2013-14 New York State BUDGET

What it means for you

LeadingAge™ New York

Overview

Final Budget for State Fiscal Year 2013-14

The final budget for State fiscal year (SFY) 2013-14, which is effective for the period April 1, 2013 through March 31, 2014, was enacted into law prior to the start of the fiscal year. The $135.2 billion plan closes a projected General Fund budget deficit of $1.35 billion, and addresses the loss of $1.1 billion in Federal developmental disabilities Medicaid funding. The 2013-14 final budget increases overall spending by 0.9%, the third consecutive year of 2% or less growth. When additional Federal aid for Superstorm Sandy and the Affordable Care Act are included, SFY 2013-14 spending will total $141.2 billion, an increase of approximately $7 billion or 5.2%.

The $1.35 billion budget deficit is closed with $974 million in projected savings from controlling State spending, $434 million of which is from State agency redesign and cost controls. Another $412 million comes from local assistance program cuts, the most significant of which is eliminating trend factors for 2013-14 for all health and human service providers. The remaining $331 million is closed by extending expiring taxes.

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

Medicaid Global Spending

The final budget extends through March 31, 2015 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 (CPI), currently estimated at 3.9%. 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 2014-15.

Under the final budget, the global spending cap is increased from $15.9 billion in SFY 2012-13 to $16.5 billion in SFY 2013-14, and $17.1 billion in SFY 2014-15. As proposed in the Executive Budget, DOH Medicaid administrative costs are now included under the cap, but are not indexed to the CPI like other expenditures. In response to recommendations by LeadingAge NY and other groups, legislative language was also added to: (1) allow DOB to adjust the cap to allow for increased or expedited expenditures due to natural disasters; and (2) require DOH to report more detail on the basis for global cap estimates and monthly expenditures.

The annual loss of $1.1 billion in Federal Medicaid funding for developmental disability services is being offset by the creation of the Mental Hygiene Stabilization Fund, which in turn has an effect on the global cap. This fund is capitalized at $1.1 billion in SFY 2013-14 as follows: (1) by pre-paying SFY 2013-14 Medicaid costs in SFY 2012-13; (2) accelerating some MRT initiatives, delaying MRT investments and other savings; (3) reducing State share OPWDD funding by $90 million; and (4) realizing additional Federal revenues. Effectively, $730 million is being transferred from the global cap to the Mental Hygiene Stabilization Fund in SFY 2013-14, and $445 million in SFY 2014-15.

The budget reflects the first year of a gradual 3-year State takeover of the growth in local share Medicaid expenditures enacted last year, which will effectively "freeze" the local share by calendar year 2015. Annual growth in the local share of Medicaid was already capped at 3%, and is now further limited to 2% in SFY 2013-14, 1% in SFY 2014-15, and zero in SFY 2015-16. When combined with the existing benefit of the 3% growth cap and the State's assumptions of the local share of Family Health Plus, counties and NYC will see an estimated total savings of $1.69 billion in SFY 2013-14.

The Office of the Medicaid Inspector General (OMIG) audit target for SFY 2013-14 remains consistent with current year levels at $1.1 billion. The target includes $323 million in cash recoveries and $809 million in savings associated with cost avoidance (i.e., claims edits, etc.). The final budget legislation: (1) seeks to increase collaboration between OMIG and local social service districts by requiring OMIG to develop training materials for identifying fraud and abuse, meet quarterly with representatives of local service districts and develop a collaboration work plan; (2) increases from 10% to 20% the local share of savings resulting from Medicaid recoveries under the county demonstration program; and (3) requires OMIG to provide quarterly briefings to the Legislature and to report annually on measures undertaken to mitigate fraud, waste and abuse in the prior year.

Medicaid Trend Factor and 2% Cut

The governor had proposed to permanently eliminate the authority for trend factor adjustments to Medicaid reimbursements. The final budget eliminates trend (i.e., inflation) factor adjustments to Medicaid reimbursements through March 31, 2015 to hospitals, nursing homes (except pediatric facilities), adult day health care (ADHC) programs, certified home health agencies (CHHAs), long term home health care programs (LTHHCPs), personal care providers, assisted living programs (ALPs), hospices and clinics. Although Medicaid trend factor updates have not been made in recent fiscal years, LeadingAge NY strongly opposed the proposed elimination of trend factor authority in law, and is pleased the Legislature rejected this change.

In addition, the 2% across-the-board reductions made to all Medicaid service sectors in SFYs 2011-12 and 2012-13 are continued in law for two more years through March 31, 2015, producing an annual State savings of $357 million. Various provider sectors including nursing homes, ADHC programs, LTHHCPs and ALPs identified alternative savings mechanisms (i.e., increased provider taxes and reductions in State-only funding) to the 2% Medicaid cut that are anticipated to continue as well. DOH officials have said, however, that they plan to suspend the 2% cut beginning on or before April 1, 2014, depending on how actual Medicaid expenditures compare to the global cap.

Medicaid Redesign

The final budget includes Executive Budget proposals to further expand the populations and services covered under "mainstream" Medicaid managed care (MMC) and managed long term care (MLTC) plans. With few exceptions, DOH and other State agencies now have the authority to require nearly all Medicaid recipients to enroll in MMC or MLTC plans and to cover most Medicaid services in such plans when program features and reimbursement rates are finalized.

In this regard, the Office for Persons with Developmental Disabilities (OPWDD) is seeking a Federal Medicaid Section 1115 waiver to restructure delivery of services to developmentally disabled individuals (i.e., the "People First" waiver). The final budget authorizes People First, under which Developmental Disability Individual Support and Care Coordination Organizations (DISCOs) would be established to provide health and long term care services to developmentally disabled individuals. MLTCs and insurers would be allowed to operate or contract with DISCOs. The final budget also authorizes DOH to establish a fully integrated duals advantage program (FIDA) for dually eligible developmentally disabled individuals, with up to 3 MLTC plans authorized to operate FIDA plans for these individuals.

The final budget continues the savings actions enacted as part of the SFY 2011-12 and 2012-13 budgets, including the 78 discrete cost containment initiatives recommended by the MRT; and the additional recommendations developed through the MRT Workgroup process. Together with the elimination of Medicaid trend factors and extension of the 2% cut, the Executive estimates that these actions will save the State $17.1 billion over the next five years.

In addition to prior initiatives, the governor had proposed a cost-neutral series of additional MRT Phase III State funds investments for SFY 2013-14, including: (1) supportive housing ($12.5 million); (2) health home development ($15 million); (3) nursing home quality pool ($5 million); (4) MLTC quality incentive ($10 million); (5) MLTC ombudsman program ($1.5 million); and (6) safety net/vital access program (VAP) providers ($26 million). In the final budget, the supportive housing investment was reduced; the VAP funding was included as proposed; and all other proposed investments are effectively delayed until SFY 2014-15.

As part of the plan to defray the cost of establishing the $1.1 billion Mental Hygiene Stabilization Fund, the State plans to accelerate implementation and book added fiscal savings from several MRT initiatives including: (1) the FIDA demonstration; (2) transportation management in New York City; (3) transitioning the behavioral health population into MMC; (4) doubling the pace of mandatory enrollment in MLTC plans from 2,000 to 4,000 per month; (5) reducing the amounts owed by providers to the State; and (6) expanding the Gold STAMP program to reduce pressure ulcers.

Medicaid Eligibility

Two Medicaid eligibility proposals were considered during the budget process that affect multiple long term care service lines:

- *Spousal refusal:* The final budget does not include the Executive Budget proposal to limit existing law allowing community spouses of Medicaid recipients to refuse to contribute income/resources towards the cost of care.
- *Spousal impoverishment:* The final budget includes two provisions relating to spousal impoverishment protections. The first extends authorization for spousal budgeting in all Medicaid 1915(c) waiver programs through Dec. 31, 2018. The second confers spousal impoverishment protections on spouses of MLTC plan enrollees, subject to Federal approval.

New York Health Benefit Exchange

The Federal Patient Protection and Affordable Care Act (ACA) of 2010 included health care and insurance reform provisions intended to fundamentally change how health care is paid for and delivered in every state. Many of the enacted provisions are to take effect in future years, including provisions requiring every state to establish health insurance exchanges and Medicaid expansion. The lynchpin of the ACA is the individual mandate for individuals to enroll in either a public or private health care plan or be subject to financial penalties.

The ACA requires each state to establish and operate a health insurance exchange by Jan. 1, 2014. The Federal government will establish and operate exchanges in states that choose not to establish their own exchange. Last April, the governor issued an Executive Order to establish a New York Health Benefit Exchange, which would become operational by Jan. 1, 2014. The State received conditional approval from the Federal government to establish a state-based exchange on Dec. 14, 2012.

