NYS Conference of Local Mental Hygiene Directors, Inc.

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TO: **MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS**
FROM: **DEBBIE HOLLAND, DIRECTOR OF GOVERNMENTAL RELATIONS**
DATE: **APRIL 4, 2014**
SUBJECT: **SFY 2014-15 ENACTED BUDGET ANALYSIS**

General Overview of the Enacted Budget

On March 31, 2014, the Legislature passed an on-time state budget for the fourth consecutive year. The State Fiscal Year (SFY) 2014-15 Enacted Budget spends a total of $137.9 billion in State and federal funds (not including federal Hurricane Sandy relief aid and Affordable Care Act incentive payments). This represents an overall increase of $2.5 billion or 1.8 percent from 2013-14, and an increase of $687 million over the Executive Budget.

The Enacted Budget includes the following high profile items: $1.5 billion in property tax relief by 2016-17; an increase in education aid of $1.1 billion or 5.3 percent for 2014-15; $340 million this year which will increase to $1.5 billion over a five year period to fund a statewide universal full day pre-K program; $2 billion Smart Schools Bond Act to increase children's access to the latest technology; and $1.2 billion in capital funding to help hospitals, nursing homes, and long term care facilities restructure to increase and improve community based care.

Community Mental Health Reinvestment

The Executive Budget accepts the Executive proposal to reinvest $25 million into the community due to reductions in state psychiatric beds and the implementation of the Regional Centers of Excellence (RCE) Plan. In past years, the state budget has "notwithstood" the Community Reinvestment Law (Section 41.55 of the MHL). In this year's Enacted Budget, the appropriation of $25 million is "deemed to satisfy the funding requirements of Section 41.55 of the Mental Hygiene Law."

The Enacted Budget specifies that this funding must be used for the expansion of state community hubs and voluntary operated services for adults and children, including, but not limited to, expanding crisis and respite beds, home and community based services waiver slots, supported housing, mental health urgent care walk-in centers, mobile engagement teams, first episode psychosis teams, family resource centers, evidence-based family support services, peer-operated recovery centers, suicide prevention services, community forensic and diversion services, tele-psychiatry, transportation services, family concierge services, and adjustments to managed care premiums.

There are no details yet regarding how much of this reinvestment will take the form of re-deployed state employees and how much will be new cash. According to OMH, the State will not close or consolidate any state operated psychiatric centers during this fiscal year. OMH still plans to close some inpatient beds and wards during the year and is committed to reinvesting a total of $44 million back into the community by the end of 2015-16. In addition, the Enacted Budget extends the Community Mental Health Reinvestment Act (Section 41.55 of the MHL) for three years until March 31, 2018, and increases the amount of savings to be reinvested from the closure of each psychiatric center bed from $70,000 to $110,000.

Medicaid

Much of the behavioral health funding related to Medicaid managed care and Health Homes appears within the DOH Medicaid budget. In addition, many of the details on how these Medicaid enhancements to behavioral health will be implemented under managed care still need to be developed.

$110 Million in New Medicaid Investments for Behavioral Health Initiatives

The Enacted Budget includes $110 million (a reduction of $10 million from the Executive Budget) in new Medicaid investments for behavioral health initiatives. The following initiatives will be funded in 2014-15:

- **$20 million for managed care readiness** – The Enacted Budget accepts the Executive proposal to authorize the Commissioner of Health to distribute funds to LGUs, Medicaid managed care plans, Health Homes, and individual behavioral health providers or consortiums of providers to facilitate the transition of behavioral health services for adults and children into managed care. The funding may be used for infrastructure and organizational modifications, investments in health information technology, and training and technical assistance. DOH, in consultation with OMH and OASAS, will develop a plan to determine how the funds will be distributed. The size and scope of a grantee's operations may be a relevant factor in determining eligibility for and the amount of grants.

