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: February 1, 2017
SUBJECT: SFY 2017-18 EXECUTIVE BUDGET ANALYSIS

General Overview of the Executive Budget

On January 17, 2017, Governor Cuomo released his State Fiscal Year (SFY) 2017-18 Executive Budget. For 2017-18, the Governor proposes a total spending plan of $152.3 billion which is an increase of 1.9 percent in state operating funds from 2016-17. For the seventh consecutive year, Governor Cuomo proposes holding down spending growth below two percent. The Executive proposal would close a $3.5 billion budget deficit projected for 2017-18.

This year, the Executive has inserted language throughout the budget that authorizes the Director of Budget to reduce appropriations as necessary, if the amount of revenues (including federal revenues) are less than the amounts assumed in the state's financial plan. These changes would be made without input from the Legislature.

The Budget Process from Here

After the release of his Executive Budget, Governor Cuomo may amend the budget bills within thirty days of their submission to the Legislature. Over the past five budget cycles, the Governor has amended his budget twice: once under "21-day amendments," and a second time in "30-day amendments."

Upon receiving the Governor's budget, the Senate and Assembly review the bills and hold joint public hearings at which state agency commissioners and dozens of statewide associations, unions, and members of the public testify about the budget. The mental hygiene hearing will be held on February 6, and the Conference will testify. After these hearings, the Senate and Assembly will each introduce their own one-house versions of the budget (based on the Executive Budget framework), come to an agreement on the amounts of revenue available, and negotiate the final budget using budget conference committees. The State Fiscal Year begins on April 1, 2017. For the last six years, the Legislature has passed an on-time budget.

State Psychiatric Center Downsizing and Community Reinvestment

In 2017-18, the Executive proposes to reinvest $5.5 million (fully annualized to $11 million) in new funding into the community due to the closure of 100 state psychiatric beds. This funding proposal represents a reinvestment of $110,000 into the community for every inpatient bed that is closed. Reinvestments would be made prior to any bed closures, and before any reduction in bed capacity is implemented a bed must be vacant for 90 days. When fully implemented, this would bring the total amount of reinvestment funding committed since SFY 2014-15 to $92 million annually. While there are no planned closures of state psychiatric centers in 2017-18, the Executive proposes to continue the planned merger of Western New York Children's Hospital with the Buffalo Psychiatric Center.

Once again, the Executive bypasses or "notwithstands" the Community Reinvestment Law (Section 41.55 of the MHL). In budget appropriation language (the same as last year), the Governor proposes that this reinvestment 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.

Medicaid Investment for Behavior Health Initiatives

The Executive Budget proposes to reduce the annualized behavioral health Medicaid investment from $95 million to $85 million for just one year, due to a delay in the implementation of the six new behavioral health services for children under State Plan Medicaid. The 2014-15 Enacted Budget included an investment of $115 million (All Funds) in Medicaid funding, for the following behavioral health initiatives: managed care start-up grants; integration of behavioral and physical health; Health Home Plus; OASAS residential restructuring, HARP home and community based services (HCBS); and Vital Access Provider (VAP) Program to preserve critical access to behavioral health services around the state. The 2016-17 Enacted Budget reduced this behavioral health investment from $115 million to $95 million.

$110 Million HARP Premium Reinvestment

Due to a reduction in the New York City HARP premiums, the Executive recommends a reinvestment of $110 million from HARP savings into the behavioral health care delivery system. This funding would be allocated as follows:

- $25 million to support 20 new ACT teams targeted for high-risk populations including the homeless. OMH would develop 20 new ACT teams (for a total of 1,020 slots) in New York City and develop five new Act teams (for a total of 240-340 slots) in the rest of the state.
- $25 million to combat the heroin and opioid epidemic. This funding would be in addition to the $30 million increase under the OASAS budget.
- $60 million (over three years) to provide VBP readiness grants to behavioral health community provider networks.