Under the ACA, state-run health insurance exchanges act as regulated "marketplaces" offering a menu of health insurance plans to uninsured individuals whose income is above 133% of the Federal Poverty Level (FPL). Individuals with incomes between 133% and 400% of the FPL will receive subsidies to purchase mandated insurance via the exchange. The failure of uninsured individuals to purchase insurance will result in fines from the Federal government in the form of a tax (the "individual mandate"). Small businesses (≤ 50 employees until 2016, ≤ 100 employees thereafter) will also be allowed to purchase insurance for employees through the exchange.

The final budget includes several amendments to existing State laws to conform them to the ACA requirements. Among these changes are: (1) revising Medicaid eligibility categories to align with ACA income eligibility standards; (2) defining the "benchmark coverage;" (3) providing for 12-month continuous eligibility coverage; and (4) ending the Family Health Plus (FHP) and FHP Employer Buy-In effective in 2015. DOH is authorized to amend the MMC, MLTC, FHP and Child Health Plus model contracts to allow these plans to participate as qualified insurers in the NYS Exchange. Finally, the Department is required to issue a report to the Legislature, detailing the readiness status of the exchange, State enrollment center, and State Medicaid enrollment center by August 30, 2013.

Funding for Public Health Programs

The Executive Budget had proposed to eliminate funding for 89 discrete programs administered by DOH and consolidate the associated funding into six "Outcome Based Health Planning" block grants with an overall funding reduction of $40 million (i.e., 10%). DOH would have been authorized to establish outcome-based contracting requirements for awards and grants using competitive requests for applications or proposals. Among the long term care programs that would have been affected were quality funding for adult care facilities and their residents and the enriched housing subsidy.

The final budget does not include the block grants, but instead continues line-item authorizations for each program. The $40 million cut was reduced to $22 million, which equates to a 5.5% cut to each affected program.

CON and New Financing Mechanisms

Consistent with the CON reform recommendations recently agreed to by the Public Health and Health Planning Council (PHHPC), the Executive Budget included proposals to streamline the planning process for the establishment and construction of health care facilities including: (1) allowing hospitals and clinics to establish primary care facilities and undertake other construction projects without public need and financial feasibility determinations; (2) revising standards for character and competence reviews; (3) expediting reviews of construction applications; and (4) amending the character and competence review standards used by the PHHPC when considering prospective facility operators. These proposals were rejected by the Legislature and are not included in the final budget.

LeadingAge NY is pleased that the final budget includes a five-year $30 million "Pay for Success" program, also known as "Social Impact Bonds." The program would authorize contracts to assist in creating outcome-based programs focusing on the areas of health, education, juvenile justice, and public safety. Such initiatives will require service providers to meet performance measures and to satisfy fiscal savings requirements in order to secure funding from the State. Results will be monitored by independent parties to ensure the accuracy of providers' reports and outcomes, and no State funds will be released until positive outcomes are achieved. Payments under the program are not anticipated to begin until SFY 2015-16.

The Legislature rejected a proposal in the Executive Budget to establish a 2-site pilot program to allow for private capital investment in health care facilities. LeadingAge NY is pleased that this provision was not included in the final budget, since it could have allowed publically-traded companies to invest in and/or operate hospitals and other health care agencies in the State. An alternative provision in the final budget requires the Chancellor of the State University of New York to submit a sustainability plan by June 1, 2013 to the Executive and the Legislature to restructure the University Hospital of Brooklyn to make it financially viable.

Superstorm Sandy

The final budget includes $21 billion of appropriations for disaster-related recovery, rebuilding and mitigation. An estimated $30 billion of Federal aid will flow through these appropriations or be directly administered by the Federal government, local governments and other entities. In addition, the final budget includes $2 billion to support grants for community reconstruction and mitigation plans to help eligible communities impacted by Superstorm Sandy, Hurricane Irene, or Tropical Storm Lee.

Employment Provisions

The Executive Budget included a proposal to increase the State's statutory minimum wage to $8.75 per hour effective July 1, 2013. The final budget authorizes a gradual increase in the minimum wage from the current $7.25 per hour to $8.00 per hour effective Dec. 31, 2013; $8.75 effective Dec. 31, 2014; and $9.00 effective on or after Dec. 31, 2015.

The budget modifies the State's unemployment insurance (UI) system to advance reforms and expedite repayment of $3.5 billion in Federal borrowing. Included are UI tax changes to: (1) eliminate the 6 lowest tax brackets in the State's tax table; and increase the UI taxable wage base to $10,300 in 2014 with incremental increases thereafter. Other changes include: (1) increasing the maximum weekly benefit to workers from $405 to $420 and the minimum weekly benefit from $65 to $100 in Oct. 2014, with annual increases thereafter (subject to adequacy of the UI fund; (2) decreasing benefits for those receiving severance or pensions; and (3) removing obligations of an employer when an employee is terminated or resigns.

The final budget also includes a series of revisions to the workers' compensation program that are estimated to save employers $500 million this year and $400 million in out years, including: (1) authorizing single arbitrator panels; (2) amending the assessment process; (3) closing the State Insurance Fund's assessment reserve fund and the Reopened Case Fund; (4) establishing a bonding program to address insolvent group self-insured trusts; (5) authorizing audits of all employers; and (6) increasing the minimum payment to claimants from $100 to $150 per week.

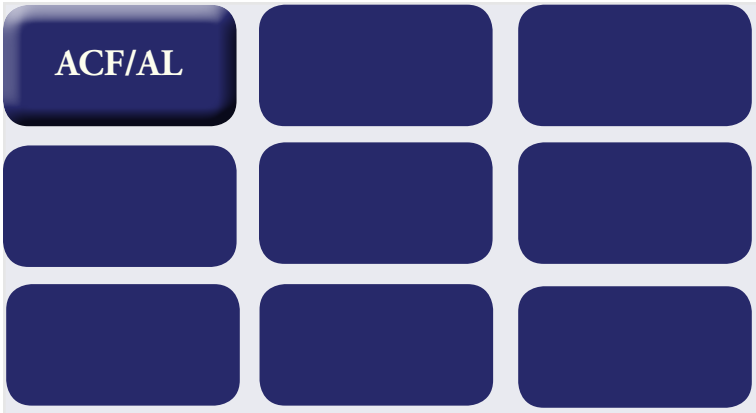
Organization of this Report

The remainder of this LeadingAge NY report on the final 2013-14 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 Home
Senior Housing	Summary	Contact LeadingAge New York



SFY 2013-14 Final State Budget

Adult Care Facilities and Assisted Living

LeadingAge NY adult care facilities (ACFs) and assisted living members will experience some small reductions in funding next year. At the same time, LeadingAge NY achieved some successes in restoring funding that had been excluded in the Executive Budget proposal.

ACF Issues

EQUAL Program

The final budget agreement rejected the governor's proposal to aggregate 89 public health programs and cut them by 10%. The Legislature reinstated the programs as discrete line items and restored 4.5% of the proposed reduction. Thus, the EQUAL program was restored, but reduced by approximately 6%, to be funded at $6.5 million. EQUAL seeks to improve the quality of life for ACF residents, and funding is distributed based on the financial status of the facility, as well as resident needs.

SSI Enriched Housing Subsidy

The Supplemental Security Income (SSI) Enriched Housing Subsidy was included in the aforementioned aggregate funding for 89 public health programs, and, like the EQUAL program was instead given a discrete line item in the final budget. Also like the EQUAL program, it received a cut. The subsidy has been funded historically at $502,900, and is reduced by approximately 5.5% to $474,900. The program pays up to $115 per month for each SSI recipient who resides in not-for-profit certified enriched housing programs, and is paid directly to the certified operator. If appropriations are insufficient to meet the $115 monthly amount, the subsidy will be reduced proportionately.

Past Years' Re-appropriations

Past years' EnAbLE, SSI Enriched Housing Subsidy, and QUIP funds that were not distributed were re-appropriated in the Executive Budget, but not in full. LeadingAge NY strongly advocated on this issue and is pleased that approximately $2.5 million of the $2.9 million that was owed has been restored in the final budget agreement. We will now work to ensure that this funding gets paid out, so that past funding decisions are executed. All of these programs support ACFs that serve low-income seniors; many of whom would need to be in a nursing home on Medicaid if not for the ACF. Restorations include funding that was targeted towards the purchase of generators. It should be noted that EnAbLE and QUIP are not current programs; they have been discontinued and replaced by the EQUAL program.

