years, the Legislature has passed an on-time budget, and the budget is anticipated to be on-time this year as well.

## Community Reinvestment

The Executive Budget proposes \$25 million to be reinvested into the community due to reductions in state psychiatric beds and the implementation of the Regional Centers of Excellence (RCE) Plan. In past years, the Executive has “notwithstanding” the Community Reinvestment Law (Section 41.55 of the MHL). This year, the proposed appropriation of \$25 million is “deemed to satisfy the funding requirements of Section 41.55 of the Mental Hygiene Law.”

In budget appropriation language, the Governor proposes that this 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.

There are no details yet regarding how much of this funding would be used in re-deploying state workers and how much would be new cash. In addition, this proposal is based on reinvesting into the community \$100,000 for every inpatient bed that is closed. The State plans to close 400 inpatient beds, a net closure of 18 wards from around the State, which would result in a total of \$44 million to be reinvested back into the community by the end of SFY 2015-16.

### SFY 2014-15 OMH Capacity Changes

Facility	Ward Type	County	Capacity Change
Greater Binghamton	Adult	Broome	Close 1 Ward
Elmira	Adult	Chemung	Close 1 Ward
St. Lawrence	Adult	St. Lawrence	Close 1 Ward
St. Lawrence	Children's	St. Lawrence	Close 1 Ward
Sagamore	Children's	Suffolk	Close 2 Wards
Western NY*	Children's	Erie	Close 3 Wards
Rochester	Adult	Monroe	Close 2 Wards (convert to 100% forensic)
Manhattan	Adult	New York	Close 2 Wards
Pilgrim	Adult	Suffolk	Close 2 Wards
Buffalo*	Children's	Erie	Add 2 Wards
Buffalo*	Adult	Erie	Close 1 Ward
Bronx	Adult	Bronx	Close 1 Ward
Rockland	Adult	Rockland	Close 1 Ward
Rockland	Children's	Rockland	Close 1 Ward
Hutchings	Children's	Onondaga	Close 1 Ward
<b>Total Wards</b>			<b>Close 18 Wards</b>

\* The Western NY facility would close and consolidate with the Buffalo facility.

## Medicaid

Much of the behavioral health funding related to Medicaid managed care and Health Homes appear within the DOH Medicaid budget. In addition, many of the details on how these Medicaid enhancements to behavioral health will be implemented under managed care still need to be developed.

### \$120 million in Medicaid Investments for Behavioral Health Initiatives

Within the DOH Medicaid budget, the Governor proposes \$120 million in new Medicaid investments for behavioral health initiatives. This new funding is available as a result of the savings to the State from implementing Medicaid Redesign. The following initiatives would be funded in 2014-15:

- **\$20 million for managed care readiness** – According to Article VII language, this funding would be distributed to LGUs, Medicaid managed care plans, Health Homes, and individual behavioral health providers or consortiums of providers to facilitate the transition of behavioral health services for adults and children into managed care. The funding may be used for infrastructure and organizational modifications, investments in health information technology, and training and technical assistance. DOH, in consultation with OMH and OASAS, would develop a plan to determine how the funds would be distributed. The size and scope of a grantee’s operations may be a relevant factor in determining eligibility for and the amount of grants.
- **\$15 million for integrated care initiatives** – The Executive provides \$5 million in funding for enhanced clinical reimbursement to support the integration of behavioral and physical health services and \$10 million in funding to support the implementation of a collaborative clinical care delivery model. According to Article VII language, DOH, in consultation with OMH, would be authorized to establish an evidence-based, collaborative care clinical delivery model in Article 28 clinics to improve the detection and treatment of depression and other diagnosed mental health or substance abuse disorders in an integrated manner. At a minimum, clinics designated by DOH and OMH would provide screening for depression, medical diagnosis of patients who screen positive, evidence-based depression care, ongoing tracking of patient progress, care management, and a designated psychiatric practitioner who consults with the care manager and primary care physician. The designated clinics would receive an enhanced reimbursement rate to be developed by the departments.
- **\$40 million in Vital Access Provider (VAP) funding for Behavioral Health Services** – The Executive proposes to expand the Vital Access Provider (VAP) program to preserve critical access to behavioral health inpatient and other services in certain geographic areas. VAPs are eligible for supplemental financial support from the State to ensure their long-term viability. Currently, the VAP program assists hospitals, nursing homes, diagnostic and treatment centers (D&TCs) and home care providers who are financially challenged and provide essential health services.
- **\$5 million for OASAS Residential Restructuring** – The Executive proposes to establish Medicaid reimbursement for clinical care provided in OASAS residential settings. According to staff, the OASAS providers would be able to bill Medicaid for rehabilitative services.
- **\$10 million for Health Home Plus for AOT** – The Executive proposes an enhanced Medicaid Health Home rate for AOT clients beginning in April 2014. Please recall that this funding was initially included in the 2013-14 Executive Budget, but was later eliminated in the final budget when the \$10 million was re-directed to offset the federal Medicaid recoupment for OPWDD services.
- **\$30 million for 1915-i Services under HARPs** – The Executive proposes \$30 million in funding to support the development of 1915-i services under Health and Recovery Plans (HARPs). These services would include rehabilitation, peer supports, habilitation, respite, non-medical transportation, family support and training, employment and education support services, and self-directed care services. According to OMH staff, this funding would be included in the premium to managed care organizations operating HARPs or possibly directed to services providers.

