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M E M O R A N D U M

TO: All Members

FROM: Advocacy and Public Policy Department

DATE: January 22, 2018

SUBJECT: **Governor's Proposed 2018-19 Executive Budget**

ROUTE TO: Administrator, Program Directors, Department Heads

ABSTRACT: Detailed summary of 2018-19 Executive Budget provisions.

I. INTRODUCTION

On Tuesday, Jan. 16, 2018, Governor Cuomo released his State Fiscal Year (SFY) 2018-19 Executive Budget proposal, entitled "Stand United to Fight for New York." The Executive Budget proposal incorporates total spending of $168.2 billion during SFY 2018-19, and includes a series of proposals the Governor laid out in his State of the State Address. This plan closes a projected $4.4 billion deficit, addresses a potential $2 billion cut in federal assistance, and proposes additional spending of $769 million on school aid and $593 million on Medicaid. Although the proposed budget raises Medicaid spending overall, long term care providers and plans are targeted for proposed savings or cuts of $365 million – a larger reduction in Medicaid funding than any other health care sector. It is unclear at this time whether certain of these reductions are expected to be achieved through reduced utilization, efficiencies, or reimbursement rates.

The budget would increase State operating funds spending by 1.8 percent, representing the eighth consecutive year of 2 percent or less growth. The Governor's budget would also set aside an additional $1.1 billion in reserves to reduce debt and meet unforeseen "rainy day" needs.

The Governor delivered his annual State of the State Address on Jan. 3rd, outlining several budgetary and legislative priorities for 2018. While the Governor did not address health care issues in his remarks, his State of the State book identifies several initiatives that will provide benefits to New York's growing senior population. These items include new investments in

telehealth services, the launch of a Long Term Care Planning Council to examine gaps in the state's long term care system and better understand seniors' needs, a commitment to creating age-friendly communities across the state, and a statewide Advanced Care Planning (ACP) campaign aimed at encouraging New Yorkers to complete ACP documents.

In the health care arena, the Executive Budget proposes to increase total Medicaid funding (state, federal and local) to $70 billion in SFY 2018-19, reflecting an increase of $1.6 billion from SFY 2017-18.

The following is a summary of the health, Medicaid and housing proposals advanced by the Governor. Part II of the memo covers proposals that affect multiple service lines; Part III describes service line-specific proposals; Part IV covers pharmacy-related issues; Part V covers miscellaneous Executive Budget initiatives; and Part VI covers government reform and women's agenda proposals. As you will see, there are several issues of importance to the LeadingAge NY membership that will require advocacy efforts as we head into State budget deliberations. The memo concludes with more information on our advocacy participation needs from our members.

II. CROSS-SECTOR HEALTH CARE INITIATIVES

The following proposals impact multiple types of Medicaid providers and managed care plans and should be reviewed by all readers. Budget proposals affecting specific service lines are summarized in Part III below.

Medicaid Global Spending Cap

The Executive Budget continues the Medicaid Global Spending Cap ("Global Cap"), including the State's "superpower" authority to make spending reductions if the Global Cap is breached, through SFY 2019-20. The Global Cap places an overall limitation on State Medicaid expenditures made through the Department of Health (DOH) and limits growth in these expenditures to the ten-year rolling average increase in the Medical Consumer Price Index (CPI).

Based on the 3.2 percent average increase in the Medical CPI, projected Medicaid spending under the Global Cap would rise from $18.27 billion in SFY 2017-18 to $18.863 billion in SFY 2018-19, for an increase of $593 million. Global cap spending, together with State Medicaid spending adjustments for minimum wage increases, the local share growth takeover, and other programs, result in total projected State Medicaid spending of $20.6 billion for SFY 2018-19.

State Takeover of Medicaid Local Share Growth

For all social services districts except New York City, the Executive Budget continues the State's commitment to bear the full cost of any growth in non-federal Medicaid expenditures. In other words, local social services districts, other than New York City, will continue to be exempt from sharing in the cost of any increases in Medicaid spending. According to the Division of the Budget, local Medicaid savings from the State takeover will total $3.3 billion in SFY 2018-19.

Healthcare Shortfall Fund

The Executive Budget would establish a new fund to ensure continued availability and expansion of funding for health services and mitigate risks associated with the potential loss of federal health care funding. The fund will be initially monetized with proceeds from any health insurance conversions or acquisitions from not-for-profit (NFP) to for-profit through sale or

merger. The Governor's budget presentation indicated that the State will raise $750 million in SFY 2018-19, but only potentially spend $500 million during the fiscal year. The Governor's financial plan includes $500 million annually over four years from conversions, acquisitions or related transactions in which NFP insurers convert to for-profit status.

Trend Factor

The budget language clarifies a change made in the SFY 2017-18 enacted budget, which extends through March 31, 2019 the provision that no trend factor adjustment greater than zero percent be made to Medicaid rates for Medicaid providers, including nursing homes (except for pediatric nursing homes and units), adult day health care programs, home care agencies and clinics.

Capital Funding

The Governor proposes to create a third round of the Statewide Health Care Facility Transformation Program (SHCFTP) that was initiated in the SFY 2016-17 enacted budget. Administered jointly by DOH and the Dormitory Authority of the State of New York (DASNY), the program would be funded at $425 million and financed through a combination of DASNY bonds and State budget capital funding. LeadingAge NY has been advocating strongly for dedicated funding for long-term and post-acute care providers, and for inclusion of Assisted Living Programs (ALPs) and hospice programs as eligible entities. We are pleased that our efforts have been recognized with respect to ALPs and dedicated funding for nursing homes, and we will continue to advocate for inclusion of hospice programs.

The SHCFTP funding would be available for many of the same purposes as the first two rounds, which include capital projects, debt retirement, working capital, and other non-capital projects that facilitate health care transformation and expand access to health care services, including, but not limited to a merger, consolidation, acquisition or other activities intended to create financially sustainable systems of care or preserve or expand essential health care services. However, the proposed budget expands these purposes to include: (1) modernizing obsolete facility physical plants and infrastructure; (2) fostering participation in value-based payment arrangements; (3) increasing the quality of resident care or experience in nursing homes; and (4) improving health information technology capability, including telehealth, to strengthen the acute, post-acute and long term care service continuum.

According to the Governor's proposal, criteria to be considered by DOH in making awards would include how the project contributes to the integration of health care services or the long-term sustainability of the applicant or the preservation of health care services in the communities served; whether the proposed project aligns with Delivery System Reform Incentive Payment (DSRIP) goals; and geographic distribution considerations.

