

BROWN & WEINRAUB, PLLC

FINAL

**SFY 2016-17 HEALTH & MENTAL HYGIENE
BUDGET HIGHLIGHTS for CHCANYS**

Last week, the Legislature and Governor put down their pencils and finalized the 2016-2017 State Fiscal Year Budget, finishing within 24 hours of the April 1 deadline. Below are some of the highlights of this year's Health and Mental Hygiene budget.

Minimum wage. The final budget did include a statewide minimum wage increase, which will be phased in differently for upstate, NYC and downstate. The proposal does include a mechanism whereby the phase in schedule can be halted after January 1, 2019.

- **Funding:** There was a miniscule amount of new funding for OASAS (800K), OPWDD (4.1M) and OMH (600K) providers for 2017 impacts of minimum wage increases (on top of the .2% COLA). There was no funding for DOH licensed providers, although there were two notable related items. First, the Budget takes the impact of minimum wage out from under the Global Cap. Given that the estimated impact upon total phase-in is in the billions of dollars, it would be impossible to keep it within the cap. Second, **home care workers** will have the first phase of the minimum wage increase incorporated into MLTC rates effective Jan. 1, 2017. This was *not* part of a budget bill, but was a freestanding piece of legislation passed last week. While the legislation supports a process, it is not clear where the dollars will be coming from because there is no identifiable appropriation in the budget bills.
- **Phase in schedule:**
 - **NYC:** Increase to \$11/hr starting Jan. 1, 2017 and increasing to \$15/hr by Jan. 1, 2019. Small employers (defined as 10 employees or less) in the City must increase to \$10.50/hr starting Jan. 1, 2017 and increasing to \$15/hr by Jan 1, 2020.
 - **Nassau, Suffolk and Westchester Counties:** Increase to \$10/hr starting Jan. 1, 2017 and increasing to \$15/hr by Jan. 1, 2022. Applies to all employers regardless of size.
 - **Rest of State:** Increase to \$9.70/hr starting Jan. 1, 2017 and increasing to \$12.50/hr by Jan. 1, 2021. Applies to all employers regardless of size.

Uncompensated Care Fund. The State share of \$54.4M was included in the final budget, but it did not include the Legislature's proposal to provide contingent funding (available if the federal share does not come through) for entities eligible for 2015 uncompensated care funding. In a side letter, however, the Administration promised support for the program and to make every effort to secure federal funding for the 2015 share as well as the federal match for 2016.

Statewide Health Care Facility Transformation Program: The Governor had proposed taking \$195M in capital dollars from money to build a new hospital in Utica and creating a fund a wide variety of health care providers to replace facilities as part of a merger, consolidation, acquisition or other restructuring under a Transformation Plan. The final budget included up to \$195M of bonded dollars as a grant or a loan for these purposes, to be administered outside of the procurement rules. Eligible entities are general hospitals, nursing homes, D&TCs, and clinics licensed under OMH or OASAS. However, a minimum of \$30M of the \$195M is set aside for home care providers, D&TCs, and clinics licensed under OMH or OASAS. Projects must be aligned with DSRIP, reflect community need, preserve and sustain services in the community, and successful bidder must meet metrics. In

awarding the bids, consideration will be given to geographic distribution and priority will be given to projects not funded under other grant programs.

Health Republic reimbursement: While the final budget contained no dollars to reimburse providers for losses incurred as a result of the Health Republic meltdown, the final budget contained language in the ELFA bill that would create a process to use future settlement funds to reimburse providers after the liquidation of the insurer. This is different from the guaranty fund proposed by the hospital associations because it is limited to this particular collapse.

School Based Health Centers. While the final budget does not include any statutory provisions proposed by the Legislature to carve certain services out of managed care, there is a side letter that addresses some of the Legislature's concerns. Additionally, all funding for school based health centers remained intact from last year (no cuts).

Oneida Hospital. The \$300M to build a new hospital in Utica remained in the budget.

Limited Service Clinics. Once again, there was no final agreement on how to regulate "minute clinics," and it fell out of the final budget.

Social Work Licensing Exemption: The final budget will extend the exemption for non-licensed staff of providers operating under the jurisdiction of eight State agencies including the mental hygiene agencies, for a two-year period through July 1, 2018, with an agreement to establish a workgroup to identify by the end of this legislative session those activities which can be performed by non-licensed staff, without violating scope of practice of licensed behavioral health professionals. (The Executive had proposed a straight 5-year extension.)

Medicaid

- **Medicaid Cap.** While both houses had rejected extending the Medicaid cap and would have moved back to single-year funding, the final budget includes the Cap and reflects two-year budgeting.
- **New York City's Contribution to Medicaid Funding.** The budget does not include any language shifting Medicaid costs to NYC, but it also doesn't reflect how the \$180M SFY16-17 funds that would have been supplied by the City will otherwise be made-up. Budget magic!
- **Alignment with Medicare.** The final budget modifies the Governor's proposal to reduce Medicare Part C copays by allowing a reduction of no more than 15% for dual eligibles on Parts B and C services. In a side letter, there is also a commitment by the Department to clean up last year's Part B co-pay implementation issues.
- **Spousal Refusal.** Once again, this proposal was not included.

Public Health Program Funding. Funding for programs such those for Migrant Health, TB, HIV/AIDS, Obesity, Maternal Health, Sexual Health, Minority Health, Rural Health, Indian Health, Cancer funding, etc., was generally kept level with last year's funding. Similarly, health workforce programs were flat funded.

COLA. The budget contains a minimal 0.2% increase (but see Minimum Wage, above).

Exchanging of Confidential Data: The final budget will allow for the exchange of information between mental hygiene programs and managed care organizations, behavioral health organizations, Health Homes, and other entities authorized by OMH, OPWDD, OASAS or DOH in order to coordinate health care services.

Essential Health Plan. The final budget did not contain the Assembly's proposal to allow extend eligibility for this health insurance program to persons regardless of immigration status.

Heroin Crisis. \$25M is designated for heroin and opioid addiction services, plus another \$10M in

capital funding.

Doctors Across New York. No provisions were included to streamline this program, as the Senate had proposed. \$1M was added to the Governor’s proposed appropriation.

Health Information Technology. All of the Governor’s proposal to fund the SHIN-NY (30M), “HIT Initiatives” (10M), and the All-Payer Database (\$10M) were included.

VAP and VAPAP Funding. Remember all of the following have a federal match.

- **Behavioral Health VAP:** \$25M for the second year of the two year \$50M appropriation is included in re-appropriations for behavioral health Vital Access Provider services “to preserve essential behavioral and other services in targeted areas of the state.” It appears that most of this funding will be for the second year of already-awarded multi-year awards.
- **VAP:** There do not appear to be new VAP dollars in any of the budget bills.
- **VAPAP:** The final budget will appropriate \$137M over two years for this program.