- **$15 million for integrated care initiatives** – The Enacted Budget accepts the Executive proposal to provide $5 million in funding for enhanced clinical reimbursement to support the integration of behavioral and physical health services and $10 million in funding to support the implementation of a collaborative clinical care delivery model. DOH, in consultation with OMH, is authorized to establish an evidence-based, collaborative care clinical delivery model in Article 28 clinics to improve the detection and treatment of depression and other diagnosed mental health or substance abuse disorders in an integrated manner. At a minimum, clinics designated by DOH and OMH will provide screening for depression, medical diagnosis of patients who screen positive, evidence-based depression care, ongoing tracking of patient progress, care management, and a designated psychiatric practitioner who consults with the care manager and primary care physician. The designated clinics would receive an enhanced reimbursement rate to be developed by the departments. The Enacted Budget also requires the Commissioner of Health to include details on the implementation of the collaborative care clinical delivery model and on any regulations promulgated on integrated services in the annual report required on the transition of behavioral health services to managed care.

- **$30 million in Vital Access Provider (VAP) funding for behavioral health services** – The Enacted Budget includes $30 million (the Executive proposed $40 million) to expand the Vital Access Provider (VAP) program to preserve critical access to behavioral health inpatient and other services in certain geographic areas. VAPs are eligible for supplemental financial support from the State to ensure their long-term viability. Currently, the VAP program assists hospitals, nursing homes, diagnostic and treatment centers (D&TCs) and certified home health care agencies that are financially challenged and provide essential health services. The Enacted Budget also expands the VAP program to include licensed home care service agencies and fiscal intermediaries in the Consumer Directed Personal Assistance Program.

- **$5 million for OASAS residential restructuring** – The Enacted Budget accepts the Executive proposal to establish Medicaid reimbursement for clinical care provided in OASAS residential settings. According to staff, the OASAS residential providers will be able to bill Medicaid for rehabilitative services.

- **$10 million for Health Home Plus for AOT** – The Enacted Budget accepts the Executive proposal to include an enhanced Medicaid Health Home rate for AOT clients beginning in April 2014. Please recall that this funding was initially included in the 2013-14 Executive Budget but was later eliminated in the final budget when the $10 million was re-directed to offset the federal Medicaid recoupment for OPWDD services.

- **$30 million for 1915-i Services under HARPs** – The Enacted Budget accepts the Executive proposal to include $30 million in funding to support the development of 1915-i services under Health and Recovery Plans (HARPs). These services will include rehabilitation, peer supports, habilitation, respite, non-medical transportation, family support and training, employment and education support services, and self-directed care services. According to OMH staff, this funding will be included in the premium to managed care organizations operating HARPs or possibly directed to services providers.

Continues Medicaid Managed Care APG-equivalent Payments for OMH and OASAS Clinics

The Enacted Budget accepts the Executive proposal to continue the Medicaid managed care APG reimbursement rates to OMH and OASAS clinics based on the following timeline: through December 31, 2016, for services provided in New York City; through June 30, 2017, for services provided outside New York City; and through December 31, 2017, for services provided to persons under age 21. This proposal ensures that the APG payment rates will continue through the first two years of managed care implementation. Managed care organizations and providers may also negotiate different rates and methods of payment during the periods described above, subject to approval by DOH, in consultation with OASAS and OMH.

Health Homes and the Criminal Justice System

The Enacted Budget rejects the Executive proposal to authorize DOH to distribute $5 million in funding (subject to federal financial participation) to establish coordination between Health Homes and the criminal justice system. There is a possibility that this initiative will be funded under the Medicaid waiver.

Health Home Infrastructure Grants

The Enacted Budget accepts with modifications the Executive proposal to authorize DOH, in consultation with OMH and OASAS, to distribute $10 million (reduced from $15 million) in funds (subject to federal financial participation) in the form of rate adjustments to Health Home providers for member engagement, staff training and retraining, health information technology implementation, joint governance technical assistance or other purposes to be determined by the agencies. The Executive Budget had proposed for these funds to be distributed via a grant process.

