NYS Conference of Local Mental Hygiene Directors, Inc.

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The New York State Conference of Local Mental Hygiene Directors, Inc.

Joint Legislative Budget Hearing on Mental Hygiene
2016-2017 Executive Budget Proposal

February 3, 2016

Testimony Presented By:

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Executive Director

Chairwoman Young, Chairman Farrell, Assemblymember Gunther, Senator Ortt, and Committee Members, thank you for this opportunity to provide you with our feedback and recommendations on the 2016-17 Executive Budget.

My name is Kelly Hansen and I am the Executive Director of the New York State Conference of Local Mental Hygiene Directors.

The Conference of Local Mental Hygiene Directors was created by Article 41 of the Mental Hygiene Law, as the voice of the 58 Directors of Community Services (County Commissioners of Mental Health), one in each of the 57 counties and the Executive Deputy Commissioner for Mental Hygiene for the City of New York. Our members are the CEOs of the Local Governmental Unit (LGU) charged by state law with the responsibility for the planning, development, implementation, and oversight of the system of services to adults and children with mental illness, substance use disorders, and developmental disabilities who are living in local communities.

Behavioral Health Transformation Funding Cut

In the 2014-15 Enacted Budget, the Governor and Legislature committed to investing $120 million (All Funds) in Medicaid funding to support the transition of behavioral health services for adults and children into Medicaid Managed Care. This year's Executive Budget proposes to reduce this essential investment from $115 million to $95 million. Local Governmental Units are very concerned that this cut of $20 million ($10 million State Share) will result in a loss of funding for managed care readiness activities for adult and children's behavioral health services. The transition to Medicaid Managed Care and the establishment of the new HARP/ Home and Community Based Services (HCBS) for adults and the new state-plan Medicaid and expanded HCBS Waiver services for children, represent a major system transformation which requires sufficient start-up funding for successful implementation, and we believe this cut will adversely impact this success. We therefore urge the Legislature to restore this harmful cut in funding.

Children's Managed Care Readiness Funding

According to OMH, the Executive would dedicate $5 million in state funding in 2016-17 to support the transition of children's behavioral health services to Medicaid Managed Care. While we appreciate the addition of this funding, it does not come close to the amount needed to prepare the children's behavioral health system for the complete overhaul it will experience. Under children's Medicaid Redesign, the children's behavioral health system will be undergoing major reforms, including the establishment of children's health homes, the transition of children's services to Medicaid Managed Care, the expansion of State Plan Medicaid services for children and an increase in the availability of Home and Community Waiver Program services for children. For this comprehensive transformation to be implemented successfully, a substantial investment is needed by the state to support workforce

development and provider readiness, build information technology infrastructure, and establish a performance measurement system to assess progress.

The Conference recommends that the state allocate funding for the following priorities:

1. Funding is needed to support the expanded role that each county's Children and Youth Single Point of Access (C&Y SPOA) will have under Children's Medicaid Redesign. Each county C&Y SPOA, which is imbedded in the Local Governmental Unit, serves children with serious behavioral health needs by conducting screenings for referred children, developing and monitoring individualized care plans for children at risk, connecting children and families to community services, and supporting communities to manage access to intensive services. The C&Y SPOAs also ensure that the complex needs of children are met by collaborating with the school system, the Local Department of Social Services (LDSS) if the child is in child protective services, the foster care system, County Juvenile Probation and Family Court.

2. For the state to fulfil the promise of offering Evidence Based Practices (EBPs) to children and families in Medicaid, funding is needed for providers to recruit and train staff, maintain EBP credentialing and certification, and build administrative infrastructure.

3. To measure system performance, funding is needed to support data metric development in preparation for managed care and value-based payments.

The Conference believes that children's Medicaid Redesign has the potential to improve care and provide services for more children in need. However, this system transformation will be jeopardized if a substantial investment is not made by the state to prepare providers and build the necessary system infrastructure.