State Takeover of Medicaid Local Share Growth

The Executive proposes to reduce State Medicaid cost sharing to New York City by $50 million, except this cut would not be implemented if the City enters into a joint savings allocation plan with DOH to increase allowable federal claims for preschool and school supportive health by $100 million. The joint savings allocation plan must be approved by DOH, and a determination would be made annually as to whether New York City will achieve the savings identified in the joint savings allocation plan and avoid any disallowances of State Medicaid cost sharing.

For all social services districts except New York City, the Executive Budget would continue the state's commitment to cover the full cost of any growth in non-federal Medicaid expenditures.

Second Statewide Health Care Facility Transformation Program

The Executive Budget includes $500 million in capital funding to create a second round of the Statewide Health Care Facility Transformation Program. The program, as it did last year, would provide funding to support capital projects, debt retirement, working capital and other non-capital projects that facilitate health care transformation and expand access to health care services. At least $30 million would be allocated to community-based health care providers that demonstrate they would fulfill a need for acute inpatient, outpatient, primary, home care or residential health services in a community. These providers would include D&TCs, Art 31 and Art 32 OMH and OASAS clinics, primary care providers and home care providers. Although the minimum of $30 million for community-based providers is the same as last year (15 percent of the total), the first year of the program was only funded at $200 million. This year the total amount of proposed funding is $500 million and 15 percent of the total amount would be $75 million. Priority would be given to projects that do not receive round one funding under the 2016-17 Statewide Health Care Facility Transformation Program.

Extension of Medicaid APG Government Rates

The Executive Budget would extend the Medicaid managed care ambulatory patient group (APG) rates for OMH and OASAS licensed clinical services and Child Health Plus behavioral health clinical services from June 30, 2018 to March 31, 2020. The APG rates would also be expanded to apply to all non-clinical behavioral health services except for inpatient services. However, the extension is tied to benchmarks for the development of Value Based Payments (VBP), as follows:

- For the period of April 1, 2017 - March 31, 2018: 10% of managed care expenditures must be paid through level one VBP arrangements per the Roadmap for Medicaid Payment Reform

- For the period April 1, 2018 - March 31, 2019: 50% of managed care expenditures must be paid through level one VBP arrangements and 15% must be paid through level 2 arrangements per the Roadmap

- For the period April 1, 2019 - March 31, 2020: 80% of managed care expenditures must be paid through level one VBP arrangements and 35% must be paid through level 2 arrangements per the Roadmap

The Commissioners of DOH, OMH and OASAS may waive such VBP requirements if a sufficient number of providers suffer a financial hardship as a consequence of these VBP arrangements or if it is determined by the Commissioners that the VBP arrangements significantly threaten individuals' access to behavioral health services.

Health Care Regulation Modernization Team

The Executive Budget recommends the establishment of a Health Care Regulation Modernization Team modeled on the Medicaid Redesign Team (MRT). This multi-stakeholder group would be tasked with providing guidance on a fundamental restructuring of the statutes, regulations and policies that govern the licensure and oversight of health care facilities and home care in order to align them with delivery system reforms. If authorized, the Modernization Team would begin its work no later than July 1, 2017, and report its findings and recommendations to the Governor by December 31, 2017.

The team would consist of 25 voting members consisting of state employees or officers with relevant expertise, the chair and co-chair of the Public Health and Health Planning Council, representation from the Assembly and Senate, and stakeholders with expertise in areas related to inpatient and outpatient health care delivery, behavioral health care delivery, home health care, community based organizations, health care insurance, health care workforce, health care facility design and construction, consumer rights, and other relevant areas.

The work group's specific areas of focus would include, but not be limited to:

• Streamlining Certificate of Need and other licensure or construction approval processes;

• Identifying, streamlining, and aligning statutes, regulations and polices where there is duplication and inconsistency in federal and State standards;

• Creating more flexible rules related to: licensing and scope of practice for clinicians and caregivers; telehealth; and alternative models of delivering health care services;

• Streamlining and simplifying the provision of primary care, mental health and substance use disorder services in an integrated clinic setting;

• Aligning care models around home and community based services consistent with New York State's Olmstead Report;

• Exploring circumstances where statewide regulatory requirements may not be appropriate for regions or communities characterized by isolation, poverty, or other factors impacting access;

• Evaluating where changes in statute, regulation and policy can support timely and effective emergency medical services and pre-hospital care; and

• Where permanent changes in statute or regulation may not yet be appropriate, authorizing the implementation of pilot programs to test and evaluate new and innovative models of health care.

