

*LeadingAge*<sup>™</sup>  
New York

# 2016-17 New York State BUDGET

*What it means for you*

## Final Budget for State Fiscal Year 2016-17

The final budget for State Fiscal Year (SFY) 2016-17, which is effective for the period April 1, 2016 through March 31, 2017, was enacted into law on April 1, 2016. The \$155.6 billion plan reflects the sixth consecutive year of 2 percent or less growth in overall spending.

LeadingAge New York worked on several issues during the budget process and was able to advance key objectives, secure revisions to some budget proposals and successfully oppose other proposals that would have adversely affected members, the people they serve and the services they provide.

The balance of this overview section summarizes areas of the budget that affect multiple long term care, post-acute care and senior service lines.

### *Workforce Compensation and Benefits*

The final budget includes modified versions of Executive Budget proposals on minimum wage and paid family leave, but does not include proposed workers' compensation reforms:

- **Minimum Wage:** The final budget accepts and modifies the Executive Budget's proposed increase to the State's minimum wage. The agreement includes funds intended to cover the costs of the increase for health care providers, and delays the first phase-in until Jan. 2017. The minimum wage increase will be phased-in over several years and at a different rate in different regions of the State, as follows:
  - For workers in New York City employed by large businesses (i.e., those with 11 or more employees), the minimum wage will rise to \$11 at the end of 2016, then another \$2 each year after, reaching \$15 on 12/31/2018:
    - ♦ \$11/hr. on Dec. 31, 2016
    - ♦ \$13/hr. on Dec. 31, 2017
    - ♦ \$15/hr. on Dec. 31, 2018
  - For workers in New York City employed by small businesses (i.e., those with 10 or less employees), the minimum wage will rise to \$10.50 by the end of 2016, then another \$1.50 each year after, reaching \$15 on 12/31/2019:
    - ♦ \$10.50/hr. on Dec. 31, 2016
    - ♦ \$12/hr. on Dec. 31, 2017
    - ♦ \$13.50/hr. on Dec. 31, 2018
    - ♦ \$15/hr. on Dec. 31, 2019
  - For workers in Nassau, Suffolk and Westchester Counties, the minimum wage will increase to \$10 at the end of 2016, then \$1 each year after, reaching \$15 on 12/31/2021:
    - ♦ \$10/hr. on Dec. 31, 2016
    - ♦ \$11/hr. on Dec. 31, 2017
    - ♦ \$12/hr. on Dec. 31, 2018
    - ♦ \$13/hr. on Dec. 31, 2019
    - ♦ \$14/hr. on Dec. 31, 2020
    - ♦ \$15/hr. on Dec. 31, 2021

- For workers in the rest of the State, the minimum wage will increase to \$9.70 at the end of 2016, then another \$0.70 each year after until reaching \$12.50 on 12/31/2020 – after which it will continue to increase to \$15 on an indexed schedule to be set by the Director of the Budget in consultation with the Department of Labor:
  - ♦ \$9.70/hr. on Dec. 31, 2016
  - ♦ \$10.40/hr. on Dec. 31, 2017
  - ♦ \$11.10/hr. on Dec. 31, 2018
  - ♦ \$11.80/hr. on Dec. 31, 2019
  - ♦ \$12.50/hr. on Dec. 31, 2020

The final budget provides a safety valve to the wage increases, beginning in 2019. The State will conduct an annual analysis of the economy in each of the State's regions and the impact of the minimum wage increases to determine whether a temporary suspension of the scheduled increases is necessary.

Included in the budget is \$25.3 million in SFY 2016-17; \$175.2 million in SFY 2017-18; and \$504.2 million in SFY 2018-19 in combined state/federal funds to Medicaid providers, to help offset the costs of this mandate. The majority of this funding is slated to be allocated to home care and personal care providers. With the minimum wage increase delayed until Jan. 2017, only one-quarter worth of costs will be incurred in the current fiscal year. The Legislature clearly heard our message and understands that providers cannot sustain these wage increases without adequate State reimbursement. The funding included in the final budget is a good faith effort by lawmakers, which we will work to build upon in next year's State budget.

Finally, the Legislature passed a bill requiring the minimum wage to be enacted on top of existing home care wage parity requirements. See the *Home Care* section for more information.

- **Paid Family Leave:** The final budget accepts and modifies the Executive Budget's proposed employee-funded paid family leave benefit. Under the agreement, paid family leave benefits will phase-in over time, beginning January 2018, with employees eligible for 8 weeks of leave and growing in 2-week increments each year to 12 weeks by 2021. Employees would be eligible for the benefit after six months on the job.
  - Initially, employees will be eligible to earn up to 50 percent of their average weekly wage – not to exceed 50 percent of the statewide average weekly wage.
  - Once the program is fully phased in, employees will be eligible to earn 67 percent of their average weekly wage, capped at 67 percent of the statewide average weekly wage.

Employees will be eligible to utilize their paid family leave benefit to care for an ill relative, to bond with a newborn child or when a family member is called to active military duty. The program will be funded by employee paycheck deductions, beginning at 70 cents a week, eventually increasing to \$1.47 per week once fully phased-in. However, the program is initially funded through a \$10 million transfer from the Workers' Compensation Insurance Fund.

- **Workers' Compensation Reforms:** The Executive Budget had proposed amendments to streamline the workers' compensation system aimed at reducing costs to employers, reducing administrative overhead and better protecting workers. These amendments were not included in the final budget legislation.

## ***Medicaid Global Spending***

The final budget extends through March 31, 2018 authorization for both the Medicaid global spending cap and the "super-powers" granted to the Commissioner of Health to reduce spending if expenditures exceed projections. The global cap limits growth in Department of Health (DOH) State Funds Medicaid spending to the 10-year rolling average of the medical component of the Consumer Price Index. As a result, the global spending cap is increased from \$17.7 billion in SFY 2015-16 to \$18.8 billion in SFY 2016-17, and \$19.6 billion in SFY 2017-18.

Under the global cap, DOH and the Division of the Budget (DOB) continue to monitor monthly state Medicaid spending. If spending is projected to exceed the global cap, DOH is authorized to take unilateral action to reduce spending to remain within the cap. This authority is now extended through SFY 2017-18.

Under the global cap shared savings program enacted in 2014, DOH and DOB will review Medicaid spending prior to the start of each calendar year to determine whether actual spending is below the global cap projection. If there are savings available for distribution, 50 percent or more is to be distributed proportionally in the first quarter of the calendar year based on the claims and encounters submitted to Medicaid by each provider and plan during the previous three-year period. The remaining savings, up to 50 percent, is to be used to assist financially distressed and critically needed providers as determined by DOH. There were no savings available for distribution during SFY 2015-16.

The global cap projection for SFY 2016-17 reflects full implementation of the State takeover of any growth in local share Medicaid expenditures which was enacted in SFY 2013-14. Annual growth in the local share of Medicaid is capped at zero percent in SFY 2016-17. An Executive Budget proposal to raise the cap on the New York City local share effective Oct. 1, 2016 to generate State savings of \$180 million (with greater amounts in succeeding years) was rejected in favor of a statewide Medicaid Integrity and Efficiency Initiative (see below).

The final 2016-17 budget also added language to allow DOH to adjust the cap to account for the impact of the minimum wage increases discussed above.

### ***Medicaid Trend Factors and Prior Year Cuts***

Last year's enacted budget (SFY 2015-16) extended for two years prior Medicaid cost containment provisions that require periodic renewal. As a result, these prior cuts (outlined below) continue through March 31, 2017 without further legislative action needed this year:

- **Trend Factor:** Last year's budget eliminated the trend factor adjustment through March 31, 2017 for all Medicaid providers (except for pediatric nursing homes).
- **Other Cuts and Taxes:** Previous cost containment measures including cash receipts assessments on nursing homes and adult day health care (ADHC) programs; prior year trend factor reductions affecting Medicaid providers; Medicare maximization requirements for nursing homes and home care agencies; and home care administrative and general cost caps were extended for two years in last year's budget (through 3/31/17), rather than being made permanent.