SSI Federal COLA

The final agreement accepts the Executive proposal to authorize the pass-through of the 2014 Federal Cost of Living Adjustment (COLA) for SSI.

Temporary Operator

The final budget includes language regarding the establishment of a temporary operator of an ACF (or a general hospital or clinic), slightly modified from the Executive proposal. It establishes requirements for the character and competence of the temporary operator, and timeframes and conditions relating to the appointment of a temporary operator. The appointment of a temporary operator for ACFs is currently authorized by law if DOH can prove in a hearing that the operator has failed to comply with DOH regulations, or immediately without a hearing if there is "imminent danger" to the residents. In the latter case, the hearing must occur within 60 days. The budget language allows for a temporary operator to be appointed in the event than an ACF seeks extraordinary financial assistance and DOH finds that the facility is financially unstable to the degree that essential services are jeopardized, or there are conditions that endanger the residents. The language also allows for the established operator to request a temporary operator.

The final budget provides additional details about the process, and protections for the established operator. Specifically:

- DOH must hold a meeting with the licensed operator to try to develop a "mutually satisfactory plan of correction" before seeking to appoint a temporary operator;
- If DOH and the licensed operator cannot agree on a plan of correction, DOH must give the licensed operator the opportunity for an administrative hearing, and prove at such hearing that there are conditions at the facility that "seriously endanger" the life, health or safety of residents; and
- A temporary operator can be appointed after a hearing for an initial term of 180 days and reappointed for up to two additional terms of 90 days each, for a maximum of 360 days (unless the licensed operator is in bankruptcy or agrees to further reappointment).

New language in the final budget also describes the powers, limitations and requirements of the temporary operator. For example, the temporary operator must submit a work plan to DOH to address the deficiencies, and is allowed fiduciary powers. The temporary operator will get paid a reasonable fee, and will provide a report to DOH, including accounting, within 14 days of the conclusion of the appointment.

Continuation of Limited Licensed Home Care Services Agency

The Legislature rejected the Executive Budget proposal which would have permanently extended authorization for the limited licensed home care service agency (LLHCSA) program. Rather, the final agreement extends the program to 2015.

Years ago, some adult homes or enriched housing programs were able to establish LLHCSAs to provide personal care and limited medical services covered by Medicaid. Currently very few programs exist, as there have been problems with the structure of the program and adequacy of rates. Most recently LLHCSAs have also encountered challenges regarding the "some versus total" standard to determine whether or not a resident of an ACF should be able to get Medicaid covered home care and personal care services.

Assisted Living Program issues

While there are some notable initiatives in the final budget relating to assisted living programs (ALPs), our members will be affected most directly by the Medicaid provisions. These include: (1) continuation of the 2% across-the-board cut to ALPs (funded through a reduction to EQUAL funding) through March 31, 2015, although the cut may be suspended on or before April 1, 2014; and (2) elimination of factor adjustments to Medicaid rates through March 31, 2015.

Expansion of Aide Role

The final budget does not include the governor's proposal to authorize DOH to conduct a 2-year demonstration to expand the scope of practice for home health aides to include administration of medications under the supervision of a RN when the aide is employed by a CHHA, LHCSA or hospice. The proposal for an advanced aide was also rejected by the Legislature. It would have allowed a certified advanced home care aide to provide nursing services to self-directing individuals assigned by and performed under the supervision of RNs employed by CHHAs, LHCSAs or hospices and pursuant to the practitioner's ordered care.

Expansion of ALP Capacity and Capital Reimbursement for Transitional Adult Homes

The final budget accepts the governor's proposal, modified in the 30-day amendments, to expand the ALP program by 4,000 beds. The expansion is limited to target transitional adult homes. Eligible applicants are adult homes statewide (i.e., not limited to New York City) with 80 beds or more in which 25% or more of their residents have a serious mental illness. The solicitation for applications is not required to be competitive. The final budget also extends a capital component in the ALP Medicaid rate to those facilities that "house exclusively ALP beds". DOH will be able to cap construction costs for this purpose.

DOH has not yet completed the 6,000 bed ALP expansion currently authorized in law, and we anticipate another Opportunity for Development (OFD); however no specific timeframe from DOH is available as of yet.

Other Issues of Interest

The Justice Center

The Justice Center for the Protection of People with Special Needs was established last year and will be operational by June 30, 2013. Budget language authorizes the transition of activities and staff of the Commission on Quality of Care and Advocacy for Persons with Disabilities (CQCAPD) to the Justice Center, and its primarily focus will be to protect the health and safety of vulnerable individuals in the State's care. The Justice Center will have primary responsibility for tracking, investigating and pursuing serious abuse and neglect complaints at certain State facilities and provider-operated facilities, including transitional adult homes.

Transitional Adult Homes

The Legislature had attempted to limit the transitional adult home regulations promulgated in January; however the final budget does not include those provisions. The regulations remain in effect as is.

DAI Lawsuit

The final budget accepts the Executive Budget proposal to appropriate $16.8 million to provide education, assessments, training, in-reach, care coordination, supported housing and the services needed by mentally ill residents of adult homes, which were identified in the 2009 Federal district court case *Disability Advocates, Inc. v. Paterson*.

Adult Home Advocacy Program

Since 1995, CQCAPD has received funding to administer the adult home advocacy program. 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 New York City and Long Island. The final budget appears to restore some funding to bring it back to the $170,000 it has historically been funded at. Presumably, this program will also be administered by the Justice Center in the future.

Adult Home Resident Council Support Project

The adult home resident council support project, historically operated by the Family Services League on Long Island, appears to be level-funded at $60,000 as proposed in the Executive Budget.

Supportive Housing Units

The final budget accepts funding to support the development of 4,000 supported housing beds for individuals in adult homes (including 1,400 by the end of 2014). This is presumed to be targeted to the residents of transitional adult homes.

Mental Health Demonstrations to Support Transitions

The final budget includes the proposed appropriation of up to $7 million to the Research Foundation for Mental Hygiene, in contract with the Office of Mental Health, for two demonstration programs. One program would be for a mental health and health care coordination demonstration for mentally ill individuals who are discharged from impacted adult homes in NYC. In addition, up to $15 million would be made available for grants to counties and NYC for medication management and administration.

For more information, contact Diane Darbyshire at ddarbyshire@leadingageny.org or 518-867-8828.

Adult Day Health Care

SFY 2013-14 Final State Budget

Adult Day Health Care

The final budget for SFY 2013-14 eliminates the trend factor through March 31, 2015 and presumably continues the 0.8% increase in the cash receipts assessment tax agreed to in lieu of the 2% across-the-board (ATB) Medicaid cut for as long as the ATB cut is in effect. It also continues previous cost containment initiatives including prior year trend factor reductions. The following provisions affecting adult day health care (ADHC) are also included in the budget:

Cash Receipts Assessment Tax

The current 6% reimbursable tax on nursing home and ADHC services is extended through March 31, 2015, but it was not made permanent as the governor originally proposed.

Home and Community-based Services (HCBS) Workgroup

DOH is required to establish this group to examine a number of issues including alignment of functions between managed care entities and home and community-based providers. The Adult Day Health Care Council (ADHCC) will aggressively seek a place in this workgroup.

AIDS ADHC in Managed Care

Covered benefits under Medicaid managed care will include, among other services, AIDS ADHC. This expansion will occur when the program features and reimbursement rates are established by DOH.

Mental Hygiene Stabilization Fund

As indicated in the "Medicaid Global Spending" section above, the State will establish the Mental Hygiene Stabilization Fund and provide funding for it partially by making certain changes administratively. Among those affecting ADHC are:

- Assuming a savings in SFY 2013-14 from the implementation of the Fully Integrated Duals Advantage (FIDA) demonstration, which is scheduled to be implemented in NYC, Westchester, Nassau and Suffolk in January 2014.
- "Aggressively implementing" transportation management initiatives in NYC. The impact of this administrative change on ADHC is unclear. Logisticare transportation management is fully implemented in NYC. While no further changes are imminent, DOH continues to strive for a carve-out of transportation from the MLTC benefit package. As of now, that carve-out is only conceptual.

- Accelerating the transition of the behavioral health population into Medicaid managed care.
- Doubling the pace of mandatory enrollment in MLTC from 2,000 to 4,000 per month. This likely will mean that where MLTC networks are sufficiently developed, mandatory enrollment in MLTC will be implemented upstate sooner than expected.