#### Continues Medicaid Managed Care APG-equivalent Payments for OMH and OASAS Clinics

The Executive Budget proposes to continue the Medicaid managed care APG reimbursement rates to OMH and OASAS clinics based on the following timeline: through December 31, 2016, for services provided in New York City; through June 30, 2017, for services provided outside New York City; and through December 31, 2017, for services provided to persons under age 21. This proposal ensures that the APG payment rates would continue through the first two years of managed care implementation. 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 \$5 million in funding (subject to federal financial participation) to establish coordination between Health Homes and the criminal justice system. According to Article VII language, these funds may be used for the integration of information of health homes with state and local correctional facilities, including the development of a liaison service between them, and the establishment of a criminal justice and health home learning collaborative to provide training and facilitate best practices. Health Homes would be eligible to receive this funding and would be required to document and demonstrate the effective use of these funds.

#### Health Home Infrastructure Grants

The Executive Budget would authorize DOH, in consultation with OMH and OASAS, to distribute \$15 million in funding (subject to federal financial participation) to Health Home providers for member engagement, staff training and retraining, health information technology implementation, joint governance technical assistance or other purposes to be determined by the agencies. Funding applications which address and prioritize implementation challenges, leverage regional partnerships, link care coordination networks and do not otherwise duplicate funds available through other programs would be prioritized.

#### Reinvestment of Savings from Closures of Hospital Psychiatric/Substance Abuse Services

The Executive proposes to reinvest \$50 million (All Funds) of Medicaid savings from the closure of Article 28 PHL hospital inpatient psychiatric (Article 31 MHL) and substance use treatment (Article 32 MHL) inpatient beds into community based services. These funds would be made available to the Commissioners of OMH and OASAS, in consultation with DOH and approved by Division of the Budget (DOB), to implement allocation plans for mental health and substance use disorder services in the community designed to meet needs from the closure of inpatient behavioral health beds in Article 28 hospitals.

#### Community Based Behavioral Health Services Reinvestment Program

The Executive Budget would authorize DOH to reinvest the general fund savings realized directly from the transition of behavioral health services from Medicaid fee-for-service to managed care, for the purposes of reinvesting in community behavioral health services, including residential services certified by OASAS. This new program would be known as the Community Based Behavioral Health Services Reinvestment Program. Funds for the program would be subject to an annual appropriation, and the methodology to calculate the savings from the transition to managed care would be determined by DOH and DOB, in consultation with OMH and OASAS.

The budget language establishes the framework for a managed care reinvestment program. According to OMH staff, as of right now there is no funding amount attached to the program because it is dependent on the amount of savings to be generated going forward, when Medicaid managed care for adults begins January 1, 2015, in New York City and July 1, 2015, in the rest of the State.

### Integrated Behavioral Health and Physical Health Services in a Single Location

The Executive Budget proposes language adding emergency regulatory authority for the Commissioners of DOH, OASAS, OPWDD, and OMH to implement integrated mental health services, substance abuse services, physical health services, and services to persons with developmental disabilities in a single location.

### DSRIP Regulatory Requirements

The Executive Budget would give the Commissioners of DOH, OMH, OASAS, and OPWDD the authority to waive any regulatory requirements as are necessary to allow providers participating in joint projects under the Delivery System Reform Incentive Payment (DSRIP) program to avoid duplication of requirements.

DSRIP, a component of New York's MRT 1115 Waiver amendment, is the primary vehicle through which federal savings accrued as a result of MRT initiatives will be reinvested in New York's healthcare delivery system. The overall goal of the DSRIP plan is to reduce avoidable hospitalizations by 25 percent over five years. Under the statewide plan, qualified safety net providers will be eligible for performance-based payments. CMS approval of the MRT waiver amendment is still pending.

### Implementation of 1115 Waiver

The Executive Budget would allow DOH as necessary to enter into contracts essential to implement the Medicaid 1115 Waiver or Partnership Plan initiatives without competitive bid or request for proposal processes.