Reinvestment of Savings from Closures of Inpatient Psychiatric/Substance Abuse Services

The Enacted Budget accepts with modifications the Executive proposal to reinvest $50 million (All Funds) of Medicaid savings from the reduction of inpatient behavioral health services provided under Medicaid in programs licensed by Article 31 and 32 of the MHL, including programs licensed under both Article 28 of the PHL and Article 31 of the MHL and certified under both Article 28 of the PHL and Article 32 of the MHL, into community based services. These funds will be made available to the Commissioners of OMH and OASAS, in consultation with DOH and approved by Division of the Budget (DOB), to implement allocation plans for mental health and substance use disorder services in the communities impacted by the reduction of inpatient behavioral health services. **As a result of Conference advocacy, the Enacted Budget requires the Commissioners to develop these allocation plans in consultation with the LGUs.** The Enacted Budget also requires the allocation plans to be developed in consultation with behavioral health providers.

In addition, the Enacted Budget requires the Commissioner of Health to include details on the implementation of the reinvestment allocation plans in the annual report required on the transition of behavioral health services to managed care.

Behavioral Health Services Reinvestment Under Managed Care

The Enacted Budget accepts with modifications the Executive proposal to authorize DOH to reinvest the general fund savings realized directly from the transition of behavioral health services from Medicaid fee-for-service to managed care, for the purposes of reinvesting in community behavioral health services, including residential services certified by OASAS. Funds for the program would be subject to an annual appropriation, and the methodology used to calculate the savings from the transition to managed care would be determined by DOH and DOB, in consultation with OMH and OASAS.

The Enacted Budget also requires the Commissioner of Health to include detailed descriptions of the methodology used to calculate savings for reinvestment, the results of applying such methodologies, and the details regarding the implementation of such reinvestment pursuant to this program in the annual report required on the transition of behavioral health services to managed care.

We are advised that there is no funding amount attached to the program because it is dependent on the amount of savings to be generated going forward, when Medicaid managed care for adults begins January 1, 2015, in New York City and July 1, 2015, in the rest of the State.

Integrated Behavioral Health and Physical Health Services in a Single Location

The Enacted Budget modifies the Executive Budget language adding emergency regulatory authority for the Commissioners of DOH, OASAS, OPWDD, and OMH to promulgate emergency regulations by October 1, 2015, to implement integrated mental health services, substance abuse services, physical health services, and/or services to persons with developmental disabilities at a single location.

The Enacted Budget also requires the Commissioner of Health to include details on any regulations promulgated to implement integrated behavioral health services in a single location in the annual report required on the transition of behavioral health services to managed care.

Report on the Transition of Behavioral Health Services to Managed Care

The Enacted Budget expands the DOH report required on the transition of behavioral health services to managed care (included in the 2013-14 Enacted Budget) to include the following:

- Details on the implementation of the reinvestment allocation plans from the reductions of inpatient behavioral health services;
- Details on the methodology used to calculate the amount of savings resulting from the transition of individuals into managed care and the manner in which the reinvestment will address service needs;
- Details on implementation of the collaborative care clinical delivery model;
- Rationale for any waiver of existing regulations or use of emergency regulations pursuant to the behavioral health services transition;
- Implementation of infrastructure and organizational modifications and investments in health information technology and training and technical assistance; and
- Details regarding the implementation of the plan to transition adult and children's behavioral health providers and services into managed care.

The Enacted Budget also requires the report to be submitted to the Governor, Legislature and MRT Behavioral Health Subcommittee on an annual basis beginning January 1, 2016, and ending on January 1, 2018.

DSRIP Requirements

DSRIP, a component of New York's 1115 Waiver, is the primary vehicle through which federal savings accrued as a result of MRT initiatives will be reinvested in New York's healthcare delivery system. The overall goal of the DSRIP plan is to reduce avoidable hospitalizations by 25 percent over five years. Under the statewide plan, qualified safety net providers will be eligible for performance-based payments. In February, the state reached a conceptual agreement with CMS on the 1115 waiver to allow New York to reinvest $8 billion in federal savings generated by Medicaid Redesign over five years to transform the state's health care system.