### ***Vital Access Provider (VAP) Program***

The final budget reflects the Executive Budget proposal to allocate \$212 million for VAP, incorporating any VAP funds previously allocated that were not distributed, rather than through a separate re-appropriation. The VAP program provides temporary rate adjustments or lump sum payments to eligible providers to preserve access to services in areas experiencing provider restructuring, reconfiguration and/or closure. VAP funds provide operational support, and are not to support capital costs. Nursing homes and home care agencies are eligible to apply for VAP funding.

### ***Capital Funding***

The final SFY 2016-17 budget includes the following health care and human services capital initiatives:

- **Health Care Facility Transformation:** The budget allocates \$200 million in 2016-17 to a two-pronged program to support health care transformation. Under the first prong, a statewide program administered jointly by DOH and the Dormitory of the State of New York (DASNY) will make capital grants to replace inefficient and outdated facilities as part of a merger, consolidation, acquisition or other restructuring activity that is intended to create a financially sustainable system of care. Facilities eligible for these grants include hospitals, nursing homes and clinics. Awards may be made without a competitive bid or request for proposals. A minimum of \$30 million is set aside for diagnostic and treatment centers licensed by DOH; clinics licensed by the Office of Mental Health (OMH), the Office of Alcohol and Substance Abuse Services (OASAS) and the Office for Persons with Developmental Disabilities (OPWDD); home care agencies; and primary care providers. Up to \$5 million may be made available to

support mobile mammography vehicles. The second prong provides more flexible authority to support health care transformation. It authorizes DASNY and DOH to make grants or loans under the Health Care Facility Transformation Program to support debt restructuring and capital and non-capital projects or purposes that support health care transformation and create a financially sustainable system of care. The budget does not specify the types of providers that are eligible for these funds. Funds may not be used for operating expenses that are not connected to the above projects or purposes.

- **Non-Profit Infrastructure Capital Investment Program:** The final budget builds on last year's appropriation for capital grants to eligible non-profit human services organizations, by re-appropriating the initial \$50 million and adding another \$50 million. Eligible non-profit human services organizations are those that provide direct services to New Yorkers through state contracts, state authorized payments, and/or state payment rates. Grants are intended to improve service quality, efficiency and accessibility. Eligible projects include renovations or expansions of space used for services; technology to support electronic records, data analysis and/or confidentiality; modifications to provide for sustainable, energy-efficient spaces; and renovations to promote accessibility. This year's budget expands upon the appropriation language to authorize awards to non-profit providers that occupy publicly-owned buildings, as long as the funds will not be used for building improvements or maintenance. The program is funded through DASNY bond issuances.
- **Capital Restructuring Financing Program:** The final budget re-appropriates \$1.2 billion for the Capital Restructuring Financing Program that operates in tandem with the Delivery System Reform Incentive Payment (DSRIP) program to support improvements in the financial stability, quality and efficiency of health care providers.
- **Oneida County Health Care Transformation Funding:** The final budget re-appropriates the \$300 million appropriated in SFY 2015-16 to support capital projects that promote health care facility transformation in Oneida County.
- **Brooklyn Health Care Transformation:** The final budget re-appropriates the \$700 million appropriated in 2015-16 to support capital projects that promote health care facility transformation in Kings County.

As DOH and DASNY move to implement these programs, we will continue to advocate for investments in the long-term/post-acute care sector for needed technology, facility upgrades, and other strategic purposes.

### ***Health Information Technology Infrastructure***

The final budget appropriates a total of \$50 million in capital funding for health Information Technology (IT) investments as follows:

- **SHIN-NY:** \$30 million to support the State Health Information Network of New York (SHIN-NY) – an electronic health information super-highway to permit the sharing of health information among health care providers across the state;
- **Claims Database:** \$10 million for the All Payer Claims Database, which will serve as a repository for health care utilization and spending data that can be used to evaluate the performance of the health care delivery system; and
- **State IT:** \$10 million for DOH IT needs.

### ***Medicaid Eligibility***

The final budget once again rejects the governor's proposal to eliminate spousal refusal, i.e., the ability of a Medicaid applicant to qualify for benefits as a result of a spouse's refusal to provide support. In addition, the Legislature rejected the governor's proposal to reduce a component of the Community Spouse Resource Allowance (CSRA) for institutional Medicaid eligibility that would have restricted the eligibility of couples with assets between \$23,844 and \$150,000, but not those with assets above \$150,000. The minimum CSRA remains at \$74,820 in New York State for 2016.



## *Medicaid Integrity and Efficiency*

The budget authorizes the Commissioner of Health to establish a Medicaid Integrity and Efficiency Initiative in order to achieve additional audit recoveries, administrative efficiencies and other cost avoidance through collaboration with local social services districts. Local social services district participation in the initiative appears to be optional, and may entail achieving a recovery and efficiency target. This initiative is intended to replace the State savings that the governor had proposed to generate by increasing the New York City local share of Medicaid expenses (see “Medicaid Global Spending” above).

## *Department of Health Contracts*

The final budget allows DOH to extend the following Medicaid-related contracts without a competitive bid:

- **Enrollment Broker/Conflict-Free Evaluation and Enrollment:** Authorizes DOH to amend or extend the terms of the Maximus contract awarded for these services under the Medicaid program for a period of three years, without a competitive bid, upon a determination that the existing contractor is qualified to continue to provide the services and that savings are identified during the period of the extension. It also requires DOH to issue a request for proposals for these services during the term of the extension.
- **Actuarial and Consulting Services:** Authorizes DOH to extend its contract for actuarial and consulting services through Dec. 31, 2017, without a competitive bid, provided that the contractor satisfies the responsible vendor requirements and that DOH issues a request for proposals for these services during the extension period.
- **Program Development Consulting Services:** Authorizes DOH to extend its contract for program development consulting services for a number of programs, including the Balancing Incentive Program, the Fully-Integrated Duals Advantage Program, and DSRIP, for a period of one year, without a competitive bid, upon a determination that the contractor is qualified, and provided that the contractor satisfies the responsible vendor requirements and that DOH issues a request for proposals for these services during the extension period.

## *Prescription Drugs*

The final budget rejects most of the pharmacy savings initiatives proposed in the Executive Budget. While the Executive Budget proposed pharmacy initiatives estimated to save a total of \$66 million (state share), the final budget includes only \$37 million in state share pharmacy savings. In addition, the budget assumes an additional \$114 million in spending on the Medicare Part D “clawback” charge imposed by the federal government to pay for prescription drugs for dual eligibles. The budget continues the Elderly Pharmaceutical Insurance Program (EPIC) with an appropriation of \$131.5 million.

The pharmacy savings proposals included in the final budget are:

- **Prior Authorization for Opioids:** The final budget modifies the governor’s proposal to require Medicaid managed care plans to require prior authorization of any prescription for an opioid analgesic in excess of four prescriptions in a 30-day period. The final budget includes an exemption for hospice patients and individuals with cancer or sickle cell disease. The budget authorizes the Commissioner to exempt other diagnoses from this requirement.
- **Generic Drug Rebates:** The budget authorizes DOH to require manufacturers of certain generic drugs to provide additional rebates, if the price of a drug increases at a rate greater than 300 percent of its state maximum acquisition cost in the previous 12 months.
- **Electronic Prescriptions:** The final budget included a “small provider” exemption from the e-prescribing mandate. Prescribers that certify to DOH that they write 25 or less prescriptions annually may obtain an exemption from e-prescribing. The exemption expires annually and must be renewed.

- **Direct Negotiation with Pharmaceutical Manufacturers:** The final budget clarifies DOH's authority to include fee-for-service utilization in negotiations with pharmaceutical manufacturers related to supplemental rebates for HIV anti-retrovirals and hepatitis C agents.
- **Accelerate RFP and Rebate Collections:** The final budget assumes \$13 million in state share savings as a result of administrative actions to accelerate collections of rebates from pharmaceutical manufacturers.