Consistent with previous rounds of the program, grant awards may be offered without a competitive bid or request for proposals and will not be available to support general operating expenses. Of the $425 million proposed for the program:

- $60 million would be allocated to community-based health care providers, which would include home care agencies, diagnostic and treatment centers, mental health clinics, alcohol and substance abuse treatment clinics, primary care providers and, for the first time, ALP providers. Of the $60 million total, up to $20 million of the funds could be allocated to the new ALP solicitation process for up to 500 new ALP beds in counties where there is one or no ALP provider (see ALP subsection below for more details); and

- $45 million would be allocated specifically to nursing homes.

Grant awards to providers would be conditioned on achieving certain process and performance metrics and milestones to be determined by DOH. DOH, in turn, would be required to report quarterly to the Legislature on the progress of funded projects.

Minimum Wage Funding

The SFY 2016-17 enacted budget authorized phased-in increases to the State's minimum wage. The 2018-19 Executive Budget includes $450 million in State funding, an increase of approximately $195 million over current fiscal year levels, to support the direct cost of minimum wage increases for Medicaid-funded services provided by home care agencies, nursing homes, ALPs, hospices, hospitals and other providers.

Vital Access Provider Funding

The proposed Budget would level-fund the Vital Access Provider (VAP) program at $132 million and provide a total of $396 million in funding to support critical health care providers through the State's VAP, Vital Access Provider Assurance Program and Value-Based Payment Quality Improvement programs. 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 among the provider types eligible to apply for VAP funding.

Consolidation of Public Health Programs

DOH administers several public health awareness and prevention programs reflecting various priorities. The programs vary by size and contract terms. Similar to a proposal last year, the Executive Budget would consolidate 30 public health appropriations totaling $46.7 million into four program pools: (1) disease prevention and control; (2) maternal and child health; (3) public health workforces; and (4) health outcomes and advocacy. Funding for each pool would be reduced by 20 percent, achieving total savings of $10 million, and DOH would be given added flexibility to support ongoing programs or new investments to meet new or emerging public health priorities.

Of potential interest to LeadingAge NY members are the following affected programs and the amounts they would ordinarily be fully funded at: (1) worker retraining ($9.16 million); and (2) enriched housing subsidy ($380,000). As noted above, the Executive Budget proposal to reduce aggregate funding for each pool by 20 percent could result in reductions in these programs.

Medicaid Eligibility

- ***Spousal Refusal:*** The Executive Budget includes a proposal, once again, to limit "spousal refusal" as a means of qualifying for Medicaid. The proposal would allow an applicant to qualify for Medicaid without counting the income and assets of his/her community spouse, only if the community spouse refuses to make his/her income and/or assets available to the applicant, and:
    - the applicant assigns his/her right to receive support to the social services district and DOH, unless he/she is incapable of doing so or denying assistance would create an undue hardship; or

- the community spouse is absent from the home.

Under current law, the income and assets of the spouse of an applicant for Medicaid will not be counted if the spouse refuses to support the applicant *or* the spouse is "absent."

- ***Lower Floor for Spousal Budgeting:*** This proposal would reduce a component of the community spouse resource allowance for institutional (i.e., nursing home) Medicaid eligibility from $74,820 to $24,180. It would reduce the asset limit for couples with total assets between $24,180 and $150,000, who would be able to retain the greater of $24,180 or half of their assets. Under current law, they can retain the greater of $74,820 or half of their assets. Under this proposal, couples with assets of less than $24,180 would continue to be able to retain all their assets, and those with more than $150,000 would continue to be able to retain half of their assets. This proposal would take effect on July 1, 2018.

Medicaid Integrity

The Executive Budget includes the following proposals relative to Medicaid audits and false claims:

- Clarifies that Medicaid payments to a managed care organization (MCO) and, in turn, by the MCO to a provider/subcontractor, remain public funds, and that the MCO may be required to recover overpayments from providers/subcontractors when identified in a state audit or investigation. MCOs may charge the providers/subcontractors a collection fee of up to 5 percent for costs incurred in executing the recovery.
- Requires Medicaid MCOs to report all potential fraud, waste, or abuse to the Office of the Medicaid Inspector General (OMIG), or face fines of up to $100,000 for each willful failure to report when they have actual knowledge of fraud.
- Authorizes OMIG to fine providers or MCOs for failing to comply with Medicaid rules, regulations or directives up to $5,000 for each violation, with each failure or each day of a continuing violation constituting a distinct offense.
- Authorizes fines of up to $100,000 on MCOs that intentionally or systematically submit inaccurate or improper cost reports or encounter data to the state.
- The statewide Medicaid integrity and efficiency initiative would be extended through April 1, 2023 to continue and increase audit recoveries.
- The NYS False Claims Act (FCA) would be amended to equalize the penalties that may be assessed under the State's FCA with the penalties allowed by the Federal FCA, as adjusted for inflation by Federal law. The NYS per claim civil penalty currently ranges from $6,000 to $12,000. The Federal FCA per claim penalties range from $10,957 to $21,563.

Health Information Technology Infrastructure

The Executive Budget proposes to continue the following investments in health information technology (HIT) that were initiated in the SFY 2014-15 enacted budget:

- ***SHIN-NY Support:*** Appropriates $30 million to the Statewide Health Information Network for New York (SHIN-NY) – an electronic health information highway to permit the sharing of health information among health care providers across the State.
- ***Claims Database:*** Appropriates $10 million in funding 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.
- ***State HIT Initiatives:*** Appropriates $10 million in annual funding for HIT initiatives that target DOH's technology needs.

Mandated Recycling of Organic Waste

Beginning Jan. 1, 2021, this proposal would require certain high-volume generators of food waste, including health care facilities, manufacturers, supermarkets, large restaurants and higher educational institutions, to recycle food waste. A "high volume generator" is one that produces an annual average of two tons per week or more of excess food and food scraps at a single location. Under the proposed requirements, such businesses would need to divert excess edible food and food scraps to food banks, animal feed operations, composting facilities, anaerobic digesters, or other organics recycling facilities. Also, effective Jan. 1, 2021, solid waste combustion facilities and landfills will not be permitted to accept food scraps from designated food scrap generators. No specific provision is made for Medicaid reimbursement of any associated costs.