### Hospital Inpatient Medicaid Reimbursement

The Executive Budget would provide for periodic updating of the base year for inpatient psychiatric facilities, specialty inpatient facilities and inpatient detoxification facilities with the first base year taking effect no later than January 1, 2015, for these facilities.

### Medicaid Managed Care Advisory Review Board

The Executive Budget would expand the Review Panel membership from 12 to 16 members by adding consumer representatives for individuals with behavioral health needs and consumer representatives for dually eligible individuals, as well as representatives of providers that serve both populations.

### Transitioning Foster Care Children into Managed Care

The Executive Budget would authorize DOH to spend up to \$5 million in funding (subject to federal financial participation) on a pilot program with OCFS to develop managed care rates for services provided to children in foster care and to facilitate the transition of children in foster care to Medicaid managed care.

### Prescriber Prevails

The Executive Budget would eliminate "prescriber prevails" provisions in Medicaid fee-for-service and managed care programs for drugs (including atypical antipsychotics and anti-depressants) that have FDA-A rated generic equivalents.

### Early Refills

The Executive Budget would limit early refills by requiring prior authorization for the refill of a prescription drug when a Medicaid recipient has more than a six day supply of the previously dispensed medication remaining, based on prescribed dosing.

### Off-Label Drug Use

The Executive Budget would require verification of FDA and/or Compendia support for reimbursement under Medicaid for drugs where there is evidence of significant prescribing for non-medically indicated or "off-label" use.

## Cross-Agency Items

### One-Year Deferral of Human Services Cost of Living Adjustment (COLA)

Once again, the Executive Budget would defer for one year the human services COLA for OMH, OASAS, OPWDD, OCFS, DOH and SOFA.

### Capital Access Fund

The Executive Budget would provide \$1.2 billion in funding to establish the Capital Restructuring Financing Program. For the period of April 1, 2014, through March 31, 2021, funds may be distributed by the Commissioner of Health and President of the Dormitory Authority, without competitive bid process, for capital grants to general hospitals, residential health care facilities, diagnostic and treatment centers and clinics licensed under the public health law or the mental hygiene law for certain capital works or purposes. Capital works or purposes may include, but are not limited to, closures, mergers, restructuring, infrastructure improvements, development of primary care capacity and promotion of integrated delivery systems that strengthen and protect continued access to essential health services.

In evaluating applicants and making award determinations, preferences would be given to: 1) applicants that have been deemed eligible for New York's Medicaid Redesign Team Waiver Delivery System Reform Incentive Payment (DSRIP) plan, whereby applications would be coordinated with the applicant's DSRIP application; and 2) other programs as determined by the Commissioner of Health.

## Other Items of Interest

### Basic Health Program

The Executive Budget would authorize the Commissioner of Health to establish a Basic Health Program (BHP) as authorized under the Affordable Care Act (ACA), if it is determined to be in the financial interest of the State. To be eligible for the BHP, an individual must meet the following requirements:

- New York State resident (citizen or lawfully present non-citizen)
- Under the age of 65;
- Not eligible for Medicaid or Child Health Plus (CHP);
- Not eligible for minimum essential coverage, or, is eligible for employer-sponsored coverage, but the coverage is unaffordable; and
- Income between 133% FPL – 200% FPL or <133% and ineligible for Medicaid due to immigration status.

## 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:**

	2014-15 proposed	2013-14 Available	Difference	
State Ops	\$115,279,000	\$117,866,000	(2,587,000)	-2.19%
local aid	\$457,496,000	\$457,696,000	(200,000)	-0.04%
capital	\$6,000,000	\$97,606,000	(91,606,000)	-93.85%
<b>TOTAL</b>	<b>\$578,775,000</b>	<b>\$673,168,000</b>	<b>(94,393,000)</b>	<b>-14.02%</b>

The Executive Budget proposes nearly \$579 million in All Funds appropriations, which represents a net decrease of \$94 million from 2013-14 appropriations. The annual change is primarily due to the elimination of excess capital projects appropriations. The Executive Budget also recommends a total workforce of 762 full time equivalent employees (FTE), representing a decline of 2 FTEs from 2013-14 due to the transfer of 2 FTEs to the Business Services Center. The Executive Budget proposes to continue the current funding levels for OASAS programs.

