



TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS
FROM: DEBBIE HOLLAND, DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: January 22, 2015
SUBJECT: SFY 2016-17 EXECUTIVE BUDGET ANALYSIS

General Overview of the Executive Budget

On January 13, 2016, Governor Cuomo released his State Fiscal Year (SFY) 2015-16 Executive Budget. For 2016-17, the Governor proposes a total spending plan of \$145.3 billion which is an increase of 1.7 percent or \$1.6 billion in state operating funds from 2015-16. For the sixth consecutive year, Governor Cuomo proposes holding down spending growth below two percent.

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 3, 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, 2016. For the last five years, the Legislature has passed an on-time budget.

State Psychiatric Center Downsizing and Community Reinvestment

In 2016-17, the Executive proposes to reinvest \$15.75 million into the community due to the closure of state psychiatric beds. This funding includes \$5.5 million in new funding (fully annualized to \$11 million) due to the closure of 100 beds and the spending of \$7.5 million in funding which was already committed by the state in 2015-16, which represents a reinvestment of \$110,000 per bed. 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. In addition, the Executive Budget includes \$2.75 million in new funding to provide mental health supports for OMH long term care patients moving to skilled nursing facilities (SNF) or Managed Long Term Care (MLTC) Programs. OMH would utilize either a SNF, or MLTC Program with wrap-around community support to serve approximately 100 long term care patients.

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

The 2014-15 Enacted Budget included an investment over time of \$115 million (All Funds) in Medicaid funding, 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. In 2016-17, the Executive proposes to reduce this behavioral health investment from \$115 million to \$95 million. According to the Executive, this funding cut would be offset by extended Balancing Incentive Payment (BIP) resources in 2016-17. It is unclear how the cut would be restored by BIP, and we expect more information from OMH on this proposal.

According to OMH, the Executive also proposes to allocate \$20 million (All Funds) in funding for children’s Managed Care readiness in 2016-17.

Medicaid Local Share Growth for New York City

The Executive Budget proposes to reinstate New York City’s contribution to the annual growth in Medicaid. The New York City contribution would be increased by 3.6 percent in SFY 2016-17 (\$180 million), 5.8 percent in SFY 2017-18 (\$476 million), and approximately two percent annually thereafter, or \$129 million in growth per year. According to the Executive, the rationale for the proposal is to recognize the financial capacity that New York City derives from being exempt from the Property Tax Cap. The State would continue to fund the local growth of Medicaid for all other localities.

Homelessness Initiatives

First, the Executive proposes \$10 billion in new funding over five years for the House NY 2020 plan to create and preserve 100,000 units of affordable housing. Second, the Executive would commit \$10.4 billion over the next five years to combat homelessness. This plan would provide \$2.6 billion in new funding for 6,000 new supported beds, 1,000 emergency shelter beds, and other homeless services. Additionally, the 6,000 supportive beds is the beginning of the Governor’s commitment to fund the construction of 20,000 new supportive housing beds across the state over the next fifteen years. The Governor also expects to spend \$7.8 billion over the next five years to fulfill the state’s prior commitment to support 44,000 supportive housing units, 77,000 shelter beds around the state and other homelessness-related services.

According to the Governor’s State of the State briefing materials, “The State will partner with State Comptroller DiNapoli to audit shelters statewide, NYC comptroller Stringer to review and inspect NYC shelters, and Buffalo Comptroller Schroeder to review and inspect Buffalo shelters. Shelters determined to be unsafe or dangerous will either immediately add local police protection or be closed. If a shelter is determined to be unsanitary or otherwise unfit it will be subject to contract cancellation, operator replacement or closure because there are many qualified nonprofits that are capable of running a good operation. If an operator’s management problem is systemic, a receiver will be appointed to run the system. In addition, the state will require all social services districts to comply with the laws and regulations of New York State or be subject to sanctions.”

Medicaid Pharmacy - Prescriber Prevails

The Executive Budget would eliminate prescriber prevails provisions in both Medicaid fee-for-service and Medicaid Managed Care for all drugs except for atypical anti-psychotics and antidepressants.

