



Dear Members:

The health and mental hygiene budget bill was released last night. A number of our priority issues have been addressed in the bill, but some remain outstanding. We are still awaiting the Revenue bill and the Aid to Localities bill, which will give us a fuller understanding of how members will be impacted by the state budget.

For now, we are providing highlights of the agreements/final decisions that are included in the budget bills that have been introduced to date as they relate to senior housing and long-term/post-acute care are provided below.

### **General Medicaid Cuts**

***Across-the-Board Cuts:*** The budget restores the proposal made in the Executive Budget 30-day amendments to reduce payments for Medicaid services by \$380.4 million (0.8 percent)

***Trend Factors:*** The budget eliminates the trend factors for Medicaid providers for two years, through March 31, 2021. Exempts nursing home pediatric units and homes providing services primarily to children under 21. Note that the 1.5 percent increase to nursing home operating rates that would be effective from Nov. 1, 2018 through Mar. 31, 2022 and be funded by the Health Care Transformation Fund appears to be fully restored.

***Medicare/Medicaid Cross-over Payments:*** The budget rejects proposals to limit Medicaid crossover payments for Medicare Part B services and maintains crossover payments at current levels for psychology and ambulance services.

### **Nursing Homes**

***Case Mix Index Cap:*** The budget requires the Commissioner of Health to convene a workgroup to review recent DOH analyses of CMI data in preparation for a change in case mix adjustment methodology starting in July 2019. Prohibits DOH from modifying the CMI methodology for periods prior to July 2019.

***Nurse Staffing:*** The budget requires the Department to conduct a study, commencing May 1, 2019, to examine how staffing enhancements and other initiatives could improve patient safety and health care quality in hospital and nursing homes. Statewide hospitals and nursing home associations will be part of the study group established.

### **MLTC**

***Transportation:*** The budget rejects the proposal to carve transportation out of the MLTC benefit package, but does not include language to prevent the ADHC carve-out. (Once we have additional budget documentation, we'll be able to see whether ADHC transportation was also restored).

***Personal Care Utilization:*** The current bills do not contain any language related to the personal care utilization cut. Without an appropriation bill or cut sheet, we can't know whether that cut was restored.

**OMIG:** The budget permits the OMIG to recover up to 2 percent of the administrative component of a managed care plan's premium if it determines that the plan is not complying with contractual obligations relating to program integrity. The budget also authorizes the OMIG to recoup from managed care plans any overpayments made to providers and to require managed care plans to recover the overpayments from providers.

## **Home Care**

**Fiscal Intermediary:** The budget modifies the Governor's proposal to limit the number of Consumer Directed Personal Assistance Program Services Fiscal Intermediaries (FI) by authorizing a procurement process based on selection criteria. Existing Fiscal Intermediaries would be authorized to provide services unless they fail to submit an offer in response to the procurement or their offer is denied. The bill requires the establishment of a work group to develop best practices for the delivery of FI services and transition plans for consumers transitioning to different FIs. It sets forth notice and information sharing requirements for consumers who transition to another FI. The selection of FI contractors takes into account ensuring adequate geographic coverage, cultural competencies, experience in serving individuals with disabilities, and ability to provide timely and adequate consumer assistance. These provisions take effect Jan. 1, 2020.

**Personal Care Utilization:** The current bills do not contain any language related to the personal care utilization cut. Without an appropriation bill or cut sheet, we can't know whether that cut was restored.

**NPI Provider Number:** The budget rejects the requirement that home care aides obtain National Provider Identifiers.

**TBI and NHTD Wage Parity:** The budget applies wage parity requirements to services provided under the Nursing Home Transition and Diversion waiver and the Traumatic Brain Injury waiver.

**NYSOFA private pay model :** The budget authorizes area agencies on aging to make available programs and services on a private pay basis for individuals with income over 400% of the federal poverty level. Effective 1 year from enactment.

**NORCs/NNORCs :** The budget funds NORCs/NNORCs at the Governor's proposed level. However, the cap for individual grants awarded for classic NORC programs was raised from \$200,000 to \$300,000. The grant amount for neighborhood NORCs remains unchanged and capped at \$60,000.

## **ADHC**

**ADHC Transportation:** The budget rejects the proposal to carve transportation out of the MLTC benefit package, but does not include language to prevent the ADHC carve-out. (Once we have additional budget documentation, we'll be able to see whether ADHC transportation was also restored).

## **ACF/AL**

The available bills do not include any ACF/AL elements. We expect to see them addressed in the Aid to Localities and Revenue bills.

## **Senior Housing**

***Security Deposit Cap:*** The budget rejects the proposed limits on security deposits, including fees and charges, removing it from the budget negotiations process.

***Resident Service Assistant:*** The budget does not include our proposal to fund a resident service assistant program in affordable senior housing in their budget proposals.

***Mortgage Insurance Fund Reserves:*** The Senate agrees with the Executive's proposal for the use of reserves from the Mortgage Insurance Fund.

Neighborhood Preservation Program: \$8,479,000

Rural Preservation Program: \$3,539,000

Municipal Relief, City of Albany: a sum not to exceed \$5,000,000, transferred to the New York municipal bond bank agency; may not exceed excess balance of reserves or affect the credit rating of the Mortgage Insurance Fund.

## **Capital Projects**

***Health Care Transformation Grants:*** The budget accepts the Governor's proposal to shift up to \$300 million of the amounts allocated to Phase 3 of the Health Care Capital Transformation fund to make awards in response to applications submitted under Phase 2. These awards must be made by May 1, 2019. Although the legislation retains the allocation of the funds by provider type as set forth under Phase 3, it does not include the language advanced by LeadingAge New York to ensure a minimum allotment for assisted living facilities.

***Prevailing Wage Expansion:*** At this time, it appears that the budget will not include the prevailing wage provisions

## **Next Steps**

The Assembly and Senate are returning to Albany tonight to conference the final budget details and plan to begin passing the final budget bills tomorrow. We will keep you informed as we get more information and will provide summaries as additional budget bills become available.