The final budget **rejects** the proposal advanced in the Executive Budget to limit the amount Medicaid pays under fee-for-service for certain high-cost and specialty drugs. It also **rejects** once again the proposal to eliminate the Medicaid "prescriber prevails" provision – i.e., the ability of a prescribing professional to override the preferred drug program and obtain Medicaid coverage of a prescription drug that is not on the preferred drug list. In addition, the final budget **rejects** the Executive Budget proposal to repeal the requirement that Medicaid managed care plans cover certain non-formulary drugs.

### *Miscellaneous*

- **Social Work Practice Act Exemption:** The final budget extends, until 2018, statutory provisions which exempt from licensure requirements social workers and other mental health clinicians who work in programs that are regulated, operated, funded or approved by OMH, DOH, State Office for the Aging, Office of Children and Family Services, Department of Corrections and Community Supervision, Office of Temporary and Disability Assistance, OASAS, OPWDD, and local governmental units or social services districts.
- **Ambulance Medical Transportation Rate Adequacy Report:** The budget includes a provision to require the Commissioner of Health to review the adequacy of Medicaid rates of reimbursement for ambulance non-emergency medical transportation and report to the Legislature by Dec. 31, 2016.
- **Ambulette Ambulatory Fees:** The final budget accepts the Executive Budget's administrative proposal to expand the ambulette ambulatory fee statewide. Currently, the State's transportation manager has established a lower ambulette rate (generally 80 percent of the usual ambulette rate) for transportation of ambulatory individuals in 15 counties. This lower rate will be applied statewide to yield projected all funds savings of \$10.8 million.
- **Health Republic Insurance of New York Fund:** The final budget creates the Health Republic Insurance of New York Fund to reimburse providers for losses incurred as a result of the Health Republic closure. The proceeds of certain judgments and settlements obtained by the State between April 1, 2016 and March 31, 2019 will serve as the funding source for the fund. The method for allocating funds and amounts to be distributed will be determined by a future statute and appropriation. Funds will be distributed after all assets from Health Republic's liquidation are distributed.

### *Good Government*

The final budget does *not* include the various proposals advanced by the governor to promote transparency in government, fair elections, and integrity in carrying out official responsibilities. For example, the final budget rejects his proposals to close the LLC loophole in campaign contribution limits; to limit the outside income of legislators; and to subject the Legislature to the Freedom of Information Law.

### *Organization of This Report*

The remainder of this LeadingAge NY report on the final SFY 2016-17 State budget includes an analysis of the budget outcomes for each major service line, followed by a summary table comparing the Executive Budget to the final budget by major functional area.

# Provider-Specific Summaries of Budget Provisions

Click on the links below for a complete  
analysis of these areas of the budget.

**ACF/AL**

**Adult Day  
Health Care**

**Community-  
Based Services**

**Home  
Care**

**Managed Long  
Term Care/  
Managed Care**

**Nursing  
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## SFY 2016-17 Final State Budget

### Adult Care Facilities and Assisted Living

In addition to some of the overarching proposals mentioned earlier in this document, such as an increase in minimum wage and paid family leave; discussed below are proposals that directly impact adult care facilities (ACFs) and assisted living. For the most part, the final agreement reflects the governor's proposals.

#### *SSI Increases*

We are disappointed to report that the final agreement reflects the Executive Budget proposal, and does not include an increase in the state portion of the Supplemental Security Income (SSI) rate, despite LeadingAge NY's aggressive advocacy on the issue. The final language does accept the Executive proposal to allow the pass-through of the federal Cost of Living Adjustment (COLA) to the federal portion of the SSI rate. The federal COLA is typically applied to the SSI rate, however there was no federal COLA this year and thus the 2016 SSI rate remains unchanged from the 2015 level.

In spite of the lack of an increase in the state portion of SSI rates in the budget, we understand that there may be interest in advancing legislation outside of the budget to authorize an increase in 2017. We will continue our advocacy efforts.

#### *ACF Quality Funding*

The final budget includes the Executive Budget proposal to maintain the Enhancing the Quality of Adult Living (EQUAL) quality program for ACFs at \$6.5 million, the same amount as last year. EQUAL funding has been available to adult homes and enriched housing programs that serve recipients of SSI or Safety Net Assistance benefits, including Assisted Living Programs (ALPs) and Assisted Living Residences (ALRs). It has been distributed based on a formula developed by DOH, based on the number of people in receipt of the aforementioned benefits, as well as the size of the facility.

We are pleased to report that the final budget also accepts the Assembly and Senate proposals to include language regarding the EQUAL program that we had attempted to get passed in last year's legislative session. The language clarifies that while EQUAL program funds generally should not be used for expenses incurred retrospectively, expenditures may be incurred prior to the approval of the facility's EQUAL application for that fiscal year, as long as the resident council approves the expenditure prior to it being incurred, and the project is otherwise consistent with the EQUAL program. The facility must provide documentation of the resident council support, including the date of the approval, and the application must meet all other conditions of the application process. The language also adds that DOH will make the application available on or before June 1<sup>st</sup> of each year; a more predictable schedule should help providers in their planning of EQUAL projects.

## *SSI Enriched Housing Subsidy*

The final budget includes the Executive Budget proposal to maintain funding for the Enriched Housing Subsidy at last year's level of \$475,000. The program pays \$115 per month per SSI recipient to certified operators of not-for-profit certified enriched housing programs.

## *Criminal History Record Checks (CHRC)*

The final budget includes the Executive Budget proposal to provide \$1.3 million for services and expenses related to CHRCs for ACFs. It also accepts the Executive proposal to re-appropriate \$1.3 million to support the administration of the CHRC program specifically for ACFs for the last fiscal year. Effective Jan. 1, 2015, all ACFs were required to conduct CHRCs on certain prospective employees. We are pleased that the funds were re-appropriated, because members have yet to be reimbursed for all record check requests submitted in 2015.

## *Prior Period Funding*

The final budget includes multiple appropriations of funding from past budget years, including re-appropriations that were not in the governor's proposal:

- \$1.6 million from 2009 for the Enhancing Abilities and Life Experience (EnABLE) program, which was included in the Executive proposal. This is past funding that was not distributed to providers. LeadingAge NY has worked over the past few years to ensure funds owed to ACFs from prior budget years be distributed. While we had significant success, there is funding that has yet to be distributed, and it is unclear how it would be distributed since the EnABLE program is now defunct.
- \$159,000 for the EQUAL program for 2015.
- \$861,000 for the EQUAL program for 2014.
- \$864,000 for the EQUAL program for 2013.
- \$325,000 for the Enriched Housing Subsidy for 2015.

## *Temporary Operator of Adult Homes*

The final budget modifies the proposal to permanently extend the statutory authority for DOH to appoint a "temporary operator" when there are conditions that seriously endanger the life, health or safety of residents. This statute was enacted in 2013. The final agreement extends the statutory authority for an additional three years, and requires the Commissioner of Health to notify the Legislature when there is an appointment of a temporary operator in an ACF.

## *Transitional Adult Homes and Related Issues*

The below items may be of interest to ACF and assisted living providers that serve the mental health population. The final budget reflects the Executive Budget proposals for each program:

- **Transitioning Mentally Ill Individuals Out of Transitional Adult Homes:** As was the case last year, \$38 million is proposed for services and expenses associated with the provision of education, assessments, training, in-reach, care coordination, supported housing and the services needed by mentally ill residents of adult homes and persons with mental illness who are discharged from adult homes.
- **Mental Health Transitions:** Up to \$7 million is appropriated to the Research Foundation for Mental Hygiene, in contract with OMH, for two demonstration programs. One program would be for a behavioral health care management program for people with serious mental illness. The other program would be for a mental health and health care coordination demonstration program for persons with mental illness who are discharged from impacted (transitional) adult homes in NYC. In addition, up to \$15 million would be made available for grants to counties and NYC to provide medication and other services necessary to prescribe and administer medication. This program has been included in the budget at the same funding level for several years.