Medicaid Pharmacy - Prior Authorization

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

Medicaid Pharmacy – Opioid Analgesic Refills

The Executive Budget would require Medicaid Managed Care Organizations to implement prior authorization of opioid analgesic refills exceeding four prescriptions in 30 days, consistent with existing Medicaid fee-for-service policy.

Cross-Agency Items

Human Services Cost of Living Adjustment (COLA)

The Executive Budget proposes \$14.6 million in funding (State Share) to provide a 0.2 percent Cost-of-Living Adjustment (COLA) for not-for-profit providers associated with the following state agencies: OMH, OASAS, OPWDD, OCFS, DOH, OTDA and SOFA. The statutorily required COLA is based upon the consumer Price Index (CPI).

Social Work Licensure Exemption

The Executive proposes to extend the social work and mental health practitioner licensure exemption for another five years, until July 1, 2021. This would apply to individuals employed by certain programs or service organizations regulated, operated, funded or approved by OMH, OPWDD, OASAS, DOH, SOFA, OCFS, DOCCS, OTDA, Local Governmental Units or social services districts. The Executive estimates that this proposal would save the state and other affected entities \$325 million annually. The existing licensure exemption has been in place since 2002.

Other Items of Interest

Juvenile Justice - Raise the Age

Once again, the Executive proposes to raise the age of juvenile jurisdiction in two stages: from age 16 to 17 by January 1, 2018 and to age 18 by January 1, 2019. He also proposes to raise the minimum age of juvenile jurisdiction from age seven to 12 by January 1, 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. The Executive Budget includes \$110 million in capital funding to be used for new and existing facilities in the implementation of the Raise the Age initiative.

Minimum Wage Increase

The Executive Budget proposes to raise the minimum wage from \$9 to \$15 an hour in New York City by December 31, 2018 and for the rest of the state by July 1, 2021. The minimum wage would be phased-in and increase to \$10.50 per hour in New York City and \$9.75 per hour in the rest of the state on July 1, 2016.

Paid Family Leave

The Executive Budget proposes to provide up to 12 weeks of paid family leave (PFL) on an annual basis for the purposes of caring for a newborn child, caring for a seriously-ill family member or for circumstances

eligible under the Family and Medical Leave Act pertaining to the active military duty of a spouse, child or parent. The PFL program would be funded through an employee payroll deduction. The benefit would start at 35 percent of a worker’s weekly salary (not to exceed 35 percent of the statewide average weekly salary) in 2018 and increase to 50 percent of a worker’s weekly salary (not to exceed 50 percent of the statewide average weekly salary) in 2021. All private employees would be covered, and State and local government employers would be able to opt-in to coverage through collective bargaining or other agreements.

Justice Center for the Protection of People with Special Needs

The Executive proposes \$54.5 million All Funds appropriations for the Justice Center, an increase of \$68,000 from 2015-16. The Executive Budget also recommends support for 450 Full Time Equivalents (FTEs) employees, which is an increase of 22 FTEs from last year to add new investigative positions.

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:

	2016-17 proposed	2015-16 Available	Difference	
State Ops	\$119,504,000	\$115,279,000	4,225,000	3.67%
local aid	\$473,665,000	\$474,716,000	(1,051,000)	-0.22%
capital	\$23,000,000	\$9,500,000	13,500,000	142.11%
TOTAL	\$616,169,000	\$599,495,000	16,674,000	2.78%

The Executive Budget proposes \$616 million in All Funds appropriations for OASAS, which represents an increase of \$17 million from 2015-16. The Executive Budget also recommends a total workforce of 741 full time equivalent (FTE) employees, representing no change from 2015-16.

Combat Heroin/Opioid Abuse Initiatives

The Executive Budget includes a total of \$141 million, an increase of \$6 million from last year, to address the heroin and opiate epidemic. These funds would continue to support prevention, treatment and recovery programs targeted toward chemical dependency, residential service opportunities, and public awareness and education activities.

