

Summary of Issues Addressed in Budget Extender and Outstanding Issues

Despite working through the weekend, the Legislature was unable to come to a final agreement on the 2017-2018 State Budget. Instead, the Legislature and Governor agreed to a two-month “budget extender,” which both houses passed yesterday in order to keep the state government functioning. Interestingly, although the bills were characterized as simply an extension of the 2016-17 budget, the bills passed by the Legislature included several new policy initiatives, as well as some changes in rates and funding levels. These substantive changes extend beyond the next two months through the remainder of the 2017-18 fiscal year. There may be additional programmatic and funding changes in the final budget bills, which are currently expected sometime before May 31st – perhaps as early as this week.

Below is a brief summary of issues addressed in the budget extender that impact LeadingAge NY members, as well as issues that remain outstanding.

Issues addressed in the budget extender:

- **Nursing Home Bed Hold:** Eliminates hospital bed hold payments entirely, while maintaining 10 days of therapeutic leave per 12-month period reimbursable at 95 percent of the Medicaid rate. Makes permanent the bed hold-related cut reflected in current Medicaid rates and requires that it result in \$18 million in annual savings. The provision is effective April 1, 2017.
- **Nursing Home Benchmark Rate:** Requires managed care organizations to continue to reimburse nursing homes at the benchmark rate through Dec. 31, 2020, provided that the continuation of the benchmark rate may be conditioned upon meeting an aggregate percentage of payments via alternative payment methodologies. The Commissioner may waive the alternative payment methodology requirement if it presents a financial hardship or threatens access to care.
- **Nursing Home/High Needs Rate Cell:** Although statutory language related to a nursing home rate cell is not included in the budget extender bills, we understand that there is an agreement that the Department of Health will seek CMS approval of a “high-needs rate cell(s)” that will include nursing home residents.
- **MLTC Eligibility:** Rejects the Governor’s proposal to raise the clinical eligibility requirements for enrollment in MLTC plans.
- **IGT:** Authorizes up to \$500 million in annual Intergovernmental Transfer (IGT) payments to public nursing homes for an additional three years, through March 31, 2020.
- **Reauthorization of Prior Cuts:** Eliminates positive Medicaid trend factors and extends various prior Medicaid cuts that require periodic reauthorization, including the reimbursable 6 percent nursing home cash receipts assessment, for two years, through March 31, 2019.
- **Fiscal Intermediaries:** Requires Consumer Directed Personal Assistance Services (CDPAS) fiscal intermediaries to be authorized to operate by the Department of Health, subject to a character and competence review, with authorizations lasting for five years.

- **Consumer Directed Personal Assistance Services Wage Parity:** Expands wage parity requirements, currently in place in New York City and Westchester, Suffolk and Nassau counties, to personal assistants working in the CDPAS.
- **Funding for direct care workers:** Authorizes a 3.25% wage increase for direct care workers, which appears to be limited to workers employed by human services agencies under the auspices of OMH, OPWDD, and OASAS.
- **MLTC Transportation:** Rejects the Governor’s proposal to carve transportation out of the MLTC benefit package.
- **Transportation for Method 1 Adult Day Health Care (ADHC) Programs:** Does not include statutory language to exempt ADHC programs from contracting exclusively with the state’s Medicaid transportation broker (MAS). At the time of this budget summary, it is unclear if the Legislature agreed to restore \$5 million in state-share savings attributed to this administrative cut.
- **Collection of Accounts Receivables:** Authorizes the state to sell to financial institutions Medicaid accounts receivable balances owed to the state by providers. Proceeds are to be used to offset Medicaid spending under the Global Cap.
- **Controlled Substances and Pharmacy:** Includes several provisions intended to contain rising drug spending under Medicaid and control growth in opioid prescriptions. Does not eliminate “prescriber prevails”; i.e., prescribing professionals will continue to be able to override the decision of the Medicaid preferred drug program or a Medicaid managed care plan regarding coverage of prescription drugs.

Issues that remain undecided or not addressed include:

- Housing plus services; capital and program funding
- SSI increase for adult care facilities
- Capital for health care transformation

We were disappointed that language we advanced on MLTC rate adequacy and Assisted Living Program CON that was included in the Senate budget bill was not included in the extender budget. We will continue to work for both outside of the budget process. We understand that the Governor and the Legislature are continuing to work toward a final and comprehensive budget, with a goal of passing bills before the April recess. However, given the enactment of the budget extender, it is possible that the Legislature will adjourn for the April recess without having passed a final budget. This means that they will be returning to their district offices, and you will have an opportunity to continue engaging them on our budget concerns.

We will keep you posted on any further developments and will send you a thorough analysis in the coming days.