By January 31, 2018, the Commissioner of Health would recommend to the Governor whether the health care regulation modernization team should continue.

<u>Medicaid Pharmacy - Prescriber Prevails</u>
The Executive Budget would eliminate prescriber prevails provisions in both Medicaid fee-for-service and Medicaid Managed Care for all drugs except for atypical anti-psychotics and antidepressants.

<u>Medicaid Pharmacy - Prior Authorization of Refills of Controlled Substances</u>
The Executive Budget would authorize DOH to require prior authorization of any refill of a controlled substance when more than a 7-day supply of the previously dispensed amount should remain, if the drugs had been used as directed. Existing law provides DOH with this authority in relation to refills of any prescription when more than a 10-day supply should remain.

<u>Medicaid Pharmacy – Opioid Prescribing</u>
The Executive Budget would make it an unacceptable practice in the Medicaid program to prescribe opioids in violation of applicable laws or contrary to recommendations issued by the Drug Utilization Review Board, including violations of the following: the prior authorization requirement for opioid prescriptions in excess of four per month, the prior authorization requirement for refills when more than a seven-day supply should remain, and any other law restricting prescribing of opioids. Prescribers guilty of an unacceptable practice can be excluded from the Medicaid program.

Cross-Agency Items

<u>Deferment of the Human Services Cost of Living Adjustment (COLA)</u>
The Executive Budget proposes to defer for one year the 0.8 percent Cost-of-Living Adjustment (COLA) for not-for-profit providers associated with the following state agencies: OMH, OASAS, OPWDD, OCFS, DOH, OTDA and SOFA. The statutorily required COLA is based upon the consumer Price Index (CPI). This proposal

would generate state savings of $3.2 million for OASAS, $9.85 million for OMH and $18.39 million for OPWDD.

Minimum Wage and New Overtime Exempt Salary Thresholds
The Executive recommends a total of $284.6 million in state share funding to support direct provider costs associated with the increase in the minimum wage, including $255.4 million in DOH, $14.9 million in OPWDD, $4.6 million in OASAS, $3.5 million in OMH and $6.2 million in the State Education Department. The 2016-17 Enacted Budget included a minimum wage increase from $9 to $15 an hour statewide which will be phased-in and fully implemented in New York City by December 31, 2018 and for the rest of the state by July 1, 2021.

On January 1, 2017, the New York State Department of Labor increased the overtime exempt salary thresholds for New York employees. The Executive Budget does not include any funding to help providers pay for these increased salary costs. The minimum exempt salary requirements for employees in New York State are based on the following schedules:

Minimum Exempt Weekly Salary – New York City

Date	**Large NYC Employers (11 or more employees)**	**Small NYC Employers (10 or fewer employees)**
12/31/16	$825.00/week	$787.50/week
12/31/17	$975.00/week	$900.00/week
12/31/18	$1,125.00/week	$1,012.50/week
12/31/19		$1,125.00/week

Minimum Exempt Weekly Salary – New York State

Date	**Downstate – Nassau, Suffolk, and Westchester Counties**	**Remainder of New York State**
12/31/16	$750.00/week	$727.50/week
12/31/17	$825.00/week	$780.00/week
12/31/18	$900.00/week	$832.00/week
12/31/19	$975.00/week	$885.00/week
12/31/20	$1,050.00/week	$937.50/week
12/31/21	$1,125.00/week	

Other Items of Interest

Juvenile Justice - Raise the Age
Once again, the Executive proposes to raise the age of juvenile jurisdiction in two stages: from age 16 to 17 by January 1, 2019 and to age 18 by January 1, 2020. He also proposes to raise the minimum age of juvenile jurisdiction from age seven to 12 by January 1, 2019 for all offenses except in cases of murder which would remain at age 10. Offenders younger than 18 would be prohibited from being confined in adult prisons or jails and would be incarcerated in special facilities. In addition, the Executive recommends the creation of new youth courts to deal with criminal cases involving offenders younger than 18. The Executive Budget includes $110 million in capital funding to be used for new and existing facilities in the implementation of the Raise the Age initiative.