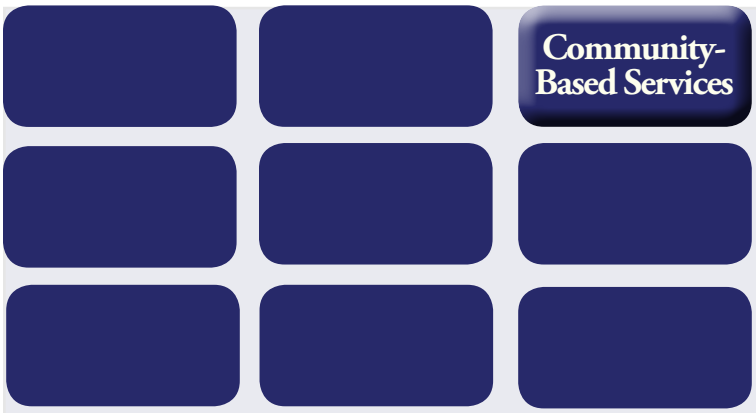
Social Adult Day Care Funding

The program is level-funded at $872,000. However, an additional $200,000 was appropriated for "additional services and expenses to providers of social adult day care" and another $122,500 was appropriated for the NYS Adult Day Services Association to provide training.

Hybrid Option

The ADHCC continues to work diligently along two tracks in an effort to implement the proposed hybrid option for ADHC. First, while not in the budget, legislation to allow the hybrid option has been proposed in both the Senate (Hannon S.3637) and Assembly (Gunther A. 1719) this session. Second, the ADHCC continues to press and work with DOH on passage of the proposed hybrid option regulations. Recently the ADHCC and other stakeholders were asked to comment on the regulations and changes DOH made to them. We hope that passage of the Executive Budget will allow DOH staff to focus on other open issues, including the proposed regulations.

For more information, contact Christine Fitzpatrick at cfitzpatrick@leadingageny.org or 518-867-8831.



Community-Based Services

SFY 2013-14 Final State Budget

Community-based Services

LeadingAge NY is pleased to report that the final budget maintains most of the community-based services at the same level of funding as last year. This year's budget made a significant adjustment to the funding for the Elderly Pharmaceutical Insurance Coverage (EPIC) program. Below is a summary of key community services provisions in the final budget.

NORCS and Neighborhood NORCs

The final budget level-funds the Naturally Occurring Retirement Community (NORC) and Neighborhood NORC programs at $2,027,000 each.

EPIC Program

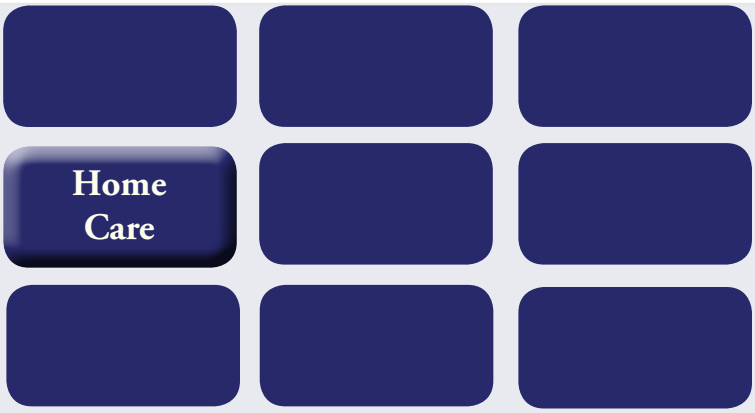
The final budget includes $195.9 million in funding for the program. This allows for a continuation of EPIC coverage for co-payments on drugs on a participant's Part D formulary during the initial coverage and catastrophic phases of Medicare Part D. Instead of having to pay the full Part D co-payment, which is a percentage of a drug's cost, EPIC participants will only be responsible for the EPIC co-payment which can be no more than $20 per prescription.

Other Aging Services Programs

- *Supplemental Nutrition Assistance Program (SNAP):* Now called Wellness in Nutrition (WIN), this program is level-funded at $21.38 million. SNAP/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. The final budget level-funds EISEP program services at $46.035 million.
- *Discretionary Funding Increases:* $14.7 million is allocated to provide discretionary increases in funding in lieu of automatic cost-of-living adjustments for EISEP, SNAP and other programs. NYSOFA will determine the requirements for such increases, and providers will need to attest as to the use of the funds.

- *Social Day Programs:* Social day programs will receive $1,072,000 of funding support through NYSOFA, $200,000 more than allocated in SFY 2012-13.
- *Community Services for the Elderly program:* The final budget level-funds this program at $325,150.
- *Congregate Services Initiative:* Level-funding of $403,000 is allocated for this program, which 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 funding of $122,500, this program is aimed at creating neighborhoods that consider the evolving needs and preferences of all their residents.
- *Title XX funding:* Continue Title XX funding, which has gone to support senior centers and senior services in New York City, as well as Nassau, Steuben and Erie counties. The exact amount of funding will depend on the amount of available Federal funds.

For more information, contact Cheryl Udell at cudell@leadingageny.org or 518-867-8871.



SFY 2013-14 Final State Budget

Home Care

The final budget continues the implementation of MRT recommendations begun in SFY 2011-12 and continued with Phase II in SFY 2012-13. These reforms have continued to change how home care services are provided in New York State, especially MRT #90 which mandates MLTC enrollment of Medicaid recipients who need more that 120 days of community-based long term care services. 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.

The final budget eliminates trend factors for all Medicaid home care providers, extends in law the 2% across-the-board cut and continues previous years' cuts (trend factors, Medicare maximization, A&G caps) for two years. It also funds the Balancing Incentive Program (BIP), and continues the move to care management for all Medicaid recipients. While the final budget did not include any actual language to allow LTHHCPs and CHHAs to operate more efficiently within managed care, it does authorize a workgroup to study the issues. Below is a summary of the final outcome of key home care budget issues.

Prompt Payment

The final budget adds a provision that extends the current State Insurance Law prompt payment and fair settlement requirements imposed on health insurers to MLTC and MMC plans relative to payment of home care claims. This will apply to claims submitted by LHCSAs, CHHAs, LTHHCPs or fiscal intermediaries under the consumer directed personal assistance program. Under this law, MLTCs and MMC plans will be required to pay all claims submitted by these agencies within 30 days of receipt if submitted electronically or 45 days by paper. Special rules apply to disputed or fraudulent claims.

VAP Program

The final budget increases total Vital Access Provider (VAP)/safety net pool funding from $100 million in SFY 2012-13 to $182 million in 2013-14 (which includes $30 million of funding earmarked for nursing homes due to the sunset of the financially disadvantaged program).

The safety net (short-term funding) and VAP (ongoing rate enhancement or other support) programs are provided as discretionary grants and are intended to assist essential community providers, including CHHAs, proposing or affected by facility closures, mergers, integration or reconfiguration of services.

Home and Community-based Care Workgroup

LeadingAge NY is pleased that the final budget requires DOH to convene a Home and Community-based Care Workgroup to make recommendations in several areas: (1) State and Federal regulatory requirements and policies, including applicability of Federal conditions of participation; (2) efficiencies in home and community-based delivery, including telehealth and hospice services; and (3) alignment of functions between managed care and home and community-based providers. The workgroup will have 11 members including providers, plans and consumer/direct caregiver representatives with relevant expertise. The workgroup is slated to start in May 2013 and produce a report with recommendations by March 1, 2014.

Hospice Enrollment in Managed Care

The final budget includes language clarifying that if an individual is already enrolled in an MLTC plan or other care coordination model, and subsequently elects hospice care, he/she will not have to disenroll from such program.

Balancing Incentive Program

The final budget includes $20 million in combined State and Federal funding to implement the "balancing incentive program" (BIP), as authorized under the Federal ACA. Under the BIP, the State will receive a 2% increase in the Federal Medical Assistance Percentage (FMAP) to raise the percentage of care provided in the community versus institutions. The increased Federal funding (estimated at approximately $600 million over 3 years) is predicated on the State agreeing to make structural reforms in its programs and actually achieving increases in the percentage of community-based services. The State's BIP application was approved by CMS in March 2013. The budget includes language allowing DOH to contract with a third party to help implement the program, without undergoing a competitive procurement process.

Home Health Aide Role

The final budget does not include the governor's proposal to authorize DOH to conduct a 2-year demonstration that would have expanded the scope of practice for home health aides to include administration of medications under the supervision of a RN when the aide is employed by a CHHA, LHCSA or hospice.

Advanced Aides

This Executive Budget proposal was also rejected in the final budget. Under the proposal, a certified advanced home care aide would have been authorized to provide nursing services to self-directing individuals assigned by and performed under the supervision of RNs employed by CHHAs, LHCSAs or hospices and pursuant to the practitioner's ordered care.