III. MANAGED CARE, LONG TERM CARE AND SENIOR SERVICES PROPOSALS

Managed Care

The Executive Budget proposes $325 million in savings related to Managed Long Term Care (MLTC), growing to $537 million in SFY 2019-20. However, 45 percent of the savings are related to a proposal to limit the long-term nursing home benefit in MLTC to six months. Mainstream Medicaid managed care related savings total $127 million, increasing to $224 million in SFY 2019-20. In addition, the State's spending plan includes a $60 million savings related to OMIG recoveries from plans and providers of overpayments as well as from waste, fraud and abuse prevention activities. The spending plan would also reduce reimbursement rates for not-for-profit plans with "excess" contingent reserves.

Certain proposed managed care savings initiatives outlined below (e.g., administrative component reduction, social day care efficiencies) would be carried out administratively, without legislation. In the absence of proposed legislative language, limited information is available on these proposals at this time. LeadingAge NY is seeking more detail on these initiatives.

MLTC Provisions

- ***Administrative Rate Reduction:*** Reduces reimbursement for administrative activities for all MLTC plans. The current capped administrative reimbursement is $215 per member per month. Based on current MLTC enrollment and the state's savings estimate, it appears to be a reduction of approximately $15 per member per month. The savings initiative is titled "Admin Rate Reduction/Regulation Relief" in the Medicaid scorecard, and we are seeking more information on the regulatory relief involved. This proposal would be implemented administratively and be effective on April 1, 2018. The State attributes a savings of $37.8 million this year, increasing to $39.7 million in SFY 2019-20.
- ***MLTC Transportation Carve-Out:*** Eliminates transportation from the MLTC benefit package and delegates responsibility for managing Medicaid transportation for MLTC members to the State's transportation management contractor(s) on a fee-for-service basis. Expressly excludes Programs of All-Inclusive Care for the Elderly (PACE) from the change to allow them to continue providing transportation directly. While this requirement exists for mainstream Medicaid managed care, it was proposed and rejected in previous budget cycles for MLTC. This proposal would take effect on Oct. 1, 2018 and provide a $12 million savings in the 2018-19 SFY, doubling to $24 million in SFY 2019-20.

- ***Continuous MLTC Eligibility Requirement:*** Requires a member to remain in need of 120 continuous days of community-based long term care services to be eligible for continued MLTC enrollment. We are seeking further clarification on this proposal. It would be effective April 1, 2018 and provide a first year's savings of $9.63 million, increasing to $20.2 million in SFY 2019-20.
- ***Increased UAS Eligibility Threshold:*** Increases the minimum Universal Assessment System (UAS) score required for plan enrollment from 5 to 9. Individuals already enrolled in MLTC would be grandfathered in even if their UAS scores were below 9. This provision seems to be aimed at mitigating growth in MLTC enrollment. We are seeking clarification on whether this would impact PACE. The provision would become effective on April 1, 2018 and provide an all-funds savings of $11.65 million in the first year, increasing to $24.46 million in SFY 2019-20.
- ***Provider Marketing and Referral Ban:*** Restricts community-based long term care provider-sponsored marketing activities, presumably those marketing an MLTC plan. Also prohibits referring providers from becoming the service provider of a referred member. With no direct plan enrollment, MLTC enrollment evaluations being performed by the Conflict-Free Evaluation and Enrollment Center, and plan option counseling provided by the state enrollment broker, it is unclear what referrals would be prohibited, and we are seeking additional information. This administrative provision would become effective Oct. 1, 2018 and result in all-funds savings of $9.85 million in the first year, increasing to $20.74 million in SFY 2019-20.
- ***Limit Number of Network LHCSA Providers:*** Caps the number of Licensed Home Care Services Agencies (LHCSAs) with which an MLTC plan is permitted to contract at ten. This administrative provision would become effective Oct. 1, 2018 and result in all-funds savings of $27.42 million in the first year, increasing to $69.38 million in SFY 2019-20.
- ***Social Day Benefit Efficiencies:*** Seeks to make more effective use of the social adult day benefit in the MLTC benefit package by allowing plans to eliminate contracts with poor performing providers, to adjust member utilization of Social Adult Day services as necessary and to execute any other reasonable approaches to better utilize the benefit. This administrative provision would become effective April 1, 2018 and result in all-funds savings of $56.25 million in the first year, increasing to $78.75 million in SFY 2019-20.
- ***12-month MLTC Lock-in:*** Restricts MLTC members from voluntarily changing plans more often than once every 12 months to improve care coordination. However, a new member would have the option of changing plans within the first 30 days of enrollment or notification of enrollment into a plan, whichever is later. Members auto-enrolled would have 45 days. This proposal would become effective Oct. 1, 2018 and result in all-funds savings of $10.45 million in the first year, increasing to $11.2 million in SFY 2019-20.
- ***Authorization vs. Utilization Adjustment:*** Transfers out of MLTC those members who qualified for MLTC enrollment but who do not utilize personal care aide or home health aide services within 30 days of enrollment. Such members would be disenrolled or shifted to an integrated managed care product. This administrative provision would become effective Oct. 1, 2018 and result in all-funds savings of $2.48 million in the first year, increasing to $5.2 million in SFY 2019-20.
- ***VBP Penalties:*** Increases current penalties for managed care plans that fail to meet required levels of value-based payment (VBP) contracting by $20 million. We believe this proposal applies to both mainstream and MLTC plans but are seeking confirmation. This administrative provision would become effective April 1, 2018 and result in all-funds savings of $20 million in the first year, increasing to $108 million in SFY 2019-20.
- ***Fee-For-Service Medicaid for Long-Stay Nursing Home Residents:*** Excludes nursing home residents from MLTC enrollment after six months of nursing home care, thereby

requiring these residents to revert to fee-for-service Medicaid. LeadingAge NY has advocated for the removal of the nursing home long-stay benefit from the MLTC benefit package and has forwarded a proposal that would not require MLTC enrollment for this population. The provision would be effective April 1, 2018 and is expected to save $147 million (all funds) in SFY 2018-19 and $245 million in SFY 2019-20.

- ***Excess Contingent Reserves Recoupment:*** The proposed budget would authorize DOH to reduce the rates of not-for-profit Medicaid managed care plans, including MLTCs, that have accumulated contingent reserves in excess of the minimum amount required.
- ***Healthcare Insurance Windfall Profit Fee:*** The Executive Budget proposes a new 14 percent surcharge on the "net underwriting gain" of health insurers. Although the proposed legislation explicitly applies to HMOs licensed under Public Health Law Article 44, as well as other insurers, it is unclear at this time whether it is intended to apply to Medicaid managed care plans or to not-for-profit health plans.
- ***OMIG Provisions:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.