Voluntary Foster Care Agencies and Managed Care
As part of Medicaid Redesign, all Foster Care children placed with Voluntary Foster Care Agencies are intended to transition into Managed Care from the current fee-for-service model in January 2019. Managed Care plans can only enter into contracts with organizations licensed to provide health-related services. However, the Department of Health (DOH) does not license Voluntary Foster Care Agencies as health care providers. Absent this licensure, Voluntary Foster Care Agencies will not be able to contract with Managed Care plans for health-related services after Foster Care children transition to Managed Care plans in January of 2019. To resolve this issue, the Executive Budget would require that any Voluntary Foster Care Agency that provides certain health-related services must obtain a license issued by DOH in conjunction with the Office of Children and Family Services (OCFS).

Justice Center for the Protection of People with Special Needs
The Executive proposes $54.5 million All Funds appropriations for the Justice Center, no change from 2016-17. The Executive Budget recommends support for 441 Full Time Equivalents (FTEs) employees, no change from last year.

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:

	2017-18 proposed	2016-17 Available	Difference	
State Ops	$121,162,000	$121,902,000	(740,000)	-0.61%
local aid	$504,177,000	$501,490,000	2,687,000	0.54%
capital	$68,000,000	$33,000,000	35,000,000	106.06%
TOTAL	**$693,339,000**	**$656,392,000**	**36,947,000**	**5.63%**

The Executive Budget proposes $693 million in All Funds appropriations for OASAS, which represents an increase of $37 million from 2016-17. The new funding would be used to combat the heroin and opioid epidemic, preserve community-based treatment facilities and renovate and modernize the state-operated Addiction Treatment Centers (ATCs). The Executive Budget also recommends a total workforce of 741 full time equivalent (FTE) employees, representing no change from 2016-17.

Combat Heroin/Opioid Abuse Initiatives
The Executive Budget includes a total of nearly $200 million, an increase of $30 million from last year, to address the heroin and opiate epidemic. These funds would continue to support prevention, treatment and recovery programs targeted toward chemical dependency, residential service opportunities, and public awareness and education activities.

Specifically, the funding would enable OASAS to implement the following initiatives:

- **Residential Treatment Beds -** Fund 80 new residential beds run by not-for-profit providers

- **Opioid Treatment Program Slots -** Authorize 600 additional Opioid Treatment Program (OTP) slots

- **Community Coalitions** - Fund 10 new community coalitions to allow cross-sector collaboration on the prevention and treatment of SUDs

- **Family Support Navigators** - Fund another 10 Family Support Navigator Programs, for a total of 20 programs statewide (two in each Regional Economic Development Council)

- **On-Call Peers** - Fund another 10 Peer Engagement Programs, for a total of 20 programs statewide (two in each Regional Economic Development Council)

- **Adolescent Clubhouses** - Fund 8 new Adolescent Clubhouses, for a total of 15 statewide, including five in NYC, two in the Mohawk Valley and one in each of the Regional Economic Development Councils

- **Recovery Community and Outreach Centers** - Fund five new Recovery Community and Outreach Centers, for a total of 14 centers statewide

- **24/7 Urgent Access Centers** - Establish 10 24/7 crisis treatment centers around the state to provide individuals with access to SUD services immediately

- **Recovery High Schools** - Establish recovery high schools in regions of the State especially hard hit by the disease of addiction. Boards of Cooperative Educational Services (BOCES) would submit proposals to OASAS to establish the first schools, one upstate and one downstate, in partnership with local social service agencies. Enrollment would be open to all high school students with a diagnosis of a substance abuse disorder and a commitment to recovery.

Commercial Gaming Fund
The Executive Budget would establish a commercial gaming fund with an appropriation of $3.3 million to allow OASAS to receive revenue from commercial gaming activities. This funding could be used for problem gambling services and/or any other OASAS services if approved by the Director of the Budget.