## **Other ACF Programs**

The below items may be of interest to ACFs and assisted living facilities, but do not have a direct impact on providers. The final budget includes all of the following Executive Budget proposals:

- **Adult Home Advocacy Program:** This funding is allocated to the Justice Center at \$170,000, as it has historically been funded. Through contracted agencies, the program provides legal and non-legal advocacy services and training in residents' rights and self-advocacy to mentally disabled individuals residing in adult homes in NYC and Long Island.
- **Adult Home Resident Council:** The Adult Home Resident Council Support Project, historically operated by the Family Services League on Long Island, is level funded at \$60,000.
- **Assisted Living Residence Quality Oversight Account:** The proposal includes \$2.1 million in funding for State operations for services and expenses related to the oversight and licensing activities for assisted living facilities.
- **Adult Home Quality Enhancement Account:** The proposal includes \$500,000 for State operations related to services and expenses to promote programs to improve the quality of care for residents in adult homes.

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# Adult Day Health Care

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## SFY 2016-17 Final State Budget

### Adult Day Health Care

The final budget includes few provisions specifically affecting adult day health care (ADHC) providers.

#### *Prior Years' Cost Containment*

Under previous law: (1) the Medicaid trend factor freeze is continued through March 31, 2017; and (2) the reimbursable 6 percent cash receipts assessment on nursing home and ADHC revenues also continues through March 31, 2017.

The additional non-reimbursable 0.8 percent assessment also remains in effect for nursing home and ADHC cash receipts. DOH plans to institute an adjustment to the statewide prices for nursing homes to incorporate a 1 percent add-on to the rates effective April 1, 2015, which would offset half of the cost of the 0.8 percent assessment. The remaining half of the 0.8 percent assessment receipts is being used to fund the nursing home Universal Settlement through 2020.

#### *ADHC Transportation*

In response to strong advocacy by the Adult Day Health Care Council (ADHCC) and LeadingAge NY, the final budget does not include an Executive Budget administrative proposal to allow the State's Medicaid transportation brokers (i.e., LogistiCare and Medical Answering Services) to manage all transportation of ADHC registrants. The associated \$3.2 million of anticipated State savings was restored by the Legislature.

#### *Social Adult Day Care (SADC)*

SADC services were level-funded at \$1,072,000 to provide grants to support these programs through the New York State Office for the Aging (NYSOFA).

#### *Unbundled Services/Payment Option (USPO)*

Amendments to regulations at Title 10 NYCRR Part 425 were approved by the Public Health and Health Planning Council and published as a final rule in the State Register in Sept. 2014. The final step in implementing the USPO is dependent upon DOH finalizing new Managed Long Term Care (MLTC) rate codes. Implementation of the USPO remains a top priority for the ADHCC.

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# Community- Based Services

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## SFY 2016-17 Final State Budget

### Community-based Services

LeadingAge NY is pleased to report that the final budget maintains most of the community-based services funding at the same level or a slight increase from last year. Notably, our advocacy for the Naturally Occurring Retirement Communities (NORCs) and the Neighborhood NORC (NNORCs) programs succeeded from a funding and programmatic perspective.

#### *NORCs and Neighborhood NORCs*

The final budget level funds the NORC and NNORC programs at \$2,027,500 each for SFY 2016-17. It does not include the Executive Budget proposal to realize \$951,000 in State savings by limiting State aid grants only to NORCs and NNORCs that continue to meet statutory requirements. Furthermore, the budget also directs the State of New York Mortgage Agency to authorize the transfer of \$700,000 from the Mortgage Insurance Fund to the Housing Trust Fund to enhance NORC funding by \$350,000 and NNORC funding by \$350,000 during SFY 2016-17.

The final budget also amends several sections of the NYS Elder Law to modernize the NORC and NNORC programs beginning in 2018, and adds provisions to prevent any disruptions of the programs until that time. After December 2017, a competitive Request for Proposals (RFP) will be issued for NORC and NNORC funding which will include many components of legislation advanced in the Assembly, with some modifications. The RFP will reflect:

- Expanding eligible services;
- Changing the required minimum and maximum senior population in a program;
- Defining rural and non-rural areas;
- Clarifying that NNORC areas should have boundaries that are clear, coherent, and create an identifiable program and supportive community, and allowing for the programs to supplement services from other local entities to meet residents' needs;
- Directing NYSOFA to develop a list of priority and optional services from the list of eligible services;
- Giving priority in any competitive bidding process to those applicants that propose to serve a building, housing complex, or catchment area; and
- Defining a maximum annual award amount for NORCs of \$200,000 and a minimum NNORC award of \$60,000 per year.

## ***EPIC Program***

The final budget funds EPIC at \$131.5 million, the same level that was proposed in the Executive Budget. This funding will allow for a continuation of EPIC coverage for co-payments on drugs on a participant's Part D formulary during the initial coverage and catastrophic phases of Medicare Part D.

## ***Other Aging Services Programs***

- **Community Services for the Elderly (CSE):** The final budget funding for this program is \$27.9 million, slightly increased from last year's \$27.7 million. As in last year's budget, up to \$2.5 million of the total funding for CSE and EISEP (see below) may be used by the State to reimburse counties for maintenance of effort on matching requirements for approved CSE and EISEP expenditures.
- **Wellness in Nutrition (WIN):** Formerly known as Supplemental Nutrition Assistance Program (SNAP), WIN is funded in the final budget at \$27.5 million, up slightly from last year's \$27.3 million. Up to \$200,000 of this appropriation may be made available to the Council of Senior Centers & Services of NYC, Inc. to provide outreach within the older adult WIN initiative. WIN funding is used to provide home-delivered meals, some congregate meal funding and other nutrition-related services to eligible frail elderly, including residents of senior housing facilities.
- **Expanded In-home Services for the Elderly Program (EISEP):** EISEP is a community-based long term care program that provides case management, non-medical in-home, non-institutional respite and ancillary services needed by New Yorkers aged 60 and over. Last year's final budget funded EISEP program services at \$50 million; the final 2016-17 budget allocated \$50.1 million to the program.
- **Social day programs:** Social day programs are level-funded at \$1,072,000 through NYSOFA, with preference given to existing contracts.
- **Congregate Services Initiative (CSI):** The final budget continues level-funding of CSI at \$403,000. This program provides information and assistance, referral, transportation, nutrition, socialization, education, counseling and caregiver support to persons in senior centers and other congregate settings.
- **Livable NY initiative:** With the same level of funding as last year at \$122,500, this program is aimed at creating neighborhoods that consider the evolving needs and preferences of all their residents.
- **Technical assistance/training for Area Agencies on Aging:** The final budget continues funding at \$250,000 for the Association on Aging in New York State to provide training, education and technical assistance to area agencies on aging and aging network contractors to help them adapt to changes in the health and long term care policy environment.
- **Investment in Caregiver Support:** The final budget continues to invest the two-year allocation of \$50 million for caregiver respite services for persons with Alzheimer's and other related dementias, including additional respite and expansion of the DOH caregiver support services programs. We understand that this is a two-year appropriation, \$25 million in each of SFY 2015-16 and SFY 2016-17.

*For more information, contact Cheryl Udell at [cudell@leadingagency.org](mailto:cudell@leadingagency.org) or 518-867-8871.*



## SFY 2016-17 Final State Budget

### Home Care

The final budget reflects continuation of the implementation of Medicaid Redesign Team (MRT) recommendations begun in SFY 2011-12. These reforms – most notably MRT #90 which mandates MLTC enrollment of dually eligible Medicaid recipients who need more than 120 days of community-based long term care services – continue to change how home care is provided and reimbursed in the State.

Long Term Home Health Care Programs (LTHHCPs), Certified Home Health Agencies (CHHAs), Licensed Home Care Services Agencies (LHCSAs) and hospices continue to experience the impact of the MRT recommendations, most notably the transition to managed care and other reimbursement challenges such as implementation of the Fair Labor Standards Act.

#### *Minimum Wage*

See “Overview” section of this report for further information.