Spousal Impoverishment Protections

Two Executive Budget proposals relating to spousal impoverishment protections are included in the final budget. The first extends authorization for spousal budgeting in all Medicaid 1915(c) waiver programs (e.g., LTHHCP, TBI waiver, Nursing Home Transition and Diversion (NHTD) waiver, etc.) through Dec. 31, 2018. The second provision confers spousal impoverishment protections on spouses of MLTC plan enrollees, subject to Federal approval.

Spousal Refusal

The final budget does not include the Executive Budget proposal to limit existing law allowing community spouses of Medicaid recipients to refuse to contribute income/resources towards the cost of care.

Health Homes

The final budget authorizes up to $15 million to fund health home infrastructure development. However, as noted in the "Medicaid Redesign" section above, this funding is effectively delayed until SFY 2014-15.

Home Care Funding Allocations

The final budget authorizes the following funding:

- *Personal care worker recruitment and retention (R&R):* $272 million for New York City and $22.4 million for other areas of the State is provided for Medicaid adjustments supporting R&R of personal care services or any worker with direct patient care responsibility.
- *Health care worker R&R:* $100 million is allocated to support Medicaid rate increases for LTHHCPs, AIDS home care programs, hospice programs and MLTC plans for R&R of health care workers.
- *Pediatric CHHA services:* The final budget clarifies that only those CHHAs that provide services to pediatric patients and a special pilot CHHA that serves a special needs population of medical complex and fragile children, adolescents and young disabled adults are eligible to receive health care worker R&R funding. Presumably, other CHHAs that no longer receive the funding will not be required to attest to the use of R&R funds.
- *CHHA bad debt and charity care:* The authorization for CHHAs to receive allowances for bad debt and charity care is extended for an additional two years, through June 30, 2015.
- *Home care registry:* The final budget level-funds the registry at $1.8 million.
- *NHTD housing subsidy:* Level-funding of $2.3 million is provided for housing subsidies for certain participants in the NHTD waiver program.
- *Traumatic Brian Injury (TBI) program:* The funding for services and expenses related to TBI decreased from last year's level of $13.2 million to $12.4 million.

For more information, contact Cheryl Udell at cudell@leadingageny.org or 518-867-8871.

SFY 2013-14 Final State Budget

Managed Long Term Care/Managed Care

Starting with the SFY 2010-11 budget, there has been steady advancement of the MRT concept of "care management for all." For the long term care population, the initial focus was to require Medicaid recipients receiving home and community-based services for 120+ days to enroll in MLTC plans.

The SFY 2013-14 budget legislation clears the final hurdles necessary to cover nearly all Medicaid recipients in all geographic areas of the State under Medicaid managed care, while integrating care for certain dual eligible recipients starting in 2014. Specifically, the budget provisions include more services and more population groups in Medicaid managed care and authorize the development of the Fully-Integrated Duals Advantage (FIDA) demonstration for the developmentally disabled population.

While the administration seeks to push this agenda through as expeditiously as possible; the concerns of advocacy groups, including LeadingAge NY, over the speed of transition and potential unintended consequences have not gone unheard. Key on legislators' minds is the need to manage the transition with a goal of minimizing disruption to consumers and current providers. This concern is mirrored in discussions and initiatives underway through DOH's MLTC Implementation Work Group, on which LeadingAge NY has played a key role. The work group continues to take on the issues of continuity of care, consumer education and marketing practices during the transition period.

On the other hand, the need to achieve additional budget savings in response to the Federal developmental disabilities funding issue has prompted the administration to accelerate the pace of the managed care transition. In doubling the target for monthly MLTC enrollments from 2,000 to 4,000, the administration clearly views the managed care implementation process as a critical cost savings measure. Also in response to the OPWDD funding issue, the administration intends to accelerate the transition of the behavioral health population into managed care; assume additional savings from the implementation of FIDA in 2014 and impose $25 million in efficiency adjustments to MMC rates.

Below is a summary of key provisions in the final budget affecting MLTCs and other Medicaid managed care plans.

Prompt Payment

The budget extends "prompt payment" provisions of the current Insurance Law to claims submitted to MLTCs and MMCs by CHHAs, LTHHCPs, LHCSAs and consumer directed personal assistance programs. These provisions require payment of "clean" electronic claims within 30 days and paper claims within 45 days.

Expanded Enrollment in MMC and MLTC

Remaining exemptions and exclusions for mandatory enrollment will be eliminated when program features and reimbursement rates are agreed to among DOH, OMH, OPWDD, OCFS, and OASAS. These populations include: (1) dual eligibles, provided they are not required to disenroll from an MLTC plan; (2) people expected to be eligible for less than six months; (3) persons receiving hospice care; and (4) people with a chronic medical condition treated by a non-participating physician. Although the exemption for hospice patients is eliminated, the final budget includes language that specifies that this applies to individuals already receiving hospice services at time of enrollment. The language further specifies that this does not require an MLTC or MMC enrollee, who subsequently elects hospice, to disenroll from such program.

Additional Enrollment in MLTC

Exemptions or exclusions of the following populations are also eliminated: (1) Native Americans; (2) people expected to be eligible for less than six months; (3) persons eligible for TB related services only; (4) persons receiving hospice care (note above); (4) persons enrolled in TPHI; (5) persons receiving family planning services only, and (6) persons eligible pursuant to the Breast and Cervical Cancer Treatment Act.

MMC Benefit Expansion

The following services will be "carved in" to the MMC benefit package once program features and reimbursement rates are agreed to among DOH, OMH, OPWDD, OCFS, and OASAS:

- Day treatment for individuals with developmental disabilities;
- Comprehensive Medicaid case management to individuals with developmental disabilities;
- Mental health day treatment program services;
- Long term services provided to individual with developmental disabilities
- AIDS adult day health care;
- TB directly observed therapy;
- HIV COBRA case management; and
- Other services as determined by the Commissioner of Health.

Expansion of MLTC Slots

The final budget does not include the Executive Budget proposal to eliminate the current cap of 75 MLTC certifications, and thus allow for a potentially unlimited number of potential plans. At present, there are 38 registered MLTC plans in the State.

Wage Standards

The final budget does not include the Executive Budget proposal requiring managed care contracts with nursing homes to include a provision mandating nursing homes to pay "standard rates of compensation" to nurses, aides, therapists, orderlies, attendants, orderlies and any other occupations determined by DOH and the Department of Labor (DOL). These standard rates were to be determined annually by DOL, covering pay and benefits. Under the rejected proposal, managed care plans would have been required to pay rates "sufficient to ensure the retention of a qualified workforce" at the nursing home.

Expansion of Enrollment Broker

The Legislature rejected a proposal authorizing the expanded use of an enrollment broker for MMC and MLTC, including in those regions now served by local social services districts.

Medicaid Drug Formulary

The original proposal to eliminate "prescriber prevails" in both capitated and fee-for-service (FFS) plans was rejected by the Legislature. Under the rejected proposal, prescriber prevails would have been eliminated effective July 1, 2013 in both the FFS and managed care programs. Instead, the new language (also effective 7/1/13) allows for the prescriber to determine the course of drug therapy in consultation with the insurance plan for the following classes of medication: anti-depressant, anti-retroviral, anti-rejection, seizure, epilepsy, endocrine, hematologic, and immunologic therapeutic classes, including non-formulary drugs. The criteria described in the new legislative language require that these drugs be prescribed based on "the prescriber's reasonable professional judgment" and that they "are medically necessary and warranted."

Also rejected were proposals requiring minimum supplemental rebates from manufacturers; establishing a fractionally higher average wholesale price (AWP) benchmark; and denying the coverage of opioids that are determined to be medically unnecessary. One provision that was accepted by lawmakers is requiring that an individual be down to less than a seven day supply of medication before refilling a prescription.

Mail Order Pharmacy

New budget language eliminates specific reference to mail order pharmacies and states that if the managed care provider has designated one or more pharmacies for filling prescriptions for a particular drug or drugs, then such prescriptions may be filled, at the participant's option, at any pharmacy in the network, if the network pharmacy chosen by the participant offers to accept a price that is comparable to that of the pharmacy designated by the managed care plan.

MMCARP Expansion

The Medicaid Managed Care Advisory Review Panel is expanded from 9 to 12 members, with the additional 3 slots to overlap membership with the advisory review panel newly established for the OPWDD "People First" Waiver. Along with the expanded membership, the panel is now also charged with reviewing issues related to long term care, mental health and developmentally disabled coverage.