Specifically, the funding would enable OASAS to implement the following initiatives:

- **Family Support Navigators** to assist New Yorkers and their families with navigating the insurance and OASAS treatment systems;
- **On-Call Peers** who would be available to assist individuals who are in need of substance use disorder (SUD) treatment with making the connection from hospital emergency rooms to the OASAS treatment system;
- **Adolescent Clubhouses** to provide safe, welcoming spaces for teens and young adults who are in recovery or are at-risk for SUD to develop social skills that promote long-term health, wellness, recovery and a drug-free lifestyle;

- **Recovery Community and Outreach Centers** which are designed to provide recovery supports in a comfortable environment to individuals and their families that are in, or seeking, recovery from SUDs;
- **Treatment Availability Tool** which would allow New Yorkers to search (in real time) for available treatment statewide; and
- **Kitchen Table Toolkit and Talk2Prevent** – The Kitchen Table Toolkit features videos which can be used by parents, teachers and community members to help begin conversations with youth concerning the health risks and dangerous consequences of heroin and prescription painkiller abuse. Talk2Prevent is designed to help New Yorkers talk early and often with your kids regarding alcohol and its dangers.

Transition to Medicaid Managed Care

The Executive Budget proposes \$7 million in new Medicaid rate enhancements to stabilize providers as they transition to managed care, including those that operate Free Standing Inpatient Alcohol Rehabilitation, Residential Rehabilitation Services for Youth, Residential Detox and Outpatient Detox services.

Supportive Housing

The Executive Budget includes \$7 million in new funding for 300 new beds scheduled to be developed over the next two years. This includes 170 new congregate care beds associated with the NY/NY III program in NYC and 130 new beds in Suffolk, Albany, Westchester, and counties in the Southern Tier of the State to support the Governor’s Combat Heroin initiative.

Synthetic Drug Testing

The Executive Budget proposes \$2 million in new capital funding to purchase synthetic drug testing devices to be used by State Police and local law enforcement officials. These portable, hand-held machines can instantly analyze unknown substances and determine if they contain any dangerous synthetic drugs or any other substance which will enable officers to more accurately distinguish between symptoms of drug use and those experiencing non-drug induced psychotic episodes.

OASAS-related Article VII Budget Bill Proposals:

DASNY Funding for Integrated Health Facilities

The Executive Budget would authorize OASAS treatment facilities that provide alcohol and substance abuse disorder treatment services to also operate as a traditional physical health care clinic (i.e. Article 28 hospital), while also remaining eligible for the Dormitory Authority of the State of New York (DASNY) financing. Under current law, State supported bonds support OASAS facilities that exclusively provide behavioral health care services.

Office of Mental Health

OMH ALL FUNDS APPROPRIATIONS:

	2016-17 proposed	2015-16 Available	Difference	
State Ops	\$2,203,002,000	\$2,197,002,000	6,000,000	0.27%
local aid	\$1,434,444,000	\$1,423,267,000	11,177,000	0.79%
capital	\$323,472,000	\$312,472,000	11,000,000	3.52%
TOTAL	\$3,960,918,000	\$3,932,741,000	28,177,000	0.72%

The Executive Budget proposes \$3.9 billion in All Funds appropriations for OMH, which represents a net increase of \$28 million from the 2015-16 Enacted Budget. The Executive Budget also recommends a total workforce of 14,278 full time equivalent (FTE) employees, representing a decrease of 122 FTEs from 2015-16.

Funding for Children's Medicaid Redesign

The Executive Budget includes \$7.5 million in new funding, growing to \$30 million in 2017-18, to add six new behavioral health services for children under State Plan Medicaid. These services include: crisis intervention; community psychiatric support and treatment; psychosocial rehabilitation services; services from non-physician licensed practitioners; family peer support services; and youth peer training and support services. These services are currently only available under the Home and Community Based Waiver program and will transition to Medicaid Managed Care as a State Plan service starting January 1, 2017.

Funding to Implement Raise the Age

The Executive Budget proposes \$1 million in new funding to implement the Raise the Age initiative. OMH would provide additional staffing resources to provide mental health services to support minors who, in 2016, will be relocating from several rehabilitation facilities to a single separate juvenile facility. OMH would partner with OCFS and DOCCS on this effort.

OMH-related Article VII Budget Bill Proposals:

Exempt Income Recovery from Community Residence Providers

The Executive Budget would authorize OMH to continue to recover Medicaid exempt income from community residence providers and family based treatment programs for another three years, until June 30, 2019. This extension would continue existing practice and avoid a loss of \$3 million in annual exempt income recoveries.