**Office of Mental Health**

**OMH ALL FUNDS APPROPRIATIONS:**

	2014-15 proposed	2013-14 Available	Difference	
State Ops	\$2,197,002,000	\$2,102,130,000	94,872,000	4.51%
local aid	\$1,354,134,000	\$1,297,244,000	56,890,000	4.39%
capital	\$90,165,000	\$196,955,000	(106,790,000)	-54.22%
<b>TOTAL</b>	<b>\$3,641,301,000</b>	<b>\$3,596,329,000</b>	<b>44,972,000</b>	<b>1.25%</b>

The Executive Budget proposes \$3.6 billion in All Funds appropriations for OMH, which represents a net increase of \$45 million from the 2013-14 Enacted Budget. The Executive Budget also recommends a total workforce of 14,616 full time equivalent (FTE) employees, representing no change from 2013-14. Under state operations, the Executive proposes increases of \$28.2 million to pay for growth in fringe benefit costs, \$19.86 million to support increased salary costs, and \$8.2 million to support the addition of two wards to accommodate the increase in the Sex Offender Management and Treatment Act population. In addition, the Executive proposes a decrease in capital appropriations due to sufficient re-appropriation authority to support ongoing capital costs.

**Housing**

To address the adult home and nursing home settlement agreements, the Governor proposes \$40 million in funding for the development of new supported housing units, including \$10 million for 200 new beds for transitioning nursing home residents (a total of 600 by the end of 2015) and \$30 million for 500 new beds for transitioning adult home residents (a total of 1,750 by the end of 2015) into the community. In addition, the Governor proposes \$6.5 million in funding to provide a rental stipend increase of \$550 annually for supported housing units in New York City, Long Island, and Westchester County.

**Office for People With Developmental Disabilities**

**OPWDD ALL FUNDS APPROPRIATIONS**

	2014-15 proposed	2013-14 Available	Difference	
State Ops	\$2,035,615,000	\$2,083,756,000	(\$48,141,000)	-2.31%
local aid	\$2,334,083,000	\$2,390,141,000	(\$56,058,000)	-2.35%
capital	\$48,910,000	\$168,950,000	(\$120,040,000)	-71.05%
<b>TOTAL</b>	<b>\$4,418,608,000</b>	<b>\$4,642,847,000</b>	<b>(\$224,239,000)</b>	<b>-4.83%</b>

The Executive Budget proposes over \$4.4 billion in All Funds appropriations for OPWDD in SFY 2014-15. This is a decrease of \$224 million from 2013-14 appropriations, primarily due to the elimination of excess capital projects appropriations. The Executive Budget recommends a year-end workforce target of 18,293 full time equivalent (FTE) employees, a decrease of 720 positions from 2013-14.

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

The Executive assumes \$10.6 million in State savings related to the transition of 300 individuals out of State developmental centers to community based settings. This includes the transition of 46 individuals from the closure of O.D. Heck Developmental Center by March 2015. To support the downsizing of institutional programs, the Executive proposes an increase of \$9.1 million to fund the creation of additional community based services.

According to OPWDD staff, the Executive also proposes \$50 million in state funding to provide additional community based services as individuals are being transitioned from developmental centers to more integrated and appropriate service opportunities in the community. The Executive Budget includes \$30 million to continue funding prior program commitments from 2013-14 and \$20 million in new funding. Services to be funded would include Individual Support Services, Coordinated Support and Services, day habilitation services, and residential rehabilitation services. Dependent on reaching agreement with the federal government, federal funding would also be available to increase the delivery of services in the community.

### **Employment Programs**

The Executive assumes \$9.8 million in savings related to promoting integrated employment for individuals currently served by day habilitation programs. This proposal would transition 6,500 individuals into integrated employment. In addition, the Executive assumes \$1.1 million in savings related to the elimination of sheltered workshops, consistent with federal requirements.

### **Out-of-State Placements**

The Executive proposal assumes \$7.7 million in savings related to the relocation of individuals from out-of-state placements back to New York State and from the elimination of State tuition reimbursement for individuals who have aged out (21 years or older) of school at private residential placements. Reimbursement would be applied to day, rehabilitation, and care management services rather than tuition payments. The Executive also proposes to ensure that Supplemental Security Income (SSI) payments are used as intended to cover costs for individuals in residential settings. There are approximately 100 individuals residing in out-of-state placements.

### **Federal Medicaid Reimbursement Review**

The federal government is reviewing whether Medicaid costs for services should have been paid to New York State-operated Intermediate Care Facilities for the Developmentally Disabled for the period from April 1, 2010, to March 31, 2011. The possibility exists that as a result of the review the federal government may seek to recover funds for any payments that it determines are in excess of federal requirements. This amount could be comparable to the amount of federal aid disallowed in SFY 2013-14, which is \$1.1 billion annually. This matter has not been resolved; however, there is an expectation that the federal review will be completed soon.

### **Other OPWDD-related Executive Budget items in the Article VII bill include:**

#### **Expands Exemption in the Nurse Practice Act in OPWDD Non-Certified Settings**

The Executive Budget would expand an exemption in the Nurse Practice Act for direct care staff in certified settings to those who are 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.

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

The Executive Budget would extend for three years the clarification that OMH and OPWDD facility directors acting as representative payees may use a person's funds for the cost of their care and treatment.