The Enacted Budget requires DOH to ensure the Delivery System Reform Incentive Payment (DSRIP) program is implemented statewide to the extent permitted by CMS. The Enacted Budget also establishes an advisory panel to assist with the DSRIP program and make recommendations to DOH. Panel members must have health care expertise and may not be providers, elected officials or have any conflicts of interest. This panel will also review grant applications for the Capital Restructuring Financing Program and applicants for funding under other MRT initiatives. In addition, the Commissioner of DOH must submit quarterly reports to the Legislature on the status of the DSRIP program. The Enacted Budget accepts with modifications the Executive proposal to give the Commissioners of DOH, OMH, OASAS, and OPWDD the authority to waive any regulatory requirements as are necessary to allow providers participating under the Delivery System Reform Incentive Payment (DSRIP) program to avoid duplication of requirements.

Implementation of 1115 Waiver

The Enacted Budget accepts with modifications the Executive proposal to allow DOH to enter into contracts and/or amend contracts already awarded to implement the Medicaid 1115 Waiver or Partnership Plan without competitive bid or request for proposal processes.

Inpatient Facility Medicaid Reimbursement

The Enacted Budget provides for periodic updating of the base year for inpatient psychiatric facilities, specialty inpatient facilities and inpatient detoxification facilities with the first base year taking effect no earlier than April 1, 2015, for these facilities. The Executive Budget had proposed to rebase facility rates no later than January 1, 2015.

Medicaid Managed Care Advisory Review Board

The Enacted Budget accepts the Executive proposal to expand the existing Medicaid Managed Care Advisory Review Board from 12 to 16 members by adding consumer representatives for individuals with behavioral health needs and consumer representatives for dually eligible individuals, as well as representatives of providers that serve both populations.

Disability Advisory Group

The Enacted Budget authorizes the Commissioner of Health to establish a disability clinician advisory group of experienced clinicians and clinic administrators who have an understanding of the comprehensive needs of people with disabilities. The group will provide DOH with information and data on the effect of policies, including proposed regulation or statutes, and fiscal proposals, including rate setting and appropriations, on the delivery of supports and services for individuals with disabilities including, but not limited to, the role of specialty services.

Transitioning Foster Care Children into Managed Care

The Enacted Budget accepts with modifications the Executive Proposal to authorize DOH to spend up to $5 million in funding (subject to federal financial participation) on a pilot program with OCFS to develop managed care rates for services provided to children in foster care and facilitate the transition of children in

foster care to Medicaid managed care. The Enacted Budget also requires a report to be issued on this initiative.

Prescriber Prevails
The Enacted Budget rejects the Executive proposal to eliminate "prescriber prevails" provisions in Medicaid fee-for-service and managed care programs for drugs (including atypical antipsychotics and anti-depressants) that have FDA-A rated generic equivalents.

Early Refills
The Enacted Budget modifies the Executive proposal to limit early refills by requiring prior authorization for the refill of a prescription drug when a Medicaid recipient has more than a ten day supply of the previously dispensed medication remaining, based on prescribed dosing. The Executive had proposed requiring prior authorization for a refill when a Medicaid recipient had more than a six day supply left.

Off-Label Drug Use
The Enacted Budget rejects the Executive proposal to require verification of FDA and/or Compendia support for reimbursement under Medicaid for drugs where there is evidence of significant prescribing for non-medically indicated or "off-label" use.

Cross-Agency Items

Human Services Cost of Living Adjustment (COLA)
The Enacted Budget rejects the Executive proposal to defer for one year the human services COLA associated with OMH, OASAS, OPWDD, OCFS, DOH and SOFA. The final budget includes $13 million to provide a two percent COLA from January 1, 2015, to March 31, 2015, for direct care workers and direct support staff, and in payments to foster parents and adoptive parents. According to budget language, a second annualized two percent COLA will begin on April 1, 2015, for direct care workers, direct support staff and clinical staff, and in payments to foster parents and adoptive parents.

The state agencies are required to develop standards, including but not limited to, requiring that a LGU or provider agency develop a plan of implementation to ensure that the funding increases are used in accordance with the statute. The LGU or provider agency is also required to attest in writing that the money is being used appropriately. In addition, providers must submit a resolution from their governing body further attesting that the funding received by the provider will be used solely to increase salary and salary-related fringe benefits of direct care workers, direct support staff and clinical staff, and in payments to foster parents and adoptive parents.