Quality Assurance

New language is included in the budget requiring that MLTCs participating in the People First Waiver must provide service that to the greatest extent possible ensures that their assessments, services, and the grievance and appeals processes are culturally and linguistically competent. DOH is charged with identifying one or more valid and reliable quality assurance instruments that include assessments of individual and family satisfaction, provision of services, and personal outcomes. This instrument will provide nationally validated, benchmarked, consistent, reliable and measurable data for a comprehensive quality improvement and review process; and include outcome-based measures such as health, safety, well-being, relationships, interactions with people who do not have a disability, employment, quality of life, integration, choice, service and consumer satisfaction. DOH may contract with an independent agency or organization for the development of the quality assurance instruments.

Special Needs Managed Care Plans

The final budget eliminates the reference to "special needs mental health plans" and substitutes "special needs managed care plan" and defines the scope of these plans to integrate both the physical and behavioral health aspects of treatment, effective April 1, 2014.

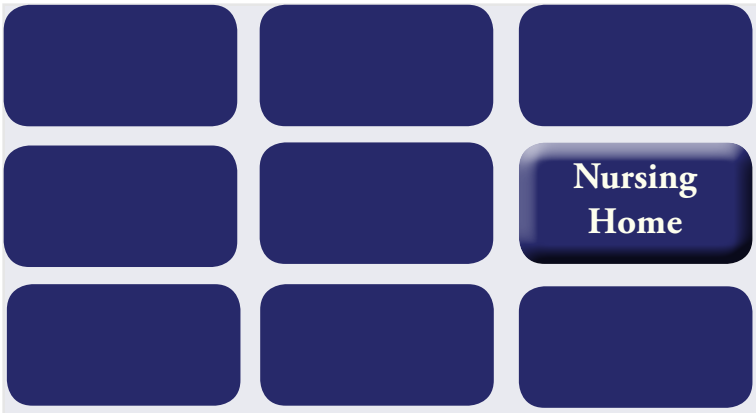
Maintaining Medicare Enrollment

The budget includes language that specifies that an individual enrolling in Medicaid managed care will not be required to disenroll from any Medicare managed care coverage in order to join an MMC or MLTC. In addition, the language specifies that enrollment in Medicare managed care cannot be a prerequisite for receiving Medicaid benefits.

Chemical Dependence Treatment

Under new language, the managed care provider must allow enrollees to access chemical dependence treatment services from facilities certified by the office of alcoholism and substance abuse services, even if such services are rendered by a practitioner who would not otherwise be separately reimbursed, including but not limited to a credentialed alcoholism and substance abuse counselor.

For more information, contact Patrick Cucinelli at pcucinelli@leadingageny.org or 518-867-8827.



SFY 2013-14 Final State Budget

Nursing Home

The final budget legislation does not include the Executive Budget proposal to require payment of standard wages in the context of contracts between nursing homes and managed care plans. Nor does it reflect any revisions to the statewide pricing system that was implemented effective Jan. 1, 2012.

Under the budget, nursing homes (except for pediatric facilities) will again see no trend factor increase through March 31, 2015. The budget also continues previous cost containment initiatives including trend factor reductions, Medicare maximization requirements and the 6% reimbursable cash receipts assessment tax through March 31, 2015. The 0.8% increase in the assessment tax (over and above the 6%) agreed to in SFY 2011-12 in lieu of the 2% across-the-board Medicaid cut, may sunset on or before April 1, 2014.

LeadingAge NY worked on several nursing home issues during the budget and was able to secure revisions to some budget proposals, while successfully opposing other proposals that would have adversely affected nursing home service delivery. Below is a summary of key budget issues affecting nursing home services.

Standard Wage

The final budget legislation does not include a standard wage mandate. However, it is possible that DOH could seek to modify both the regulations governing managed care plans and the standard contract between the State and Medicaid managed care plans to include standard wage requirements.

The Executive Budget proposal that was rejected would have required all Medicaid managed care contracts with nursing homes to include a provision requiring payment of a standard rate of compensation to employees who provide nursing home services including nurses, nurse aides, orderlies, attendants, therapists and any other occupations determined by DOH and the Department of Labor (DOL). Under the proposal, the standard rate would have included a basic hourly cash rate and a supplemental benefit rate annually determined by DOH and DOL. Failure to comply would have subjected the facility to penalties and potential denial of admissions.

Financially Disadvantaged and VAP Programs

Under the final budget, the financially disadvantaged (FD) facility payment program is being discontinued. The FD program provided up to $30 million annually in formula-driven grants to facilities experiencing negative operating margins over a 3-year period. The $30 million in annual funding associated with the FD program is being reallocated to the Vital Access Provider (VAP)/safety net program. The safety net (short-term funding) and VAP (ongoing rate enhancement or other support) programs are provided as discretionary grants and are

intended to assist essential community providers (hospitals, nursing homes, clinics or home health providers) proposing or affected by facility closures, mergers, integration or reconfiguration of services. LeadingAge NY successfully advocated for language to ensure that the $30 million in FD funding will be specifically earmarked for nursing homes under VAP/safety net, rather than redistributed to other types of VAP-eligible providers.

The final budget increases total VAP/safety net pool funding from $100 million in SFY 2012-13 to $182 million in 2013-14 by adding in the FD funding and $52 million in MRT Phase III investments.

Rebasing Reconciliation and Audits

The final budget eliminates the requirement for DOH to reconcile the estimated rebasing transition payments made in 2007 and 2008 to the actual rebasing methodology results. Had the reconciliation occurred, it would not have had a fiscal impact on the State but would have caused facilities' payments to increase or decrease depending on their individual circumstances. Nursing home operators that have accrued liabilities or receivables related to this reconciliation should consult with their audit firms about reversing these entries.

A related provision in the final State budget extends the timeframe within which the State can initiate audits of the 2002 calendar year (or any subsequent year that was the basis for the 2009 operating rate) cost reports, which were used for rebasing payments during the 2009-11 rate years. OMIG can now initiate audits of these cost reports anytime before Dec. 31, 2018. Facilities will therefore be required to keep their cost reports and all underlying records through at least the end of 2018.

Specialty Rates

Under the Executive Budget proposal, DOH would have been authorized to develop a pricing methodology for the operating component of specialty rates for pediatric, AIDS, TBI, behavioral and ventilator nursing homes or units to be effective April 1, 2014. This proposal was not included in the final budget.

Capital Reimbursement

The final budget does not include the governor's proposal to authorize DOH to establish capital reimbursement methodologies for all nursing homes through regulation beginning January 2014. LeadingAge NY was concerned that this proposal could lead to wholesale changes in the methodology that could affect facilities' ability to repay their mortgages and invest in needed improvements.

The State has made a request with the Federal government as part of the pending MRT waiver to allow fee-for-service nursing home capital reimbursement to continue under managed care. LeadingAge NY strongly supports this request.

Intergovernmental Transfer (IGT) Payments

The IGT distribution to public nursing homes is modified to allow up to $32 million to be redistributed to those public facilities in certain counties that were subject to retroactive reductions in Federal IGT matching payments made beginning in April 2006. Total IGT distributions of up to $300 million are authorized in SFY 2013-14.

Quality Pool Funding

The Executive Budget included a proposal to increase 2013 quality pool funding by $10 million to $60 million, as part of MRT Phase III investments. The $10 million funding increase is effectively postponed until SFY 2014-15 as part of the plan to address the loss of Federal developmental disabilities funding.

DOH intends to make quality pool payments to facilities and obtain the $50 million in finding through a per diem rate reduction levied on all eligible nursing homes in the latter part of 2013. The quality measures have not been finalized as of the date of this report, but are expected to include MDS indicators, staffing, employee flu immunizations and avoidable hospital use.

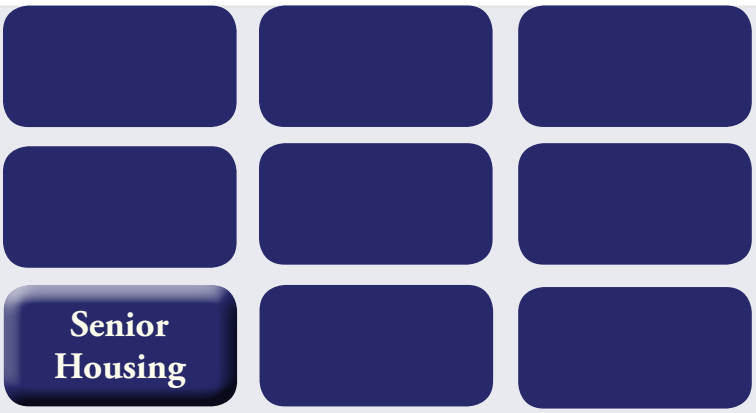
Gold STAMP

The final budget contemplates $6 million in State savings during SFY 2013-14 from expanding the Gold STAMP program to reduce pressure ulcers.