Community Reinvestment Resulting from Closures

Closures of State Psychiatric Beds

The Conference is pleased to see that for the third consecutive year the Executive proposes to reinvest savings back into the community related to the closure of state psychiatric beds; however, we do not agree that the proposed allocations of this funding represent the type of reinvestment that really serves the needs of the community. In 2016-17, the Executive Budget proposes to reinvest $5.5 million in new funding (fully annualized to $11 million) into the community related to the closure of 100 state psychiatric beds. In addition, the Executive recommends $2.75 million in new funding to begin to transition about 100 OMH long term care patients to skilled nursing facilities (SNFs) or Managed Long Term Care (MLTC) Programs with mental health supports. We are concerned that the use of these community reinvestment dollars to support nursing homes and MLTC Programs which already have

other available funding streams is not the best use of these funds. It is important for the Office of Mental Health (OMH) to continue to work closely with the Directors of Community Services to invest this funding into priority community-based services with a regional focus to successfully transition individuals from psychiatric centers back into the community.

OPWDD Developmental Center Closures

The Executive Budget indicates that OPWDD expects to transition 152 individuals from state developmental centers and intermediate care facilities into the community in 2016-17 and provides for $24 million in funding to support the creation of additional community-based services for these individuals. While the Conference supports the efforts by the Executive to expand community services for OPWDD clients and agrees that individuals with developmental disabilities should be served in the least restrictive and most integrated settings, we are very concerned that individuals are being discharged from state institutions before the proper services are available in the community and without ongoing communication with the Local Governmental Units.

It is important for the LGUs to develop local plans that identify the services and resources that are available and still need to be built, in order to facilitate a successful and safe transition to the community for people with developmental disabilities. The LGUs have the expertise and knowledge of the community that OPWDD needs to successfully transition people into the community.

We recommend that OPWDD adopt a model of sharing information and collaborating with LGUs, families and other stakeholders to facilitate a transparent process to ensure that adequate community based services are available to meet the needs of individuals with developmental disabilities before they are transitioned into the community from institutional settings.

Supported Housing Increase and Funding Formula

While the Executive proposes to create 6,000 new supportive housing units over the next five years, there is no new funding to ensure the financial viability of the existing OMH Supported Housing program whose reimbursement has not kept up with inflation and has been eroded by as much as 40 percent over the last 20 years.

Having access to safe, decent and affordable housing with supports is an essential component of recovery for many people with serious mental illness. In 1990, the Supported Housing program was created by the Office of Mental Health to increase permanent housing options for people with serious mental illness in the community by providing participants with a rental subsidy for an apartment along with housing support services. Individuals with serious mental illness obtain Supported Housing through the Single Point of Access (SPOA) system which is administered by the LGU and is intended to ensure that individuals with the highest mental health needs can access housing and services through an efficient and expedited process.

The Supported Housing model was originally funded and designed to serve people who could live independently and needed minimal support services. With the implementation of the state's Olmstead plan and various Medicaid Redesign initiatives, there is a growing demand to place people in Supported Housing with very complex needs who are being discharged directly from institutional settings, such as psychiatric centers, other hospitals, nursing homes, jails and prisons. These are high-need people who are at high risk of recidivating back into the hospital or jail. As this group goes through the SPOA process, LGUs are finding that Supported Housing providers do not have sufficient funding to hire the staff necessary to serve these clients and sometimes are unable to accept them into their programs, leaving SPOAs and LGUs with insufficient options for appropriate housing placements.

The Conference is very concerned that the long-term sustainability of Supported Housing in New York is in jeopardy due to the outdated reimbursement rate which was not designed to address the complex service needs of the program's current recipients and the failure of state funding over many years to keep pace with the increasing costs of rent, staffing and overall operations.

As a result, the Conference recommends a funding increase of $40 million for Supported Housing in 2016-17 and for the state to adopt a reasonable funding formula for Supported Housing going forward that reflects actual program costs and will ensure the long-term viability of the program.