Capital Access Fund
The Enacted Budget accepts with modifications the Executive proposal to provide $1.2 billion in funding to establish the Capital Restructuring Financing Program. For the period of April 1, 2014, through March 31, 2021, capital grants may be distributed by the Commissioner of Health and President of the Dormitory Authority, in consultation with the Commissioners of OMH, OASAS and OPWDD, to general hospitals, residential health care facilities, diagnostic and treatment centers, clinics licensed under the public health law or the mental hygiene law, primary care providers, home care providers and assisted living providers. Capital grant projects may include, but are not limited to, closures, mergers, restructuring, infrastructure improvements, development of primary care capacity and promotion of integrated delivery systems that strengthen and protect continued access to essential health services, and telehealth infrastructure development. Grants will be available to both DSRIP eligible and non-DSRIP eligible providers. DOH is required to create an advisory panel and establish a formal review process for determining awards. The Department is also required to report quarterly to the Legislature on the program.

Other Items of Interest

Basic Health Program

The Enacted Budget accepts the Executive proposal to authorize the Commissioner of Health to establish a Basic Health Program (BHP) as authorized under the Affordable Care Act (ACA), to provide basic health insurance to New Yorkers who have incomes too high to qualify for Medicaid but too low to afford commercial insurance. To be eligible for the BHP, an individual must meet the following requirements:

- New York State resident (citizen or lawfully present non-citizen)
- Under the age of 65;
- Not eligible for Medicaid or Child Health Plus (CHP);
- Not eligible for minimum essential coverage, or, is eligible for employer-sponsored coverage, but the coverage is unaffordable; and
- Income between 133% FPL and 200% FPL or below 133% and ineligible for Medicaid due to immigration status.

Agency-Specific Budgets

Below are brief summaries of the appropriations and any agency-specific Article VII proposals for OASAS, OMH, and OPWDD.

Office of Alcoholism and Substance Abuse Services (OASAS)

OASAS ALL FUNDS APPROPRIATIONS:

	2014-15 Executive	2014-15 Enacted	Difference
State Operations	$115,279,000	$115,279,000	
Aid to Localities	$457,496,000	$460,896,000	$3,400,000
Capital	$97,606,000	$97,606,000	
TOTAL	**$670,381,000**	**$673,781,000**	$3,400,000

The Enacted Budget adds $3,400,000 in legislative additions:

- $1,000,000 for opiate abuse, treatment and prevention services;
- $1,000,000 for heroin prevention, treatment and recovery support services;
- $800,000 for residential treatment services;
- $530,000 for COLA for direct care staff for the period of April 1, 2014, to March 31, 2015; and
- $70,000 for Bedford Central School District for a Student Substance Abuse Counselor

The Enacted Budget also includes $450,000 for opioid drug addiction prevention and treatment under DOH.

Office of Mental Health

OMH ALL FUNDS APPROPRIATIONS:

	Executive Proposed	Enacted	Difference
State Operations	$2,197,002,000	$2,197,002,000	
Aid to Localities	$1,354,134,000	$1,362,391,500	$8,257,500
Capital	$196,955,000	$196,955,000	
TOTAL	**$3,748,091,000**	**$3,756,348,500**	$8,257,500

The Enacted Budget adds $8,257,500 in legislative additions:

- $1,852,500 for veteran peer to peer pilot programs;
- $1,580,000 for COLA for direct care staff for the period of April 1, 2014, to March 31, 2015;
- $600,000 for mobile crisis teams;
- $400,000 for crisis intervention teams;
- $350,000 for demonstration programs in counties impacted by state operated facility closures in SFY 2011-12;
- $450,000 for a Veterans Mental Health Training Initiative to be conducted by the NYS Psychiatric Association, the Medical Society and National Association of Social Workers – NYS Chapter for the development of accredited education and training programs for physicians, psychiatrists and social workers on best practices for treating mental health disorders of returning combat veterans;
- $100,000 to provide a rental stipend adjustment for supported housing units in Rockland County;
- $75,000 for a study on the impact of expanded community services;
- $1,000,000 for United Health Services Hospitals, Inc.;
- $650,000 for Nathan S. Kline Institute for Psychiatric Research;
- $275,000 for FarmNet;
- $175,000 for Therapeutic Equestrian Center, Inc.;
- $100,000 for the Mental Health Association of NYS;
- $125,000 for the Sullivan County Peer Empowerment/Recovery Center;
- $150,000 for the Southern Fork Health Proposal;
- $50,000 for Family Residence & Essential Enterprises, Inc.;
- $75,000 for the Familya of Rockland County, Inc.; and
- $250,000 for the Riverdale Mental Health Association