Statewide Pricing and Universal Settlement

LeadingAge NY continued to express concerns during the State budget process about the significant out-year negative impacts that pricing will cause for many member facilities. While the final SFY 2013-14 budget does not include any modifications to the pricing methodology, discussions continue on DOH's proposal for a universal settlement of nursing home litigation and rate appeals. If agreed to, the settlement would provide $100 million in annual funding that would be used to reduce negative impacts and accelerate gains under pricing. As of early February 2013, over 90% of all facilities had responded as to their interest in the settlement, with nearly 90% indicating they are or may be interested in participating.

For more information, contact Dan Heim at dheim@leadingageny.org or 518-867-8866.



SFY 2013-14 Final State Budget

Senior Housing

Below is a summary of key issues in the final budget affecting senior housing.

House NY *Program*

The budget includes a new *House NY* program by investing $1 billion of additional resources over five years to preserve and create 14,300 affordable housing units statewide. This five-year initiative would include the revitalization of 45 Mitchell Lama affordable housing projects that suffer from significant physical deterioration to modernize ($706 million); the creation and preservation of over 5,000 affordable housing units through various housing and community development programs ($231 million); and approximately $100 million in Hurricane Sandy relief initiatives.

Supportive Housing

The final budget funds the MRT Supportive Housing program at $173.8 million, which is a 2-year appropriation of funds. This funding will be disbursed subject to the allocation plan recommended by the MRT Affordable Housing Workgroup and subsequently approved by DOH. The supportive senior housing program, developed by LeadingAge NY, is slated to receive $3 million of this funding

The following supportive housing development initiatives are reflected in the final budget plan: (1) 1,000 supported housing units for residents of nursing homes (including 400 by the end of 2014); (2) 4,000 supported housing beds for residents of adult homes (including 1,400 by the end of 2014); and (3) 3,400 beds for the homeless housing program in New York City (including 634 by the end of 2014).

Pay for Success (Social Impact Bonds)

The final budget includes $30 million, $70 million less than the Executive Budget, for Pay for Success initiatives (also known as "Social Impact Bonds") over the next five years to invest in programs in the areas of early childhood development and child welfare, health care or public safety. The wording of the final budget differs from the Executive Budget in excluding primary or secondary education, human services, juvenile justice, and aging programs. However, this program may offer an innovative approach for seniors to access services in senior housing by awarding contract payments to intermediary organizations responsible for raising funds to support project costs and managing service delivery.

Mitchell-Lama Program Transfer

The Mitchell-Lama affordable housing asset portfolio is transferred from the Empire State Development Corporation to HCR to preserve over 8,600 units of affordable rental housing throughout the State.

Access to Home

The budget includes a $1 million appropriation for this program, which provides building modifications for seniors and the disabled to remain independent. In the past, this program has been funded through Housing Trust Fund Corporation transaction fees at approximately $4 million. It is anticipated that the program will continue to receive these funds.

Naturally Occurring Retirement Communities (NORCs) and Neighborhood NORCs

The final budget provides $2,027,000 in funding to NORCs and another $2,027,000 in funding to Neighborhood NORCs, the same appropriations that were made in SFY 2012-13.

State Low-income Housing Tax Credits

The 2013-14 budget allocates $8 million for the program, the same amount provided in the 2012-13 budget. This will result in an estimated $80 million in new funding capacity for affordable housing over the next ten years.

Preservation and Rural Assistance

The budget funds the following programs through the Mortgage Insurance Fund: Neighborhood Preservation Program at $10.07 million; the Rural Rental Assistance Program at $20.4 million; the Rural Preservation Program at $4.2 million; and the new Rural and Urban Community Investment Fund at $5.4 million.

Tenant Protection Unit

The Executive Budget included $5.7 million in funding for this program; however, this funding was not included in the final budget. It is possible that the program could continue with other HCR funds.

Homeless Housing and Assistance Program

The final budget does not include the proposal for HCR to assume the housing development responsibilities of the Office of Temporary and Disability Assistance for the Homeless Housing and Assistance Program.

Funding for Other Housing Programs

- *Low-Income Weatherization Program:* Budget funding for this program is reduced by $10 million to $32.5 million.
- The following programs were funded at the same level as in SFY 2012-13:
  - *New York State Low Income Housing Trust Fund:* Funded at $32.2 million.
  - P*ublic Housing Modernization Program:* Funded at $6.4 million.

For more information, contact Ken Harris at kharris@leadingageny.org or 518-867-8835.

Summary

Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET	FINAL BUDGET
PROGRAM FUNDING	
Global Medicaid Spending Cap Extend cap by one year through SFY 2014-15, with total state share DOH spending limited to $16.5 billion in 2013-14 and $17.1 billion in 2014-15. Also extend DOH "super-powers" to reduce spending if needed.	Includes Executive proposal, with language added to authorize adjustments to the cap for natural disasters and for increased reporting on the basis for cap estimates and further details on expenditures.

Housing Programs
• Create a new 5-year, $1 billion House NY program to preserve and develop 14,300 affordable housing units statewide.
• Invest $91.35 million to expand access to supportive housing, including $75 million in MRT funds; $12.5 million in new funds; and $3.85 million in Medicaid savings from hospital/nursing home bed closures.
• Reduce the Low-income Weatherization Program by $10 million to $32.5 million.
• Transfer the Mitchell-Lama asset portfolio from the Empire State Development Corporation to HCR.
• Level-funds the following programs:
  • Low-income housing tax credits at $8 million
  • Naturally Occurring Retirement Communities (NORCs) and Neighborhood NORCs at $2,027,000 each
  • Tenant Protection Unit at $5.7 million
  • Low-Income Housing Trust Fund at $32.2 million
  • Public Housing Modernization Program at $6.4 million
  • NHTD waiver housing subsidy at $2.3 million.
	• Includes Executive proposal on House NY program.
	• Reduces state funding for affordable housing by $5 million, but includes $3 million under the DOH plan for LeadingAge NY's supportive senior housing proposal.
	• Includes Executive proposals on the Low-income Weatherization Program and transfer of the Mitchell-Lama asset portfolio.
	• Eliminates funding for the Tenant Protection Unit.
	• Includes Executive proposals to level fund low-income housing tax credits; NORCs/ Neighborhood NORCs; low-Income Housing Trust Fund; Public Housing Modernization Program; and NHTD waiver housing subsidy.

Adult Care Facilities • Consolidate funding for 89 DOH public health programs into 6 block grants, including EQUAL and SSI Enriched Housing Subsidy, and cut aggregate by 10%. • Reappropriate some of past years' funding owed for EnAbLE, SSI Enriched Housing Subsidy, and QUIP funds, but not in full. • Expand the ALP by 4,000 beds, limiting applicants to transitional adult homes statewide. • Extend Medicaid capital component to transitional adult homes that develop ALPs that are 100% ALP, subject to a construction cap. • Develop 4,000 supported housing units by the end of 2014 for individuals in adult homes; presumably transitional adult homes.	• Does not include Executive proposal. Restores EQUAL and SSI Enriched Housing Subsidy as line items. EQUAL funded at $6.9 million, cut by nearly 6%. EHP Subsidy funded at $474,900, cut by approximately 5.5%. • Restores $2.5 million of the $2.9 million that was owed for past years' ACF funding. • Includes Executive proposals on transitional adult home/ ALP to expand program and extend capital component, and to develop supported housing units.

Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET	FINAL BUDGET
PROGRAM FUNDING	

Community Services Programs
• Level-fund the following programs:
  • EISEP at $46.03 million
  • SNAP at $21.3 million
  • Social adult day programs at $872,000
  • Livable NY initiative at $122,500
  • Congregate Services Initiative at $403,000
  • Community Services for the Elderly at $325,150.
• Allocate $14.7 million for discretionary increases in funding for EISEP, SNAP and other programs.
• Allocate $195.9 million to EPIC and continue coverage of Medicare Part D cost sharing for low-income seniors.
	Includes Executive proposals, modified to increase funding for social adult day programs by $200,000.