#### *Home Care Worker Wage Parity Law*

The final budget amends the Home Care Worker Wage Parity law to ensure that the base wage of the total compensation for wage parity is not lower than the state’s minimum wage. It includes two new sections that define the “cash portion” and the “benefits portion” of the minimum rate of home care aide compensation. It provides that cash wages paid pursuant to increases in the minimum wage cannot be used to satisfy the benefit portion of the minimum rate of home care worker total compensation. The cash wages are determined by DOH in consultation with the Department of Labor (DOL).

In addition, the proposal requires that the cash portion of the minimum rate of home care worker compensation be \$10.00 or the minimum wage rate, whichever is higher, and the benefit portion must be \$4.09 for NYC and \$3.22 for Nassau, Suffolk, and Westchester counties. The benefits portion can be health, education, or pension benefits, wage differentials, supplements in lieu of benefits and compensated time off as determined by DOH in consultation with DOL.

### ***TBI and NHTD Medicaid Waivers***

The requirement for Traumatic Brain Injury (TBI) and Nursing Home Transition and Diversion (NHTD) waiver participants to enroll in Medicaid managed care has been delayed for another year. The new date for participants of these waivers to transition into managed care is Jan. 1, 2018. The final budget language requires that managed care plans provide a level of care and services for the TBI and NHTD Waiver populations comparable to that offered under the fee-for-service waiver programs; that plans have adequate provider networks and ensure adequate training and competency among providers; and that individuals providing service coordination exercise their professional duties in the interests of the participant.

The final budget also continues baseline funding for the NHTD and TBI waiver programs:

- **NHTD housing subsidy:** Level-funding of \$2.3 million is provided for housing subsidies for certain participants in the NHTD waiver program.
- **TBI program:** Services and expenses related to TBI are level-funded at \$12.4 million.

### ***Health Care Facility Transformation Program***

See “Overview” section of this report for further information.

### ***CHHA Bad Debt and Charity Care***

The final budget provides up to \$1.7 million for bad debt and charity care allowances for publicly-sponsored CHHAs through December 31, 2017.

### ***Worker Recruitment, Training and Retention***

The final budget includes the following revenue streams for two existing programs:

- Level funding of \$272 million for New York City and \$22.4 million for other areas of the State for Medicaid adjustments supporting recruitment and retention of workers with direct patient care responsibility.
- Level funding of \$100 million to support Medicaid rate increases for CHHAs, LTHHCPs, AIDS home care programs, hospice programs and MLTC plans for recruitment, training and retention of health care workers.

### ***Criminal History Record Checks***

The final budget includes \$3 million for criminal background checks for non-licensed employees of CHHAs, LTHHCPs, LHCSAs, AIDS home care providers and nursing homes.

### ***Home Health Aide Registry***

The final budget includes \$1.8 million for services and expenses related to the home health aide registry.

### ***Spousal Refusal and Spousal Impoverishment Resource Allowance***

See “Medicaid Eligibility” in the “Overview” section of this report for further information.

***For more information, contact Cheryl Udell at [cudell@leadingagency.org](mailto:cudell@leadingagency.org) or 518-867-8871.***



# Managed Long Term Care/ Managed Care

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## SFY 2016-17 Final State Budget

### Managed Long Term Care/Managed Care

With the majority of populations having transitioned into Medicaid Managed Care, managed care budget proposals were focused on cost savings, despite increasing concerns about inadequate Medicaid premiums and continuing delays in premium updates. The final budget postpones the carve-in of TBI and NHTD Waiver services into managed care, and ensures that transportation for MLTC enrollees remains outside of the State's transportation broker system.

LeadingAge NY's advocacy centered on minimizing funding cuts implicit in many of the proposals and raising awareness of rate adequacy issues. Along with the legislative proposals described below, the State's spending plan includes some managed care savings that the State intends to implement administratively. Those are described at the end of this section.

Budget issues that impact various providers as well as managed care plans are discussed in detail in the Overview section of this report. These including the Medicaid Global Spending Cap, Minimum Wage, Workers' Compensation, Paid Family Leave, Medicaid eligibility and spousal refusal, and pharmacy provisions.

### *MLTC Transportation Carve-Out*

The final budget rejects the Executive Budget proposal to carve transportation out of the MLTC benefit package and require MLTC enrollees to use the State's Medicaid transportation vendors. Instead, the budget retains statutory language advanced by LeadingAge NY and enacted last year that excludes transportation services provided or arranged for enrollees of MLTC plans from the State's transportation vendor contracts. Through the advocacy of LeadingAge NY and its members, the Legislature has recognized the importance of the personally-tailored transportation services arranged by MLTC plans for their frail elderly and disabled beneficiaries.

### *Nursing Home Level of Care*

The final budget rejects in its entirety the proposal to restrict new MLTC enrollments to individuals requiring a nursing home level of care. The proposed budget would have excluded individuals who do not meet the clinical criteria that define nursing home level of care from MLTC enrollment and would have assumed a savings as a result.

### ***TBI and NHTD Waiver Services Carve-In***

The requirement for TBI and NHTD waiver participants to enroll in Medicaid managed care has been delayed for another year. The new date for participants of these waivers to transition into managed care is Jan. 1, 2018. It also expands this temporary exclusion from mandatory managed care to individuals who were eligible for, but not enrolled in, the waivers based on criteria in effect on Jan. 1, 2015. Prior to commencing mandatory managed care enrollment of these populations, the budget requires managed care program features to be comparable to services available through the waivers as they existed on Jan 1, 2015. Specifically, it requires MLTCs to have adequate provider networks and ensure adequate training and competency among providers.

### ***MLTC Rate Adequacy***

In response to concerns raised by LeadingAge NY, other associations, and plans regarding the adequacy of MLTC plan rates, the final budget adds language requiring MLTC rates to comply with applicable State and federal laws and regulations, including actuarial soundness.

### ***Encounter Data Reporting Penalties***

The final budget accepts and modifies the proposal to authorize DOH to assess penalties when managed care plans submit late or inaccurate encounter data. The budget exempts from penalties cases where good faith efforts are made to submit, but DOH system failures or technical issues beyond the plan's control thwart the submission. Additional language was added to require DOH to consider the plan's submission history, third-party involvement, corrective actions, awareness of the inaccurate or untimely submissions, and other factors, prior to assessing the penalty. The penalty for late submissions is 1.5 percent of the administrative component of the plan's Medicaid premium, while inaccurate data or submissions that result in an excessive rejection rate will be penalized by a 0.5 percent reduction in the administrative component.

### ***HIV Special Needs Plan (SNP) Extender***

The final budget extends the current authorizations for the state's HIV SNPs for four years through 2020. The Executive Budget had proposed to make the authorization permanent.

### ***DOH Vendor Contracts***

The final budget authorizes extension of the Maximus (managed care assessment and enrollment) and Mercer (managed care rate development) contracts without competitive bids, but requires competitive solicitations for these services during the 3-year extension period. See "Overview" section of this report for further information.

### ***Sharing of OMH and OPWDD Clinical Information***

The budget permits facilities licensed by OMH and OPWDD to share clinical records with managed care organizations to coordinate health care services for Medicaid beneficiaries. Until now, such records could only be shared with managed care organizations for payment purposes. The final budget also specifies that all information contained in a patient record is confidential.

## ***Part B/Part C Crossover Payments***

The enacted budget caps Medicaid payments for the Medicare coinsurance expenses of dual eligibles enrolled in Medicare Advantage plans at 85 percent of the coinsurance liability that would be borne by Medicare beneficiaries not eligible for Medicaid. Ambulance and psychologist services are exempt from this cap. The final budget modifies the Executive budget proposal which would have capped coinsurance payments to limit the total amount paid for the Medicare services to the amount that Medicaid would have paid, if it were the primary payer. This provision is effective July 1, 2016.

## ***Opioid Analgesics***

The final budget includes the requirement that managed care plans institute prior authorization for opioid analgesic prescriptions that exceed four prescriptions in a thirty-day period. The proposal is modified to exclude hospice patients and individuals diagnosed with cancer, sickle cell or other conditions for which DOH determines prior authorization is not necessary.