Housing

- To address the adult home and nursing home settlement agreements, the Enacted Budget maintains $40 million in funding for the development of new supported housing units, including $10 million for 200 new beds for transitioning nursing home residents (a total of 600 by the end of 2015) and $30 million for 500 new beds for transitioning adult home residents (a total of 1,750 by the end of 2015) into the community.
- The Enacted Budget maintains $6.5 million in funding to provide a rental stipend increase of $550 annually for supported housing units in New York City, Long Island, and Westchester County.

Office for People With Developmental Disabilities

OPWDD ALL FUNDS APPROPRIATIONS

	2014-15 Executive	2014-15 Enacted	Difference
State Operations	$2,035,615,000	$2,035,615,000	
Aid to Localities	$2,334,083,000	$2,342,380,500	$8,297,500
Capital	$168,950,000	$168,950,000	
TOTAL	**$4,538,648,000**	**$4,546,945,500**	$8,297,500

The Enacted Budget adds $8,297,500 in legislative additions:

- $6,300,000 for COLA for direct care staff for the period of April 1, 2014 to March 31, 2015;
- $750,000 for the Institute for Basic Research on Staten Island;
- $500,000 for a direct support professional credentialing pilot program report;
- $175,000 for Harmony Services, Inc.;
- $125,000 for Hebrew Academy for Special Children;

- $200,000 for Women's League Community Residence;
- $100,000 for Juwonio, Inc.;
- $100,000 for Human Care Services, Inc.;
- $25,000 for Rockland County Independent Living Center; and
- $22,500 for Living Resources Corporation

OPWDD-related Article VII Items:

Expands Exemption in the Nurse Practice Act in OPWDD Non-Certified Settings
The Enacted Budget accepts with modifications the Executive proposal to expand the exemption in the Nurse Practice Act for direct care staff in certified settings by now allowing direct care staff in non-certified settings approved by OPWDD to perform health-related tasks under the supervision of a registered nurse and in accordance with a memorandum of understanding between OPWDD and DOH.

OMH and OPWDD Facility Directors as Representative Payees
The Enacted Budget only extends for one year (the Executive Budget proposal was for three years) the clarification that OMH and OPWDD facility directors acting as representative payees may use a person's funds for the cost of their care and treatment.

Managed Care Advocacy Program for Persons with Developmental Disabilities
The Enacted Budget authorizes the Commissioner of OPWDD to establish the Managed Care for Persons with Developmental Disabilities Advocacy Program. The purpose of the program is to help people with developmental disabilities to navigate the Medicaid managed care system.

Integrated Employment Plan
The Enacted Budget requires the Commissioner of OPWDD, in consultation with the Developmental Disability Advisory Council, to establish a plan to increase competitive employment opportunities for people with developmental disabilities. The plan must be developed with input from stakeholders, including individuals with developmental disabilities, parents, advocates and providers. The plan must be submitted to the leaders of the Legislature and made public on the OPWDD website within 180 days of CMS' approval of the state plan.

Report and Study on the Credentialing of Direct Care Professionals
The Enacted Budget requires OPWDD to issue a report to the Governor and the Legislature setting forth recommendations for the establishment of a direct support professional credentialing pilot program by January, 1, 2016. The recommendations must be based on a study to be conducted by OPWDD. As noted above, the Legislature added $500,000 in funding to the Enacted Budget for the study.

Provider Participation in DISCOs
The Enacted Budget rejects the Executive proposal to allow Managed Care Organizations and Managed Long Term Care Plans to become Developmental Disabilities Individual Support and Care Coordination Organizations (DISCOs).