Mainstream Medicaid Managed Care Provisions

- ***Laboratory Overutilization:*** Reduces laboratory services overutilization by establishing clinical efficiency standards. This administrative provision would become effective April 1, 2018 and result in all-funds savings of $15 million in the first year, increasing to $20 million in SFY 2019-20.
- ***Health Home Quality:*** Implements the Health Home Innovation and Reform Program that includes bonus payments and penalties based on partnerships between plans and Health Homes. This proposal would result in all-funds savings of $67.65 million in the first year, increasing to $76.4 million in SFY 2019-20.
- ***Managed Care – DSRIP PPS Partnership:*** Requires managed care plans to submit a Performing Provider System (PPS) partnership plan to DOH with short and long-term approaches for effective collaboration with each PPS in the plan's service area. Plans failing to comply would face fines based on 2016 enrollment. This proposal would be effective April 1, 2018 and result in all-funds savings of $4 million in SFY 2018-19.
- ***PCMH Cap and VBP Incentive:*** Modifies PCMH payments in managed care as well as PCMH rates for providers engaged in value-based payment arrangements. This administrative provision would become effective April 1, 2018 and result in all-funds savings of $20 million in both SFY 2018-19 and SFY 2019-20.

Nursing Homes

The Executive Budget proposes several Medicaid savings provisions that would reduce nursing home funding by an estimated $42.6 million annually. The proposed spending plan has several positive provisions, including continued Vital Access Provider funding, Health Care Facility Transformation funding with a sub-allocation dedicated to nursing homes, and a proposal for permanent nursing home residents to convert from managed care to fee-for-service Medicaid after six months. The spending plan also addresses the outstanding issue of reinvesting assessment proceeds into the nursing home rate.

- ***Fee-For-Service Medicaid for Long-Stay Nursing Home Residents:*** See "Managed Care" subsection above.
- ***Capital Rate Reduction:*** Requires DOH to convene a workgroup of DOH, nursing home and hospital representatives to develop recommendations for streamlining Medicaid capital

reimbursement methodologies that would result in a 1 percent savings in nursing home and hospital capital expenditures. The reduction would include nursing home specialty unit and adult day health care program capital. Pending acceptance and implementation of the workgroup's recommendations, DOH would be authorized to reduce overall capital reimbursement to achieve a one percent savings annually beginning in SFY 2018-19. The provision would be effective April 1, 2018 and reduce capital funding by $13.4 million annually. If the reduction is implemented proportionally, $7.6 million of the cut would be absorbed by nursing homes and $5.8 million by hospitals.

- ***Case-Mix Rationalization:*** An administrative proposal that would reduce case mix-driven Medicaid rate increases by $15 million annually. DOH and the provider community would work cooperatively to revisit the current case-mix data collection and calculation process to promote accurate MDS data reporting and reduce audit findings. In advancing the proposal, DOH expressed concern about continuing CMI growth as well as an increase in MDS audit findings, which resulted in $30 million in rate reductions for 2014. This provision would be effective April 1, 2018 and reduce Medicaid reimbursement by $15 million annually.
- ***Low Quality Score Penalty:*** This proposal would reduce Medicaid reimbursement by 2 percent for homes with poor Nursing Home Quality Initiative (NHQI) scores. Homes that score in the lowest quintile in the most recent year and also scored in the lowest or second lowest quintile in the previous year would have their Medicaid rate reduced by 2 percent for one year. The proposal is expected to affect roughly 100 homes, but DOH would have the authority to waive the reduction in cases of extreme financial distress. The provision would be effective April 1, 2018 and reduce Medicaid reimbursement to impacted homes by an estimated $20 million annually.
- ***Value-Based Payment Contracting Penalty:*** An administrative proposal that establishes a new, lower Medicaid benchmark rate for use in both fee-for-service and managed care for providers, including nursing homes, that fail to achieve a "sufficient" level of value-based contracting. The provision would be effective in July 2018 and would reduce Medicaid rates to impacted providers by $15 million annually. We are seeking additional details on this proposal.
- ***One Percent Rate Supplement:*** An administrative proposal that stretches out retroactive rate supplement payments representing the reinvestment of proceeds derived from the 0.8 percent non-reimbursable cash receipts assessment over the course of the next four fiscal years. The assessment was implemented in lieu of a 2 percent across-the-board cut that was imposed on most Medicaid providers. For other provider types, that cut was eliminated effective April 1, 2014, but nursing homes have continued to pay the assessment. DOH intends to supplement nursing home Medicaid rates by approximately 1 percent, totaling $70 million per year, retroactive to April 2014. If this proposal is adopted and approved by the Centers for Medicare and Medicaid Services (CMS), the State would increase nursing home Medicaid reimbursement prospectively by $70 million each year. In addition, in each of the next four state fiscal years, the rates would be supplemented by another $70 million to account for four years (2014-15 through 2017-18) of retroactive payments (i.e., a total of $140 million per year for each of the next four years).
- ***Trend Factor Elimination:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.
- ***Healthcare Facility Transformation Grant and Vital Access Provider (VAP) Funding***: See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.

Home Care and Hospice Services

The Executive Budget continues the implementation of Medicaid Redesign Team recommendations begun in SFY 2011-12. Reforms are even more pronounced this year with

DOH efforts to control overutilization in MLTC and initiatives to forge ahead with new health care delivery constructs to facilitate provider collaboration and service access in the home and community. Specific fiscal proposals affecting home care and hospice services include:

- ***Trend Factor Elimination:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section of this memo.
- ***Hospice Residence Rates:*** DOH proposes to administratively increase Hospice Residence rates by 10 percent, set a benchmark rate, and include specialty rates in the weighted average rate calculation.
- ***Nursing Home Transition and Diversion Waiver Spousal Budgeting.*** The Executive Budget proposes to extend spousal budgeting provisions for persons receiving services under the Nursing Home Transition and Diversion waiver through April 1, 2023.
- ***Home Care Registry****:* The Executive Budget is proposing to level-fund the home care registry at $1.8 million.
- ***Criminal History Record Checks (CHRC):*** The proposed budget level-funds CHRCs for non-licensed long term care employees, including employees of CHHAs, LTHHCPs, AIDS home care providers, licensed home care service agencies (LHCSAs) and nursing homes at $3 million.
- ***Personal Care Worker Recruitment and Retention (R&R):*** The proposed budget again level-funds $272 million for New York City and $22.4 million for other areas of the State for Medicaid adjustments supporting R&R of workers with direct patient care responsibility.
- ***Health Care Worker R&R:*** The Executive Budget is again proposing $100 million to support Medicaid rate increases for CHHAs, LTHHCPs, AIDS home care programs, hospice programs and MLTC plans for R&R of health care workers.
- ***CHHA Bad Debt and Charity Care:*** The proposed budget includes level funding of up to $1.7 million for eligible publicly-sponsored CHHAs that demonstrate losses from a disproportionate share of bad debt and charity care.
- ***Traumatic Brain Injury (TBI) program****:* Services and expenses related to TBI are level-funded at $12.465 million.
- ***NHTD Waiver Housing Subsidy:*** The NHTD Waiver Housing Subsidy is funded at $1.84 million. Last year, it was reduced by 20 percent and included in a large pool of consolidated public health programs. This year, it is back as a line item.
- ***Elder Abuse Investigations.*** The Executive Budget includes $500,000 to expand Enhanced Multidisciplinary Teams (EMDTs) to investigate financial exploitation of the elderly. This funding will be used to draw down $2 million in Federal funding through the Office of Victim Services to maintain the EMDT program.
- ***Medicaid Rural Non-Emergency Transportation Supplemental Payment.*** This provision would eliminate $2 million in supplemental payments to non-emergency transportation providers in rural areas.