Extend Authorization for the CPEP

The Executive Budget would extend the statutory authority for the Comprehensive Psychiatric Emergency Program (CPEP) from July 1, 2016 to July 1, 2020.

Jail-Based Restoration to Competency Programs

The Executive Budget would amend Section 730.10 of the Criminal Procedure Law (CPL) to authorize OMH to work with volunteering counties to establish jail-based restoration to competency programs for felony-level defendants. Restorations are currently only authorized at OMH psychiatric centers, OPWDD developmental centers, psychiatric units at Article 28 hospitals, or on an outpatient basis in the community. According to the Executive, the cost per restoration is approximately \$128,000 for a total of \$78 million in State Fiscal Year 2014-15 (with the state and counties each paying 50 percent). The Executive estimates that the per bed costs to restore these defendants in a local jail-based setting would be roughly one-third of the cost of a state facility (about \$40,000 per bed annually). The Executive anticipates that this proposal would save participating counties 33 percent of what they spend for 730 restoration services. We would argue that cost is only one part of the issue. A jail is not the appropriate therapeutic setting to conduct competency restoration. Moreover, jails have neither the physical space nor the appropriate level of clinical staff to conduct restorative treatment. Finally, the Executive does not include any funding for capital or the staff that would be required for this type of work.

Temporary Operators

The Executive Budget would permit OMH and OPWDD to appoint temporary operators for programs certified to serve individuals with serious mental illness or developmental disabilities in order to maintain a

program’s viability and/or protect the health and safety of patients. Currently, OASAS has the authority to appoint a temporary operator for chemical dependency treatment programs.

Sharing of Clinical Records

The Executive Budget would amend Section 33.13 of the Mental Hygiene Law (MHL) to permit facilities, including facilities operated or licensed by the Department of Mental Hygiene (the Department), to share clinical records with managed care organizations, behavioral health organizations, health homes, and other entities authorized by the Department of Health (DOH) to provide, arrange or coordinate health care services for Medicaid recipients for whom such entities are responsible.

Office for People With Developmental Disabilities

OPWDD ALL FUNDS APPROPRIATIONS:

	2016-17 proposed	2015-16 Available	Difference	
State Ops	\$2,131,811,000	\$2,131,811,000	\$0	0.00%
local aid	\$2,242,380,500	\$2,246,098,500	(\$3,718,000)	-0.17%
capital	\$28,000,000	\$18,000,000	\$10,000,000	55.56%
TOTAL	\$4,402,191,500	\$4,395,909,500	\$6,282,000	0.14%

The Executive Budget proposes \$4.4 billion in All Funds appropriations for OPWDD in SFY 2016-17 which represents an increase of \$6 million from 2015-16. The Executive Budget also recommends a year-end workforce target of 18,382 full time equivalent (FTE) employees, representing a decrease of 255 FTEs from 2015-16. The Budget assumes OPWDD’s workforce will decrease by 255 FTEs through attrition as OPWDD continues to close state institutions.

OPWDD Service Expansion

The Executive Budget recommends \$120 million (All Funds) in new funding to support new service opportunities for individuals currently living at home or in residential schools. These new resources would 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 funding could support up to 6,000 new or expanded opportunities for individuals with developmental disabilities.

Affordable Housing

The Executive Budget proposes \$10 million in additional capital funding (\$15 million in total) to support the development of affordable housing for individuals with developmental disabilities.

Crisis Services

The Executive Budget includes \$15 million in new funding to expand START (Systemic Therapeutic Assessment, Respite and Treatment) Programs to other regions of the state. START is a crisis and prevention response model that was implemented by OPWDD in two geographic regions in 2014.

Transition of Individuals to the Community

The Executive recommends \$24 million in new funding to transition individuals from developmental centers (52 individuals) and intermediate care facilities (100 individuals) to more integrated community-based settings.

Transformation Panel

The Executive will implement the recommendations of the Transformation Panel which was established as part of the 2015-16 Enacted Budget. In early 2015, a Transformation Panel was formed to share and discuss ideas to help shape the future of the OPWDD system. Members included individuals with developmental disabilities, parents, providers and advocates. Their formal recommendations will be released in 2016.