## ***Administrative Actions***

Although not reflected in budget legislative language, the State's spending plan reflects Medicaid savings based on administrative actions DOH intends to take. LeadingAge NY advanced proposed language that would have blocked these actions or required them to be predicated on legislative authorization and appropriate rate development. Although this language was not included in the final budget agreement, we will continue to advocate on behalf of members' interests before DOH and the Office of the Medicaid Inspector General (OMIG), as they proceed with implementation. These administrative measures include:

- **Carve Additional Benefits into MLTC:** Projects a \$3.1 million savings for adding all Medicaid benefits to the MLTC benefit package (e.g., behavioral health, co-insurance for all Medicare services, etc.);
- **Profit Limit:** Limits managed care plan profits to 3.5 percent, expressed as a medical loss ratio of 89.5 percent, to achieve savings of \$126 million;
- **OMIG Fiscal Integrity Program:** Projects \$30 million in savings through collaborative best practices; and
- **OSC Audit Findings:** Projects \$40 million in Office of the State Comptroller audit savings through recoupment of overpayments from managed care plans and requiring all managed care organizations to cover the cost of future actuary contracts or amendments.

*For more information, contact Darius Kirstein at [dkirstein@leadingageny.org](mailto:dkirstein@leadingageny.org) or 518-867-8841.*



# Nursing Homes

## SFY 2016-17 Final State Budget

### Nursing Homes

While the Executive Budget included only one provision specifically affecting nursing homes, the final budget includes new, targeted initiatives. Major components of the budget affecting multiple providers – minimum wage, paid family leave, VAP and capital funding – are covered in the Overview section of this report. Provisions impacting nursing homes are detailed below.

#### *Prior Years' Cost Containment*

Under previous law, the following measures were continued through March 31, 2017: (1) the Medicaid trend factor freeze; (2) past trend factor reductions and Medicare maximization requirements; and (3) the reimbursable 6 percent cash receipts assessment on nursing home and ADHC revenues.

The additional non-reimbursable 0.8 percent assessment also remains in effect for nursing home and ADHC cash receipts. DOH plans to institute an adjustment to the statewide prices for nursing homes to incorporate a 1 percent add-on to the rates effective April 1, 2015 (subject to federal approval), which would offset half of the cost of the 0.8 percent assessment. The remaining half of the 0.8 percent assessment receipts is being used to fund the nursing home Universal Settlement of Nursing Home Rate Appeals and Lawsuits (“Universal Settlement”) through 2020.

#### *Universal Settlement*

The final budget includes language in the appropriations legislation authorizing continued funding for the Universal Settlement. The second installment payment is to be made to the Universal Settlement trustees on or before July 1, 2016, for distribution to participating facilities.

The SFY 2015-16 budget extended, through March 31, 2019, a law limiting the amount of nursing home rate appeals that DOH may process to \$80 million per state fiscal year. Of this amount, \$50 million is being used as a funding source for the Universal Settlement, leaving \$30 million of each year's cap available for the processing of appeals excluded from the Settlement.

#### *Transportation Carve-Out*

Despite advocacy from LeadingAge NY, the final budget authorizes DOH to remove the transportation component from the direct component of nursing home Medicaid fee-for-service rates. This would also be reflected in the Medicaid benchmark rates paid by managed care plans. DOH estimates that this would reduce the direct component of the rate by approximately 40 cents per day and save the State approximately \$6 million per year (\$12 million total impact when combined with federal funding).



### ***Restorative Care Unit Demonstration Program***

The final budget includes a modified version of a Senate proposal to require the Commissioner of Health to implement a program to reduce hospital admissions and readmissions from nursing homes through the establishment of restorative care units, which would provide higher-intensity treatment services for residents. A nursing home seeking to establish such a unit would need to contract with an eligible entity that has experience in implementing a similar type of program. A total of \$1.5 million in State funding is allocated to the program. LeadingAge NY successfully advocated for removing nurse staffing ratios and other problematic provisions from the legislation, but was unsuccessful in securing an expansion of the program and associated funding. Further details will be forthcoming.

### ***Transfer of Long-Term Ventilator Dependent Nursing Home Beds***

The final budget authorizes DOH to approve, through an administrative or limited Certificate of Need (CON) review, the relocation of long-term ventilator beds from one nursing home to another nursing home with common ownership, provided the approval does not change the number of approved beds. Without this provision, this transaction would be subject to a full CON review by the Public Health and Health Planning Council.

### ***Capital Reimbursement Exception***

The final budget includes language allocating \$1 million annually over a thirty-year period beginning April 1, 2016 to the Citadel Rehab and Nursing Center at Kingsbridge (Bronx County). The added reimbursement is for capital expenses related to the facility's purchase and transfer immediately following operation under a court-ordered receivership. The reimbursement is to be made from State-only Medicaid funds and is subject to cash receipts assessment payments.

***For more information, contact Dan Heim at [dheim@leadingageny.org](mailto:dheim@leadingageny.org) or 518-867-8866.***



## Senior Housing

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### SFY 2016-17 Final State Budget

#### Senior Housing

The final budget includes a substantial new investment in affordable housing, some of which is expected to be dedicated to senior housing. Most existing state housing programs were level-funded or had modest increases. A few were reduced to baseline levels, after receiving one-shot increases through bank settlement funds in SFY 2015-16.

#### *Housing Capital Funding*

A new capital investment of \$1,973,475,000 was proposed in the Executive Budget and adopted by the Legislature. This represents a significant investment of new capital in housing over the next five years.

A coalition of organizations led by LeadingAge NY had proposed a comprehensive Affordable Senior Housing Program which would have included strategic investments in capital, rental assistance and services.

Budget negotiators for the Assembly and Senate favored allocating these new capital funds to specific programs, including a newly created Senior Housing Capital program. The administration held firmly to its position that the almost \$2 billion in new capital funds over five years should be left flexible, allowing the Division of Housing and Community Renewal to sub-allocate the funds to any of its array of housing programs, which has historically included some senior housing.

In the final budget negotiations, the Legislature and governor decided to make the appropriation subject to a Memorandum of Understanding (MOU) to be agreed upon in the coming months by the three parties. Senior housing is expected to be included, hopefully in the form of a new dedicated program, as LeadingAge NY had proposed. Further details will be forthcoming.

#### *Access to Home*

Access to Home, which provides building modifications for seniors and persons with disabilities to remain independent, was funded at its traditional level of \$1 million, after receiving over \$20 million last year through bank settlement funds.

#### *Mitchell-Lama Program*

The Mitchell-Lama Program, which includes many senior developments in all parts of the State, received \$42 million, after an increase of \$25 million last year attributable to bank settlement funds. This fund provides for capital improvements in the aging stock of Mitchell-Lama housing.

### ***MRT Supportive Housing***

The MRT Supportive Housing Program received \$166 million, an increase of over \$41 million from last year. Supportive housing for homeless individuals and other special needs populations are an important priority for this administration. Additional funds are expected to be added to this program from the MOU described above.

### ***State Low-Income Housing Credit Program***

The State Low-Income Housing Credit Program was level-funded at \$8 million, after a vocal effort by a broad coalition of affordable housing advocates that had pushed for an increase.

### ***Neighborhood and Rural Preservation Programs***

The Neighborhood and Rural Preservation Programs, which provide operating grants to non-profit housing companies in nearly every corner of the state to support their work in housing and community revitalization, saw funding increased by \$500,000 and \$200,000, respectively.

### ***Funding for Other Housing Programs***

The following programs were funded in the final budget:

- **Housing Opportunity Program for Elderly:** Formerly known as RESTORE, this program provides home improvement grants for low-income, elderly homeowners. It was funded at its traditional level of \$1.4 million, after receiving a \$5 million increase last year.
- **Other Capital Programs:** Programs for which senior housing developers frequently apply received increases, including Homes for Working Families (\$9.25 million increase to \$26.75 million) and the Low-Income Housing Trust Fund (\$6.5 million increase to \$54.2 million).