Programmatic Initiatives

- ***Limit Number of Network LHCSA Providers:*** See "Managed Care" subsection above.
- ***Provider Marketing and Referral Ban:*** See "Managed Care" subsection above.
- ***Increased UAS Eligibility Threshold:*** See "Managed Care" subsection above.
- ***Continuous MLTC Eligibility Requirement:*** See "Managed Care" subsection above.
- ***12-month MLTC Lock-in:*** See "Managed Care" subsection above.
- ***Community Paramedicine Collaboratives:*** See "MISCELLANEOUS INITIATIVES" section below.

- ***Health Care Facility Transformation Program:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.
- ***DOH Study of Home and Community Based Services in Rural Areas:*** The Executive Budget requires DOH to conduct a study of home and community based services available to Medicaid beneficiaries in rural areas of the state. It authorizes the Commissioner to provide a targeted Medicaid rate enhancement for fee-for-service personal care rates and rates under Medicaid waiver programs such as the NHTD and TBI waivers in an aggregate amount of $3 million minus the cost of conducting the study. The study would include a review of factors affecting availability such as transportation costs, costs of direct care personnel, opportunities for telehealth services and technological advances to improve efficiencies.
- ***Telehealth Expansion:*** The Executive Budget proposes to expand the definition of "originating site" for purposes of Medicaid reimbursement for telehealth services to include a patient's residence as well as any other location where the patient may be temporarily located. The proposal would also add credentialed alcoholism and substance abuse counselors, authorized early intervention providers, and any other providers (as determined by OMH, OASAS, OPWDD in consultation with DOH and pursuant to regulation) to the list of medical professionals eligible to provide telehealth services. The proposal would also clarify that "remote patient monitoring," which is the transmission of data to a distant telehealth provider for use in monitoring and managing medical conditions, could include additional interaction triggered by previous transmissions, such as follow-up telephone calls or additional interactive inquiries through communication technologies.
- ***Opioid Prescribing – Hospice Exemption:*** See "PHARMACY" section below.

Other Aging Services Initiatives and Funding

The Executive Budget recommends $236.6 million for aging services. This is short of the SFY 2017-18 enacted budget amount for aging services of $239.4 million and still down from the SFY 2016-17 budget level of $247 million. The following proposals relate to aging services programs administered by the New York State Office for the Aging (NYSOFA) and DOH, most of which are designed to help seniors remain in their communities by providing access to education, food, housing services, counseling, caregiver support, transportation, socialization and more.

- ***Increase Community Services for the Elderly:*** The proposed budget allocates $28.93 million in total to the Community Services for the Elderly (CSE) Program for SFY 2018-19, discontinuing the $1 million increase provided in past years. However, it continues the exemption on the county share of the $3.5 million in additional funding that has been added to CSE over the past several fiscal years. In addition, the proposed budget provides $1.1 million in discrete transportation funding to CSE to provide localities the flexibility to direct resources where they are needed most.
- ***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. EISEP is proposed for level-funding of $50.1 million.
- ***Continue Alzheimer's Caregiver Supports:*** The Executive's proposed budget continues the two-year $50 million investment included in the SFY 2017-18 enacted budget in care and support services for individuals living with Alzheimer's disease and other dementias, and their caregivers. This initiative provides support through investments in regional contracts for caregiver support organizations, funding for Centers of Excellence that specialize in treating this disease, and funding for the Alzheimer's Community Assistance

Program, which is implemented through local chapters of the Coalition of Alzheimer's Associations.

- ***Discontinue Underutilized Cost of Living Adjustment (COLA):*** The Executive Budget eliminates the statutory authorization for DOH to provide the COLA for "human services providers." It also defers the COLA until March 31, 2019 for NYSOFA and OCFS programs, adding to the savings it generated in the SFY 2017-18 budget deferral of COLA for OPWDD, OASAS and OMH programs.
- ***NY Connects:*** The Executive Budget provides $44.5 million to support the sustainability of NY Connects. Based on prior year funding levels, it appears to be funding for two years of the program.
- ***Naturally Occurring Retirement Communities (NORCs) and Neighborhood NORCs:*** Level-funding of $2,027,500 would be provided to each of the two models. Funding priority is given to the renewal of existing contracts with the State Office for the Aging. No other language is provided clarifying the program after last year's award process.
- ***Wellness in Nutrition (WIN) program:*** WIN is level-funded at $27.5 million. Formerly known as the Supplemental Nutrition Assistance Program (SNAP), this funding is used to provide home-delivered meals, some congregate meals and other nutrition-related services to eligible frail elderly, including residents of senior housing facilities.
- ***Congregate Services Initiative:*** The Executive Budget proposes to level-fund CSI at $403,000. This program promotes wellness and ensures that older adults do not face unnecessary isolation and deterioration. It 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:*** The proposed budget level-funds this program at $122,500. The program is aimed at helping local communities plan ahead and create neighborhoods that reflect the evolving needs and preferences of all their residents, including their aging population.
- ***Title XX funding:*** The proposed budget maintains the same funding level as last year, $66 million. A portion of this funding has gone to support senior centers and senior services in New York City, as well as Nassau, Steuben and Erie counties.
- ***Technical assistance/training for Area Agencies on Aging:*** $250,000 will be level-funded this year 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.
- ***Social Adult Day Care:*** The budget proposal continues to level-fund a grant program for social adult day care programs through SOFA at $1.072 million.

