



Memorandum on the Governor's 2010-2011 Executive Budget Proposal

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Do Not Dismantle the Public Mental Hygiene System

In a year when the economy has caused major budget deficits we understand that the Governor's budget has taken some savings from but basically maintained a minimal level of funding for the State Department of Mental Hygiene (OMH, OASAS, and OMRDD). We remember the significant cuts in the 2009-10 budget, and given the severity of the state fiscal crisis and its impact on local governmental budgets, we believe that the Governor has prudently provided for as much savings as possible from these areas without severely impacting the ability of the system to function. Therefore the Conference is supportive of the Governor's local assistance recommendations for the agencies of the State Department of Mental Hygiene and strongly urges the legislature to support these portions of the budget as presented.

Many county-operated mental hygiene clinics, such as outpatient mental health and substance abuse treatment clinics, are struggling to maintain their budgets under the increasingly tight fiscal environment and the Governor's local assistance recommendations allow county clinics to continue providing treatment and services as the community safety net for individuals with mental illness, chemical dependency, and developmental disabilities. It is critical that the integrity of this system be maintained.

- The Executive Budget provides a strong acknowledgment of the critical role of mental hygiene services in New York State and the Conference *urges the Legislature to protect and support mental hygiene funding levels as proposed* in order to preserve the public mental hygiene service safety net.

Medicaid Managed Care Pass-Through Dollars – SUPPORT

The Governor's 21-day amendments include a key provision authorizing the transfer of funding from the Office of Mental Health to the Department of Health to increase premiums paid to Medicaid managed care plans. The bill would require the plans to subsequently pass through the increased premiums to mental health clinic providers at a rate equivalent to the Ambulatory Patient Group (APG) methodology.

This increase in Medicaid managed behavioral healthcare premiums and the rates to providers is part of a larger clinic restructuring effort by the State to rationalize payment methodologies (via APGs) which are currently being implemented in hospital (Article 28) settings and are close to implementation for all OMH licensed outpatient treatment clinics (Article 31). Currently, mental health outpatient clinics receive a rate add-on from the state for all clinic services to supplement Medicaid managed care rates which are currently far below the actual cost of providing behavioral health services in outpatient clinics. Under clinic restructuring, this rate add-on is being phased out and will expose clinics to a loss for every service provided under the current Medicaid managed care rate structure, unless something is done to elevate the reimbursement level. The Governor's 21-day amendment language addresses this problem by allowing the pass-through of OMH outpatient funding for DOH to increase premiums to Medicaid managed care plans in order for them to pay providers a rational rate on par with the APG methodology.

- The Conference **strongly supports** the Medicaid managed care rate pass-through to allow managed care organizations to pay fair and rational rates that cover the cost of providing mental health services in OMH outpatient clinics.

Social Work Licensure Exemption to June 1, 2014 - SUPPORT

The Governor's Education, Labor and Family Assistance Article VII bill recommends a four-year extension (to June 1, 2014) of the social work and mental health practitioner licensure exemption for programs operated, regulated, funded, or approved by the Department of Mental Hygiene, the Office of Children and Family Services, a local governmental unit, or a local social service district.

While there is essentially no cost or downside to approving this 4 year extension, The State Division of Budget has calculated that the cost of failing to extend the social work exemption and letting it sunset as scheduled in June 2010 would amount to **\$62 million per year** for state agencies (OMH, OASAS, OMRDD) and **\$227 million per year** in the local and voluntary provider sector. These costs reflect the increase in salary and fringe necessary if such mental hygiene service agencies were required to hire NYS licensees for all jobs that are currently performed under strict supervision by people not currently licensed to perform services, but which cross into the scopes of practice of licensed social workers or mental health practitioners. Aside from the massive financial mandate imposed on such entities by the licensure laws, many settings across the state already face difficulties in recruiting appropriately licensed social workers due to essentially no growth in the Licensed Clinical Social Worker workforce since 2006. The failure to extend this exemption may result in the closure of many facilities (licensed clinics) and the loss of services to thousands of people with disabilities in New York State.

These programs that are already heavily regulated under the Mental Hygiene Law, and subject to multiple layers of clinical and regulatory oversight. The public mental health care system is based on a team approach to treatment as opposed to the one-on-one, therapist to patient treatment approach found in private practice. As such, any argument that clients are somehow at risk of inappropriate treatment in clinics if the exemption is extended, is simply unfounded.

- The Conference **strongly supports** this four year extension of the exemption as part of the 2010-2011 State Budget.

OMIG Recoveries and Civil Penalties - OPPOSE

The Executive Budget amends the Public Health Law to authorize increased civil penalties for defrauding the Medicaid program and increases the Medicaid Fraud target to \$1.2 billion in an attempt to help balance the State's budget. The recovery of Medicaid payments by way of audits for technical mistakes or civil penalties imposed against local government operated or funded Medicaid providers constitutes a shifting of funds from local government to the State and is in essence an attempt to solve the State's budget problem by shifting the cost to localities for activities which in many cases were not incorrect at the time the activity was performed.

A number of county-operated clinics have been sanctioned by the OMIG for mere technical billing mistakes, often caused by events beyond their control, which were related to services that were actually and properly rendered in accordance with guidelines and regulations then in effect under the auspices of the Offices of the Department of Mental Hygiene. Recent audits by the Office of Medicaid Inspector General of programs operated and funded by the Local Governmental Units have resulted in take-backs for services that were otherwise properly provided by the clinic on the grounds that clerical or technical errors in charting or documentation constitute "improperly billed" services.

- The Conference **strongly opposes** both measures of the Executive Budget that increase the OMIG recovery target and seek to impose civil penalties for anything other than truly fraudulent actions.

***Any questions regarding the content of this memorandum may be directed to:
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