*For more information, contact John Broderick at [jbroderick@leadingageny.org](mailto:jbroderick@leadingageny.org) or 518-867-8835.*

# Summary

## Summary

### Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET		FINAL BUDGET	
PROGRAM FUNDING			
<p><b>Adult Care Facilities and Assisted Living</b></p> <ul style="list-style-type: none"><li>• Fund EQUAL at last year’s level of \$6.5M.</li><li>• Fund enriched housing at last year’s level of \$475,000.</li><li>• No increase in the State portion of SSI Level 3.</li><li>• \$1.3M for ACF criminal history record check (CHRC) program, and \$1.3M re-appropriated for past years.</li><li>• Permanently extend authority for DOH to appoint ACF “temporary operator” under certain conditions.</li><li>• Re-appropriate \$1.6M from 2009 for EnAbLE.</li></ul>		<ul style="list-style-type: none"><li>• Includes Executive EQUAL funding and adds language to allow ACFs to spend funds on projects before application is issued in certain cases.</li><li>• Includes Executive enriched housing funding.</li><li>• No increase in the State portion of SSI Level 3.</li><li>• Includes Executive proposal for ACF CHRC funding.</li><li>• Modifies Executive proposal to extend DOH authority for 3 years and requires legislative notification of any temporary operator appointments.</li><li>• Includes Executive proposal to re-appropriate EnAbLE, and adds additional re-appropriations:<ul style="list-style-type: none"><li>▪ \$159,000 for the 2015 EQUAL program.</li><li>▪ \$861,000 for the 2014 EQUAL program.</li><li>▪ \$864,000 for the 2013 EQUAL program.</li><li>▪ \$325,000 for 2015 Enriched Housing Subsidy.</li></ul></li></ul>	
<p><b>Community Services Programs</b></p> <ul style="list-style-type: none"><li>• Level-fund or slightly increase funding for the following programs:<ul style="list-style-type: none"><li>▪ EISEP at \$50.1M.</li><li>▪ EPIC at \$131.5M.</li><li>▪ WIN at \$27.5M.</li><li>▪ Community Services for the Elderly at \$27.9M.</li><li>▪ Social Adult Day Programs at \$1,072,000.</li><li>▪ Livable NY Initiative at \$122,500.</li><li>▪ Congregate Services Initiative at \$403,000.</li><li>▪ Investment in Caregiver Support at \$25M.</li></ul></li></ul>		<p>Includes Executive proposals.</p>	
<p><b>Health Care Transformation</b></p> <ul style="list-style-type: none"><li>• Re-appropriate \$700M for Kings County delivery system.</li><li>• Re-program \$300M from capital grants for Oneida County health care facilities to capital grants to providers statewide that fulfill an inpatient, outpatient, home care, or nursing home need, in order to replace inefficient and outdated facilities as part merger, consolidation, acquisition or other restructuring. Sub-allocate up to:<ul style="list-style-type: none"><li>▪ \$100M for Nano Utica; and</li><li>▪ \$5M for mobile mammography.</li></ul></li></ul>		<ul style="list-style-type: none"><li>• Re-appropriates \$700M for Kings County delivery system and \$300M for Oneida County facilities.</li><li>• Adds \$200M to make capital grants to replace inefficient and outdated facilities as part of merger, consolidation, acquisition or other restructuring in hospitals, nursing homes, and clinics. Includes \$30M dedicated to D&amp;TCs, clinics, home care agencies and primary care providers; and up to \$5M for mobile mammography.</li><li>• From \$200M, unspecified amounts may be allocated as grants or loans to support debt restructuring and capital and non-capital projects that promote health care transformation.</li></ul>	

## Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET		FINAL BUDGET
PROGRAM FUNDING		
<b>Health Information Technology Infrastructure</b> <ul style="list-style-type: none"> <li>\$30M for SHIN-NY to permit sharing of health information among health care providers.</li> <li>\$10M for the All Payer Claims Database, a repository of health care utilization and spending data.</li> <li>\$10M for DOH information technology initiatives.</li> </ul>		Includes Executive proposal.
<b>Home Care Recruitment, Training and Retention</b> <ul style="list-style-type: none"> <li>Continue funding for personal care worker recruitment and retention at \$272M for NYC and \$22.4M for other areas of the State.</li> <li>Continue recruitment, training and retention funding at \$100M for LTHHCPs, AIDS home care, and hospices.</li> </ul>		Includes Executive proposal.
<b>Home Care Worker Wage Parity</b> No provision.		Amends wage parity law to ensure the base wage of the total compensation is not lower than the minimum wage.
<b>Housing Programs</b> <ul style="list-style-type: none"> <li>Create new \$1.97 billion capital program to support existing affordable programs over the next 5 years.</li> <li>Fund existing programs:               <ul style="list-style-type: none"> <li>Access to Home at \$1M.</li> <li>Low-Income Housing Trust Fund program at \$54.2M.</li> <li>Low-Income Housing Credit Program at \$8M.</li> <li>Homes for Working Families at \$26.7M.</li> <li>MRT Supportive Housing Program at \$166M.</li> <li>Mitchell-Lama Program at \$42M.</li> </ul> </li> <li>Discontinue Moderate Income Finance Program.</li> </ul>		Includes all Executive proposals, except that the \$1.97B will be subject to an MOU to be negotiated and signed by leaders of Senate and Assembly, before appropriation is released.
<b>Medicaid Global Spending Cap</b> Extend authority for cap (including DOH “super-powers” to reduce spending if needed) to March 31, 2018, with total State share DOH spending limited to \$18.5B in SFY 2016-17 and \$19B in SFY 2017-18.		Extends cap authority through March 31, 2018 at projected amounts of \$18.8B in SFY 2016-17 and \$19.6B in SFY 2017-18, and includes language allowing adjustments to the cap to reflect minimum wage.
<b>Non-Profit Infrastructure Capital Investment</b> Re-appropriate \$50M for competitive grants for non-profit human services organizations for capital projects to improve service quality, efficiency and accessibility.		Includes re-appropriation and adds up to \$50M.
<b>NORCs/NNORCs</b> Maintain level funding but limit state grants for NORCs and NNORCs to those that meet statutory requirements. Limiting eligibility would save the State \$951,000 in SFY 2016-17.		Includes language to modernize the programs in 2018; hold programs harmless until then. Includes level funding, restores the \$951,000 and provides an additional \$350,000 for each program.
<b>Other Health Care Capital Funds</b> Re-appropriate \$1.2B in Capital Restructuring Financing Program (CRFP) funding.		Includes Executive proposal.

## Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET		FINAL BUDGET
PROGRAM FUNDING		
<b><i>TBI and NHTD Waiver Programs</i></b> Level-fund the TBI program at \$12.4M, and the NHTD waiver housing subsidy at \$2.3M.		Includes Executive proposal.
<b><i>VAP Program</i></b> Fund the program at \$212M, incorporating any VAP funds previously allocated that were not distributed, rather than through a separate re-appropriation.		Includes Executive proposal.
PROVIDER/PLAN REIMBURSEMENT		
<b><i>Ambulance Medical Transportation Rate Review</i></b> No provision.		DOH to review the adequacy of Medicaid rates of reimbursement for ambulance medical transportation and report to the Legislature by 12/31/16.
<b><i>Ambulette Ambulatory Fee</i></b> Expand the ambulette ambulatory fee statewide to yield projected savings of \$10.8M (administrative action).		Includes Executive proposal.
<b><i>Comptroller Audit Findings</i></b> Project \$40M in OSC audit recoveries and administratively require managed care plans to pay for future actuary contracts or amendments.		Includes Executive proposal.
<b><i>Encounter Reporting Penalties</i></b> Authorize DOH to penalize managed care plans for untimely or inaccurate submission of encounter data. Penalties would range from 0.5 to 1.5% of the administrative component of the Medicaid premium.		Modifies Executive proposal to provide a good faith exemption from penalties and gives DOH discretion to reduce or eliminate penalty based on an organization's filing history and other factors.
<b><i>Managed Care Plan Profit Cap</i></b> Administratively limit managed care plan profits to 3.5%, expressed as a medical loss ratio of 89.5%.		Includes Executive proposal.
<b><i>Medicare-Medicaid "Crossover" Payments</i></b> Limit Medicaid payment for Part B coinsurance for duals enrolled in Medicare Advantage plans. Medicaid would pay only the difference between the Medicaid payment amount and what the Advantage plan had already paid.		Modifies Executive proposal to cap the amount Medicaid pays to 85% of what Medicare enrollees ineligible for Medicaid would pay. Fewer services are exempt than in the original proposal.
<b><i>MLTC Rate Adequacy</i></b> No provision.		Adds language specifically requiring that MLTC rates comply with applicable state and federal laws and regulations including actuarial soundness.
<b><i>Nursing Home Capital Reimbursement Exception</i></b> No provision.		Allocates \$1M annually to the Citadel Rehab and Nursing Center at Kingsbridge for capital expenses related to a court-ordered receivership.
<b><i>OMIG Fiscal Integrity Program</i></b> Project a \$30M savings in managed care plans through collaborative best practices implemented by DOH administrative authority.		Includes Executive proposal.
<b><i>Transportation Carve-out</i></b> Eliminate transportation from the MLTC benefit package and adjust plan premiums accordingly. Manage the transportation of MLTC enrollees and ADHC program registrants through the State's transportation brokers. Remove the transportation component from nursing home Medicaid rates.		Does not include the Executive proposals on MLTC and ADHC transportation management, but includes the removal of transportation from nursing home rates.

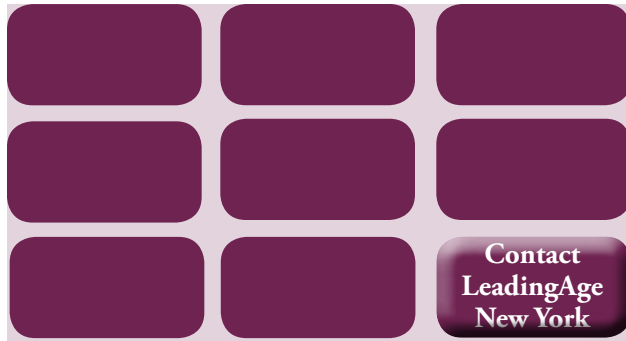


## Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET		FINAL BUDGET	
PROGRAMMATIC INITIATIVES			
<b>DOH Managed Care Vendor Contracts</b> No provision.		Authorizes the extension of Maximus (managed care assessment and enrollment) and Mercer (managed care rate development) contracts without competitive bid.	
<b>Health Republic Insurance of New York Fund</b> No provision.		Creates the Health Republic Insurance of New York Fund to reimburse providers for losses incurred as a result of the Health Republic closure. To be funded by proceeds of certain judgments and settlements obtained by the State.	
<b>HIV Special Needs Plan Extender</b> Extend HIV Special Needs Plan (SNP) authority permanently.		Extends authorization for HIV SNPs for 4 years through 2020.	
<b>Medicaid Integrity and Efficiency Initiative</b> No provision.		Requires DOH to establish a Medicaid Integrity and Efficiency Initiative with local social services districts to achieve additional audit recoveries, administrative efficiencies and other cost avoidance.	
<b>MLTC Benefit Package</b> Administratively carve all Medicaid benefits into the MLTC benefits package.		No language enacted to prevent administrative action.	
<b>Minimum Wage</b> Increase the State's minimum wage to \$15.00 per hour by 12/31/18 in NYC and by 7/1/21 in the rest of the State, with no additional Medicaid funding.		Modifies Executive proposal to provide a slower phase-in for small businesses in NYC; phases-in the increase through 2021 for Westchester and Long Island; and increases minimum wage to \$12.50 in the rest of the State by 2021 with indexed increases thereafter. Provides \$25.3M in SFY 2016-17 and higher amounts of Medicaid funding in succeeding years to support the added costs to providers.	
<b>Nursing Home Level of Care</b> Limit new Medicaid MLTC enrollments to individuals requiring nursing home level of care and serve those ineligible through fee-for-service.		Does not include Executive proposal.	
<b>Nursing Home Restorative Care Units</b> No provision.		Requires DOH to implement a demonstration program to reduce hospitalizations of nursing home residents. Restorative care units would provide higher-intensity treatment services for residents.	
<b>OMH and OPWDD Clinical Information Sharing</b> Permit mental health and developmental disability providers to share clinical record with managed care plans and health homes.		Modifies proposal to specify that patient record information is confidential.	
<b>Paid Family Leave</b> Provide 12 weeks per year of paid family leave after 4 weeks of employment, beginning 1/1/18. Benefits would begin at 35% of average weekly wage and reach 50% of weekly wage by 2021.		Modifies Executive proposal to require employees to have worked 6 months to be eligible. Phases in 12-week benefit period over 3 years. Changes benefit levels to begin at 50% of average weekly wage and reach 67% of weekly wage by 2021.	

## Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET	FINAL BUDGET
REGULATORY/PROGRAMMATIC INITIATIVES	
<p><b>Prescription Drugs</b></p> <ul style="list-style-type: none"> <li>Require Medicaid managed care plans to get prior authorization of any opioid analgesic prescription over 4 prescriptions in a 30-day period.</li> <li>Authorize DOH to require manufacturers of certain generic drugs additional rebates, if their prices increase at a rate greater than the rate of inflation.</li> <li>No proposal on additional exemptions from e-prescribing.</li> <li>Clarify DOH's authority to include FFS utilization in negotiations with manufacturers on supplemental rebates for HIV anti-retrovirals and Hep. C agents.</li> <li>Assume \$13M in state savings by accelerating collections of rebates from drug manufacturers.</li> <li>Eliminate "prescriber prevails" for drugs not on preferred drug list.</li> <li>Eliminate Medicaid managed care requirement to cover certain non-formulary drugs.</li> <li>Establish ceiling price and limit reimbursement for high cost specialty drugs.</li> </ul>	<ul style="list-style-type: none"> <li>Modifies to exempt hospice patients and individuals with cancer or sickle cell disease. Authorizes DOH to exempt other diagnoses.</li> <li>Modifies to require additional rebates, if the drug price increases more than 300% of its state maximum acquisition cost in the previous year.</li> <li>Exempts prescribers with 25 or less prescriptions annually.</li> <li>Includes Executive proposal.</li> <li>Includes Executive proposal.</li> <li>Does not include Executive proposal.</li> <li>Does not include Executive proposal.</li> <li>Does not include Executive proposal.</li> </ul>
<p><b>Retail Clinics</b> Authorize establishment of limited services clinics in retail space that may be operated by publicly-traded companies.</p>	<p>Does not include Executive proposal.</p>
<p><b>TBI &amp; NHTD Waiver Transition to Managed Care</b> No provision.</p>	<p>Delays transition until at least 1/1/18 and requires that the services provided under managed care be comparable to the services provided under the waivers.</p>
<p><b>Transfer of Nursing Home Vent Beds</b> No provision.</p>	<p>Allows DOH to administratively approve relocation of long-term ventilator beds from one nursing home to another nursing home with common ownership.</p>
<p><b>Workers' Compensation Reform</b> Streamline system to reduce employer costs, reduce administrative overhead and better protect workers.</p>	<p>Does not include Executive proposal.</p>
BENEFICIARY ELIGIBILITY	
<p><b>Community Spouse Resource Allowance</b> Reduce community spouse resource allowance for institutional eligibility for applicants with assets between \$23,844 and \$150,000.</p>	<p>Does not include Executive proposal.</p>
<p><b>Spousal Refusal</b> Eliminate ability of Medicaid applicant to qualify if living with spouse who refuses to support.</p>	<p>Does not include Executive proposal.</p>



## Contact LeadingAge New York

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