Adult Day Services

Two proposals made in last year's Executive Budget are repeated in this year's proposal:

- ***Transportation for Method 1 Adult Day Health Care (ADHC) Programs:*** Administratively authorize DOH to contract with Medicaid transportation brokers (i.e., Medical Answering Services) to manage all transportation of ADHC registrants. This affects all ADHC programs that own their own vehicles or contract with vendors to transport registrants to and from programs (i.e., Method 1). The same proposal was successfully defeated in last year's budget.
- ***Social Adult Day Care (SADC) Funding:*** Level-fund SADC support at $1,072,000, with preferences given to existing grantees.
- ***Capital Rate Reduction:*** See "Nursing Homes" subsection above.

- ***Social Day Benefit Efficiencies:*** See "Managed Care" subsection above.

Adult Care Facility and Assisted Living

In addition to some of the overarching proposals mentioned earlier in this document, the below are proposals that directly impact adult care facilities (ACFs) and assisted living. We are pleased to report that the Executive Budget proposal includes several of our assisted living priorities.

ACFs

- ***Quality Funding:*** The Enhancing the Quality of Adult Living (EQUAL) program is funded at $6.5 million, the same amount as last year. EQUAL funding is available to adult homes and enriched housing programs that serve recipients of Supplemental Security Income (SSI) or Safety Net Assistance benefits, including 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.
- ***SSI:*** The budget does *not* include an increase in the state portion of the SSI benefit for adult care facility residents, aside from language authorizing a pass-through of the federal cost of living adjustment. The federal COLA, if any, is applied on Jan. 1 of each year.
- ***Enriched Housing Subsidy:*** Rather than provide a discrete appropriation for the enriched housing program subsidy, the Governor has proposed to move it into a pool of public health programs that would be cut, in aggregate, by 20 percent. The Governor has proposed this approach for several years in a row. Last year, this program was funded at $380,000 and paid $115 per month per SSI recipient to operators of not-for-profit certified enriched housing programs.
- ***Criminal History Record Check Funding:*** The proposal includes $1.3 million for services and expenses related to CHRCs for ACFs. This is the same funding level as last year.

Alzheimer's Disease and Dementia Voucher Program

- The Executive Budget proposal includes a provision to establish a new program to subsidize the cost of assisted living for those individuals living with Alzheimer's disease and dementia who are not eligible for Medicaid. The program will authorize up to 200 vouchers to individuals through an application process and pay for up to 75 percent of the average private pay rate in the respective region. It should be noted that "assisted living" is not defined. DOH may propose rules and regulations regarding this provision. LeadingAge NY has been working on this concept with the Alzheimer's Association and other assisted living stakeholders.

Assisted Living Programs

- ***ALP Expansion:*** We are very pleased that the Executive Budget includes different avenues for expansion of the ALP for existing ALP providers and for the development of new programs. We have been advocating for a rational expansion of the program based on community need and are pleased to see aspects of our proposal reflected in the budget language:
    - Existing ALP providers (licensed as of April 1, 2018) may apply to DOH for an expansion of nine or fewer beds. The language allows DOH to use an expedited review process for operators in good standing, allowing operators to be licensed within 90 days of DOH's receipt of a satisfactory application. Operators who

would be eligible for that expedited review would be those applications that do not involve major renovation or construction, serve only public pay individuals; and are in substantial compliance with appropriate state and local requirements as determined by DOH. The language also allows for increases of nine or fewer beds for ALP providers licensed on or before April 1, 2020. The language then provides for additional increases of nine or fewer beds every two years thereafter.
    - 500 new ALP beds have been allocated to be awarded in counties where there are one or fewer ALP programs.
    - Up to 500 beds have been allocated to be awarded in counties where utilization of existing ALP beds exceeds 85 percent. All applicants must comply with the federal home and community based settings rule and agree to serve only public pay individuals, develop and execute collaborative agreements with at least one adult care facility, residential health care facility and hospital; enter into an agreement with a managed care entity, and participate in value-based payment models, where such models are available for participation.
- ***Trend Factor Elimination:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.
- ***Minimum Wage Funding:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.
- ***Healthcare Facility Transformation Grant Funding:*** See "CROSS-SECTOR HEALTH CARE INITIATIVES" section above.

Transitional Adult Homes and Related Issues

The below items may be of interest to ACF and assisted living providers that serve people with mental illness. These programs have been funded at these levels for several years:

- ***Transitioning Mentally Ill Individuals Out of Transitional Adult Homes:*** $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 the Office of Mental Health, 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.

Other Issues of Interest to ACF/AL Providers

The below items may be of interest to ACF and assisted living providers, but do not have a direct impact on providers. All the appropriations are at the same level as last year's funding.

- ***Adult Home Advocacy Program:*** This funding is allocated to the Justice Center at $170,000. 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.

- ***Coalition for the Institutionalized Agenda and Disabled (CIAD):*** This organization, which advocates for residents of adult homes in NYC, is funded at $75,000.
- ***Adult Home Resident Council:*** The Adult Home Resident Council Support Project, historically operated by the Family Services League on Long Island, is funded at $60,000.
- ***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.
- ***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 of and licensing activities for assisted living facilities.

Senior Housing

The Budget continues the $20 billion, comprehensive five-year investment in affordable housing, supportive housing and related services to provide New Yorkers with safe and secure housing that began in SFY 2016-17. This investment will create or preserve 100,000 units of affordable housing and 6,000 units of supportive housing. Funding includes $3.5 billion in capital resources, $8.6 billion in State and Federal tax credits and other allocations, and $8 billion to support the operation of shelters and supportive housing units and to provide rental subsidies.

Capital Allocations

To ensure that progress will continue to be made, the Executive Budget fully appropriates the additional capital resources needed for the following:

- ***Supportive Housing:*** $950 million for the construction of 6,000 supportive housing units throughout the State.
- ***New Construction:*** $472 million for new construction or adaptive reuse of rental housing affordable to households that earn up to 60 percent of area median income (AMI).
- ***Senior Housing:*** $125 million for developing or rehabilitating affordable housing targeted to low-income seniors, aged 60 and above.
- ***Rural and Urban Community Investment Fund (CIF):*** $45 million for mixed-use affordable housing developments that may include retail, commercial or community development components.
- ***Middle Income Housing:*** $150 million for new construction, adaptive reuse, or reconstruction of rental housing affordable to households that earn between 60 and 130 percent of AMI.
- ***Affordable Housing Preservation:*** $146 million for substantial or moderate rehabilitation of affordable multi-family rental housing currently under a regulatory agreement.
- ***Mitchell-Lama Rehabilitation:*** $75 million to preserve and improve Mitchell-Lama properties throughout the State.
- ***Public Housing:*** $125 million for substantial or moderate rehabilitation and/or the demolition and replacement through new construction of public housing authority developments outside of New York City.
- ***Small Building Construction:*** $62.5 million for rehabilitation and/or the demolition and replacement through new construction of buildings of 5 to 40 units.
- ***Home Ownership:*** $41.5 million for promoting home ownership among families of low and moderate income and stimulating the development, stabilization and preservation of New York communities.