Social Work Licensure Exemption

The Conference supports the Executive proposal to extend the social work and mental health practitioner licensure exemption for another five years, until July 1, 2021. This exemption would apply to individuals employed by certain programs or service organizations regulated, operated, funded or approved by OMH, OPWDD, OASAS, DOH, SOFA, OCFS, DOCCS, OTDA, and Local Governmental Units or social service districts.

Since the passage of these licensure laws, many programs have tried to recruit as many licensed social workers and mental health professionals as possible; however, due to many reasons such as the shortage of available professionals and difficulty in finding personnel in rural areas among others, these programs are still not able to fully meet proper levels of staffing and clinical services without the exemption for the public mental hygiene system in place. Additionally, these programs impacted by the exemption are already regulated under Mental Hygiene Law and subject to multiple layers of clinical and regulatory oversight which already provides sufficient protection to the population it serves. The failure to extend the licensure exemption would have a significant negative impact on access to services, as clients will be unable to find or will be forced to wait for an opening for a licensed clinician to receive mental health counseling. And finally there will be serious financial consequences if the exemption expires in 2016. According to the Division of Budget (DOB), expiration of the exemption would cost the state, localities and the voluntary sector $325 million annually to hire and train new licensed staff. It is critical for the public mental hygiene system that this exemption is extended by the Legislature.

Jail Based Restoration to Competency Programs for Felony Defendants

The Executive Budget would amend Section 730.10 of the Criminal Procedure Law (CPL) to allow volunteering counties to establish jail based restoration to competency programs for felony defendants. Currently, felony defendants who have been determined to lack capacity to understand the charges against them or assist in their own defense are transferred to an OMH psychiatric center or an OPWDD developmental center to undergo treatment in an effort to restore them to competency. The costs for defendants who are court ordered into state inpatient custody under CPL 730 are currently paid by the state and county each paying 50 percent of the daily cost. Under this proposal payment for persons committed to a local jail mental health unit would be shifted entirely to localities. OMH believes this county cost shift is favorable for localities because 100 percent of the cost of a day in jail is cheaper than the current 50 percent county share of a state hospital bed.

However, there are other issues to consider besides cost. First, we believe in general that a local jail is an inadequate and inappropriate setting for a defendant to be restored to competency. Unlike state hospitals, jails cannot obtain court orders to medicate over objection of an individual which would be a significant barrier to restoring an individual to competency. Most jails have neither the physical space nor the appropriate level of clinical staff to conduct restorative treatment. They are not set up to do restoration and would require significant ramp-up costs which are not provided for in this proposal.

In order for counties to establish jail based restoration units the local sheriff's department would have to agree to them. At this time, we are not aware of any county that would be interested in creating these units in their jails. However, the Executive is expecting that some counties would be interested and is estimating a state savings of about $2 million related to this proposal.

As an alternative, the Conference has for many years supported legislation that would only require a county share of CPL 730 costs for the first 30 days of treatment. Given that all courts are now unified into a single statewide system, that the state has custody of all individuals receiving treatment under a CPL 730 court order and that we are seeing many of these defendants coming directly from state operated facilities, we believe there is no reason that counties should be held accountable for costs that are completely out of their control. We want to thank Senator Ritchie and Assemblyman Ortiz for sponsoring this bill (S.2465/A.5846), and Senator Ortt for reporting the bill out of the Senate Mental Health Committee last month. We would suggest that inclusion of such a provision rather than the Article VII provisions recommended by the Executive would much better serve the needs of local governments.

Combat Heroin/Opioid Abuse

The Executive Budget includes a total of $141 million to address the growing heroin and opioid epidemic in communities across the state. According to the Executive, these funds would continue to support heroin and opioid abuse prevention, treatment and recovery programs. The Conference is

supportive of the current efforts by OASAS to combat heroin and opioid abuse, and we would also recommend that the state allocate funding for the treatment of chemical dependency in jails and toward building community coalitions to collaborate around this issue.

I thank you for the opportunity to address you regarding the Conference's thoughts and concerns about this year's budget and can provide you with any further information or answer any questions at this time.