Pay for Success Authorize up to $100 million for Pay for Success initiatives (also known as "Social Impact Bonds") over the next five years to invest in programs in health care, aging, education, juvenile justice, and public safety.	Includes Executive proposal, but limits total authorization to $30 million and modifies purposes.
PROVIDER REIMBURSEMENT	
Trend Factors Permanently eliminate the law requiring annual Medicaid "trend factor" adjustments, and continue previous years' trend factor eliminations/cuts.	Eliminates trend factor adjustments through 3/31/15 only, and continues previous years' trend factor eliminations/cuts.
2% Across-the-Board Cut Extend authority for the cut for two years through 3/31/15, with previously negotiated alternative savings options remaining in place.	Includes Executive proposal, with plans to suspend the cut on or before 4/1/14, when the global cap allows.
RHCF Capital Reimbursement Authorize DOH to establish capital reimbursement methodologies for all nursing homes through regulation beginning January 2014.	Does not include Executive proposal. Waiver request to allow capital reimbursement to continue under managed care still pending with CMS.
RHCF FD and VAP Programs End the financially disadvantaged facility program and move the $30 million in annual funding to the Vital Access Provider (VAP) program.	Includes Executive proposal, but modifies language to earmark the $30 million for nursing homes under the VAP program.
Increase VAP Funding Increase total VAP/safety net pool funding for RHCFs, CHHAs, hospitals and clinics to $182 million in 2013-14 by adding in the disadvantaged facility funding and another $52 million in MRT Phase III investments.	Includes Executive proposal.
RHCF Specialty Rates Authorize DOH to develop a pricing methodology for pediatric, AIDS, TBI, behavioral and ventilator nursing homes or discrete units, effective 4/1/14.	Does not include Executive proposal.

Summary of NYS Budget by Functional Area

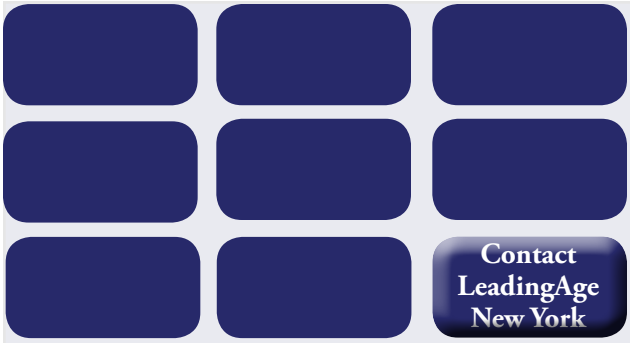
EXECUTIVE BUDGET	FINAL BUDGET
PROVIDER REIMBURSEMENT	
Audits of RHCF Cost Reports Extend OMIG's ability to audit 2002 cost reports from 12/31/14 to 12/31/18.	Includes Executive proposal.
Reconciliation of RHCF Rebasing Payments Eliminate the requirement for DOH to reconcile the estimated rebasing transition payments made in 2007 and 2008 to the actual rebasing methodology results.	Includes Executive proposal.
Intergovernmental Transfer (IGT) Payments Modify 2013-14 IGT payments to public nursing homes to allow $32 million to be redistributed to public facilities that had federal IGT funding disallowed for 2006.	Includes Executive proposal.
Home Care Worker Recruitment & Retention • Personal care worker R&R: $272 million for NYC and $22.4 million for other areas of the state. • Health care workers: $100 million for LTHHCPs, AIDS home care, hospices and MLTC plans. • CHHA clarification: CHHAs are no longer eligible for health care worker R&R adjustments, except for pediatric services.	Includes Executive proposal.
CHHA Bad Debt and Charity Care Continue bad debt and charity care allowances for CHHAs through 6/30/18.	Modifies Executive proposal to continue such allowances through 6/30/15.
Prompt Payment No provision.	Requires MMC and MLTC plans to adhere to current prompt payment requirements relative to payments to home care agencies.
REGULATORY/PROGRAMMATIC INITIATIVES	
Standard Wage for RHCFs All Medicaid managed care contracts with nursing homes would require payment of standard rates of compensation to nursing home workers.	Does not include Executive proposal. It is possible that DOH may pursue this administratively through the managed care contracting provisions.
Increase Minimum Wage Increase the state's minimum wage from $7.25 to $8.75 per hour effective 7/1/13.	Modifies Executive proposal to authorize a gradual increase to $8.00 on 12/31/13; $8.75 on 12/31/14; and $9.00 on 12/31/15.
Private Capital Investment Create a pilot program allowing for private capital investment in up to two health care facilities, including one in Brooklyn.	Does not include Executive proposal. An alternative provision requires a report on the sustainability of the University Hospital of Brooklyn by 6/1/13.
Medications in Home Health Settings Under a 2-year demonstration, home health aides could administer medications under the supervision of a RN when the aide is employed by a CHHA, LHCSA or hospice.	Does not include Executive proposal.
Advanced Home Care Aides Advanced home care aides could provide nursing services to self-directing individuals assigned by and performed under the supervision of RNs employed by a CHHA, LHCSA or hospice.	Does not include Executive proposal.

Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET	FINAL BUDGET
REGULATORY/PROGRAMMATIC INITIATIVES	
Balancing Incentive Program Allocate $20 million to implement a "balancing incentive program" to increase the percentage of care provided in the community versus institutions and be eligible for increased federal matching funds.	Includes Executive proposal.
Extend LLHCSA Authority Permanently authorize the limited licensed home care service agencies program, which expires 3/31/13 under current law.	Modifies Executive proposal to extend this authority through 3/31/15.
Temporary Operators of ACFs Authorize DOH to establish temporary operators of ACFs (or hospitals or clinics) to preserve services when DOH finds deficiencies and management failures.	Modifies Executive proposal to include more detailed procedures, timeframes, due process and other conditions for DOH to appoint a temporary operator.
Expansion of MLTC Certifications Eliminate current cap of 75 MLTC certifications, allowing for a potentially unlimited number of plans.	Does not include Executive proposal.
Expanded MLTC Enrollment Eliminate exemptions/exclusions of recipients who are: (1) Native Americans; (2) expected to be eligible for less than 6 months; (3) eligible for TB related services only; (4) receiving hospice care; (5) enrolled in TPHI; (6) receiving family planning services only, and (7) eligible under the Breast and Cervical Cancer Treatment Act.	Includes Executive proposal.
Expanded Enrollment in Mainstream MMC Require enrollment in mainstream Medicaid managed care of recipients who are: (1) dual eligibles (who can be in MLTC plans instead); (2) expected to be eligible for less than 6 months; (3) receiving hospice care; and (4) treated by a non-participating physician for a chronic medical condition.	Includes Executive proposal.
Medicaid Managed Care Benefit Expansion "Carve in" several benefits to the MMC benefit package, subject to approval of reimbursement and program features, including: (1) day treatment for individuals with developmental disabilities; (2) mental health day treatment program services; (3) long term services provided to individuals with developmental disabilities; and (4) AIDS adult day health care.	Includes Executive proposal.
Hospice Services in Managed Care Clarify that a MLTC enrollee who subsequently elects hospice care will not have to disenroll from the MLTC.	Includes Executive proposal.
Medicaid Drug Formulary Eliminate "prescriber prevails" in fee-for-service (FFS) and managed care; limit opioid prescriptions to 4 in a 30-day period; limit refills; and require FFS providers to implement supplemental rebates.	Modifies Executive proposal by rejecting "prescriber prevails" in FFS; eliminating prescriber prevails only for atypical anti-psychotics under managed care, and rejecting opioid limits and FFS rebate requirement.
Mail Order Pharmacy No provision.	Expands access to retail pharmacies under Medicaid managed care by allowing enrollees to use any pharmacy in the plan's network if the price is comparable to that of the designated pharmacy.

Summary of NYS Budget by Functional Area

EXECUTIVE BUDGET	FINAL BUDGET
STATE PROGRAM ADMINISTRATION	
SSI Federal COLA Pass-through Authorize pass-through of any 2014 Supplemental Security Income (SSI) federal cost of living adjustment (COLA) to recipients, and update the monthly personal needs allowance to reflect 2013 amounts.	Includes Executive proposal.
Enrollment Broker Require counties to use enrollment broker services for mandatory MMC and MLTC.	Does not include Executive proposal.
False Claims Act Modify the NYS False Claims Act to conform it to the Federal False Claims Act to ensure the State can recover funding in *qui tam* "whistleblower" cases.	Includes Executive proposal.
Medicaid Managed Care Advisory Review Panel No provision.	Expand the panel to 12 members and expand its charge to include review of LTC, mental health and developmental disabilities services.
Home and Community–based Workgroup No provision.	Requires DOH to convene a workgroup to make recommendations on home care regulatory requirements in a managed care environment, including Federal conditions of participation.
MEDICAID/PROGRAM ELIGIBILITY	
Spousal Refusal Limit existing law allowing spouses of recipients to refuse to contribute income/resources.	Does not include Executive proposal.
Spousal Impoverishment Extend spousal budgeting in all Medicaid 1915(c) waiver programs through 2018 and provide impoverishment protections to spouses of MLTC enrollees.	Includes Executive proposal.



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