- ***Mobile and Manufactured Homes:*** $13 million for mobile and manufactured home programs.
- ***Main Street Programs:*** $10 million for stimulating reinvestment in properties located within mixed-use commercial districts located in urban, small town and rural areas of the State.
- ***New York City Housing Authority (NYCHA):*** $200 million for projects and improvements at housing developments owned or operated by NYCHA.
- ***New York City Affordable Housing:*** $100 million for the preservation, restoration or creation of affordable housing units in New York City. All units must be affordable to households earning up to 60 percent of AMI.

The Executive Budget also utilizes $44 million in excess reserves from the Mortgage Insurance Fund to support the Neighborhood and Rural Preservation Programs ($12 million), the Rural Rental Assistance Program ($23.6 million) and several of the OTDA consolidated homeless programs ($8.3 million).

Program Appropriations

The Executive Budget also includes annual appropriations for affordable and supportive housing programs, some of which are used to develop senior housing or provide other housing-related services for seniors.

- ***Housing Opportunity Program for Elderly (HOPE):*** HOPE, which provides grants to low-income elderly home owners for emergency home repairs, is level-funded at $1.4 million.
- ***Access to Home:*** Funded at its traditional appropriation level of $1 million.
- ***Affordable Housing Corporation:*** Level-funded at $26 million.
- ***Low Income Housing Trust Fund:*** The Low-Income Housing Trust Fund, which provides grants of up to $125,000 per unit to construct or renovate low- and moderate-income single and multi-family housing projects, is funded at $44 million, representing a net decrease of $21 million from last year's final budget, which included additional funding for the program from Mortgage Insurance Fund Reserves.
- ***Public Housing Modernization Program:*** Level-funded at $6.4 million, this program subsidizes repairs at State-supervised public housing projects across the state.
- ***Homeless Housing Assistance Program (HHAP):*** Operated by the Office of Temporary Disability Assistance (OTDA), HHAP provides grants to not-for-profit corporations and municipalities to expand and improve the supply of permanent, transitional and emergency housing for homeless persons, and is level-funded at $64 million. This is projected to support approximately 652 new units of housing.

Other

- ***Tax Credits:*** The Executive Budget proposes requiring taxpayers to defer the use and refund of certain business-related tax credits, including State Low Income Housing Tax Credits (SLIHC), for three years if those credits exceed $2 million in the aggregate. Taxpayers with $2 million or less in tax credits would not be affected by this provision.

- ***Community Service Block Grant:*** The Community Service Block Grant (CSBG) is a Federal anti-poverty program, and under current State law recipients must secure a local share equivalent to 25 percent of the Federal funds received. The Executive Budget

proposal eliminates this matching requirement, as the local match is not a Federal requirement.

IV. PHARMACY

The Executive Budget proposes several pharmacy initiatives estimated to save a total of $90.46 million (all funds) in the Medicaid program. The budget continues the Elderly Pharmaceutical Insurance Program (EPIC) with an appropriation of $132.58 million. The pharmacy savings proposals total $90.46 million and include:

- ***Comprehensive Medication Management:*** Proposes to expand the existing Collaborative Drug Therapy Management program currently authorized in Article 28 facilities. Under this proposal, qualified pharmacists trained in medication management of chronic diseases would be authorized to enter into medication management protocols with physicians and/or nurse practitioners to support the treatment of at-risk patients. Pursuant to the protocol, the pharmacist would be authorized to adjust the drug regimen, perform or order routine monitoring or lab tests, and access the complete medical record of the patient. Patient and provider participation in a program would be voluntary.
- ***Opioid Surcharge:*** Proposes a new surcharge on the first sale of any opioid in the State by a pharmacy, manufacturer, wholesaler, or outsourcing facility. The seller (referred to as an "establishment") would be prohibited from passing the surcharge on to purchasers. The proposal includes monthly reporting and payment requirements for establishments. It is expected to raise $127 million in the first fiscal year. The revenue would be deposited into an Opioid Treatment and Recovery Account that would be used to support opioid abuse prevention, treatment and education programs.
- ***Opioid Prescribing:*** Would exclude from Medicaid coverage opioids prescribed for pain with a duration of more than 3 months or past the time of normal tissue healing, unless the medical record includes a treatment plan that includes goals for care, information about the use of non-opioid pain therapies, documentation that the prescriber has explained the risks of opioid use, an evaluation of risk factors, and an assessment of patient adherence to other treatments. These requirements would not apply to patients being treated for cancer, in hospice or end-of-life care, or receiving opioids in connection with palliative care.
- ***Dispensing Fee for Pharmacies under Fee-for-Service Medicaid:*** Proposes to increase the dispensing fee by 8 cents for all drugs, except those that may be dispensed without a prescription and are not classified as "covered outpatient drugs.
- ***Covered Over-the-Counter Drugs:*** Proposes to authorize DOH to *modify,* without a notice and comment period, the list of Medicaid-covered drugs that may be dispensed without a prescription. Under current law, the notice and comment period may be avoided only if the Department is adding to the list.
- ***Copayments:*** Proposes an increase in the beneficiary copayment for nonprescription drugs from $0.50 to $1.00.
- ***Prescriber Prevails:*** Proposes once again to eliminate the ability of a prescribing professional to override the Medicaid preferred drug program and obtain coverage of a prescription drug that is not on the preferred drug list. Instead, the proposal would provide an opportunity for the prescribing professional to justify the use of a drug that is not on the preferred drug list but would not mandate coverage in accordance with the professional's judgment. In addition, the Executive Budget would repeal the requirement that Medicaid managed care plans cover non-formulary anti-retroviral, anti-rejection, seizure, epilepsy, endocrine drugs, hematologic and immunologic therapeutic classes, upon a demonstration by the prescriber that the drug is medically necessary and warranted. As a result of these

two proposals, "prescriber prevails" would be eliminated in both Medicaid fee-for-service and Medicaid managed care in all drug classes.

- ***Generic Drug Rebates:*** Proposes to extend legislation enacted last year that reduces the price increase that triggers a requirement for pharmaceutical manufacturers to pay an additional rebate on generic drugs.
- ***Medicaid Drug Spending Growth Cap:*** Extends for another year the cap on Medicaid spending on drugs. Spending growth would be capped at the 10-year rolling average of the Medical Consumer Price Index plus 4 percent and minus a savings target of $85 million.
- ***Medication Adherence:*** Proposes to require managed care plans to implement medication adherence programs, generating savings of $10 million (all funds). DOH would undertake this administrative action without legislation. As a result, we do not have any detail about this proposal at this time.
- ***Rebate Risk Assessment:*** Authorizes DOH to contract with a vendor to assess the risk associated with the rebate billing and collection protocols, yielding $20 million in all funds savings. Because this proposal would be implemented without legislation, we have no detail about it at this time.

V. MISCELLANEOUS INITIATIVES

The Governor proposes additional initiatives of interest to health care stakeholders, including the following:

- ***Community Paramedicine Collaboratives.*** This proposed initiative would permit health care providers to collaborate through community paramedicine programs. It allows emergency medical personnel to provide care within their certification, training, and experience in residential settings beyond the initial emergency medical care and transportation of sick and injured persons as currently permitted. This is similar to other health care provider collaboration initiatives proposed and encouraged by DOH. Collaboratives would be required to provide notification to DOH of the commencement of a community paramedicine program and would be required to report to DOH on their activities and outcomes. Community paramedicine collaboratives would include, at a minimum: (1) a general hospital, nursing home, or diagnostic and treatment center; (2) a physician; (3) an emergency medical services provider; and (4) where the services are provided in a private residence, a home care services program.
- ***Retail Practices:*** Proposes to authorize "retail practices," operated by business corporations or facilities licensed under Article 28 of the Public Health Law (i.e., hospitals, nursing homes, or diagnostic and treatment centers) to provide limited services at retail sites. While under current law, the shareholders of a business corporation licensed under Article 28 must be "natural persons," the shareholders or members of a retail practice operator (or "sponsor") could be corporate entities. This would allow publicly-traded entities to operate retail practices. Retail practices would be required to have a collaborative relationship with an Article 28 facility, a physician practice, an accountable care organization, or a performing provider system (PPS). Retail practices would also be required to be accredited, to accept walk-in patients, to offer a sliding fee scale, to meet certain supervision standards, to submit reports on services and patients to the Department, and to meet certain hours of operation requirements.
- ***Medicaid Coverage of Physical Therapy:*** The Medicaid fee-for-service physical therapy benefit would be amended to increase the cap on the number of allowable physical therapy visits from 20 to 40 per year. The annual 20-visit caps on occupational and speech therapy would not be affected.

- ***Traumatic Brain Injury Clinics:*** Proposes that, at a minimum, the amount paid to clinics for services provided to individuals participating in the Traumatic Brain Injury Waiver who are also eligible for Medicare would be the Medicaid rate minus the amount paid by Medicare.
- ***Cost reporting:*** DOH would be authorized to require any Medicaid provider, whether fee-for-service or managed care, to submit a cost report reflecting costs incurred in rendering health care services to Medicaid beneficiaries. DOH could specify the frequency and format of reports, the type and amount of information for submission, and require supporting documentation. Within the context of managed care, DOH would be authorized to require a MCO to obtain the required information from a provider on behalf of the Department.

VI. GOOD GOVERNMENT, WOMEN'S AGENDA

The Governor's budget package also includes a series of programmatic proposals related to public integrity, fair elections, and women's issues that do not necessarily have a budget impact. They include:

- Good Government and Ethics Reform Legislation that would, among other proposals:
    - Close the "LLC loophole" in campaign contribution limits;
    - Allow early voting and "opt-out" voter registration;
    - Require members of the Legislature to seek an advisory opinion on outside income;
    - Create voluntary program of public funding of campaigns and institute campaign finance reforms;
    - Require certain municipal officers to file financial disclosure forms;
    - Reform the Freedom of Information Law (FOIL); and
    - Expand the role of State Inspector General to include oversight of SUNY and CUNY affiliated entities and investigation of State contractors.
- A Women's Agenda that includes a broad range of initiatives, including proposals to:
    - Mandate comprehensive contraceptive coverage;
    - Require the State Medical Board to include experts in women's health and health disparities;
    - Establish a Maternal Mortality Review Board;
    - Repeal the penal law prohibition on abortion;
    - Remove firearms from defendants in domestic violence cases and suspend their firearm licenses; and
    - Combat sexual harassment in employment.

VII. NEXT STEPS

Following the Governor's budget presentation last week, Senate Finance Committee Chair Catharine Young and Assembly Ways and Means Committee Chair Helene Weinstein announced the schedule for the Joint Legislative Budget Hearings. These hearings provide an opportunity for the Legislature to hear from state agency heads and the public about the impact of the Governor's budget proposal. LeadingAge NY plans to provide testimony for the Housing Budget Hearing on Wed., Jan. 24th and the Health/Medicaid Budget Hearing on Mon., Feb. 12th.

This year, LeadingAge NY will be holding two separate Advocacy Days. The first, focused exclusively on issues pertinent to nursing homes, home care, hospice, ADHC and MLTC plans, is being held on Tues., Feb. 6th in conjunction with the Adult Day Health Care Council and the

Hospice and Palliative Care Association of New York State. **If you have not done so already, now is the time to register and begin setting up meetings with your legislators.** Keep in mind that if your lawmakers are not available for a formal meeting on Advocacy Day, you can inquire about meeting with them "off the floor" (speaking with them briefly outside the Assembly or Senate Chamber) or speaking with their top staff. Alternatively, if you are not able to join us in Albany, you can always request to meet with them back in their district office. **LeadingAge NY can assist with scheduling if necessary and asks that those who do set up their own meetings email their schedules to Jeff Diamond at jdiamond@leadingageny.org.**

Registration for our March 6th Advocacy Day, focusing on issues related to housing, adult care facilities (ACFs), assisted living (AL), aging services programs, and Naturally Occurring Retirement Communities (NORCs), is available here.

Advocacy Day materials, including issue briefs, talking points, and other information, will be distributed prior to these events. In preparation for the Feb. 6th Advocacy Day, LeadingAge NY, the Adult Day Health Care Council, and the Hospice and Palliative Care Association of New York State will be hosting a conference call for all attendees on **Thurs., Feb. 1st from 2:30 to 4 pm**. We plan to go over our materials (which will be distributed prior to the call), review important logistics, and answer any questions that participants may have. To join, please dial 1-888-585-9008 and enter the Conference Room code: 821-898-111.