OASAS-related Article VII Budget Bill Proposals:

Creation of Recovery High Schools
The Executive Budget would authorize OASAS to approve two Boards of Cooperative Educational Services (BOCES) in the state to provide Recovery High School programs for students diagnosed with a substance use disorder who have demonstrated a commitment to recovery. Such programs would include: a comprehensive high school education; a structured plan of recovery for students; partnership with a local social services agency with expertise in substance use disorder and mental health; and additional program elements adopted in regulations by the Commissioner of OASAS. Recovery High School programs would be eligible to receive BOCES aid from the state. The designated BOCES programs would enter into contracts with OASAS or any other organization for the purpose of operating a Recovery High School.

Office of Mental Health

OMH ALL FUNDS APPROPRIATIONS:

	2017-18 proposed	2016-17 Available	Difference	
State Ops	$2,281,712,000	$2,238,777,000	42,935,000	1.92%
local aid	$1,458,260,000	$1,444,348,000	13,912,000	0.96%
capital	$374,472,000	$323,472,000	51,000,000	15.77%
TOTAL	**$4,114,444,000**	**$4,006,597,000**	**107,847,000**	**2.69%**

The Executive Budget proposes $4.1 billion in All Funds appropriations for OMH, which represents an increase of $107.1 million from the 2016-17. The Executive Budget also recommends a total workforce of 13,847 full time equivalent (FTE) employees, representing a decrease of 353 FTEs from 2016-17.

Fund 280 New Supported Housing Community Beds
The Executive Budget proposes to close 140 state operated residential beds and invest $4.6 million to open 280 new community-based, scattered site supported housing beds in the same geographical areas.

Enhance Support for Existing Residential Programs
The Executive Budget includes $10 million in new funding to preserve access and enhance support for existing supported housing and single residence occupancy (SRO) programs. The funding would mainly be used to increase rental stipends.

Redesign Service Dollars Administration
The Executive Budget proposes to standardize the oversight and monitoring of Service Dollars to ensure that funds are used consistently with OMH guidelines. Service Dollars are for emergency and non-emergency client needs and are to be used as payment of last resort. OMH anticipates a state savings of $3 million from the redesign of Service Dollars Administration.

OMH State-Operated Outpatient Clinics Reductions
OMH would review clinic treatment services at all 85 state-operated facilities. Reductions would be targeted to low-performing facilities and remaining resources would be redirected to nearby clinics with higher productivity and capacity. OMH anticipates a state savings of $4 million from the reorganization of state-operated clinics.

Revamp Hutchings Children and Youth Services
The Executive proposes to revamp Hutchings Children and Youth Services by authorizing the facility to partner with an Article 28 hospital to deliver existing OMH services, expand current bed capacity and improve the coordination and delivery of services. The state is in preliminary discussions with SUNY Upstate. OMH is anticipating a state savings of $934,000 from this proposal.

Residential Treatment Facility (RTF) Pilot Projects
The Executive proposes up to $5 million in funding for RTF transformation pilots.

OMH-related Article VII Budget Bill Proposals:

Jail-Based Restoration to Competency Programs
The Executive Budget would amend Section 730.10 of the Criminal Procedure Law (CPL) to authorize OMH to work with <u>volunteering counties</u> to establish jail-based restoration to competency programs for felony-level defendants. This proposal would also allow restoration to competency to take place in mental health units in state prisons. Restorations are currently only authorized at OMH psychiatric centers, OPWDD developmental centers, psychiatric units at Article 28 hospitals, or on an outpatient basis in the community.

According to the Executive, the cost per restoration is approximately $128,000. The state and counties each pay 50 percent of this cost. The Executive estimates that the per bed costs to restore these defendants in a jail-based setting would be roughly one-third of the cost of a state facility (about $42,500 per restoration annually). The Executive anticipates that this proposal would save participating counties 33 percent of what they spend for 730 restoration services. We would argue that cost is only one part of the issue. A jail is not

the appropriate therapeutic setting to conduct competency restoration. Moreover, jails have neither the physical space nor the appropriate level of clinical staff to conduct restorative treatment.
The Executive estimates that this proposal would generate $2.2 million in state savings. The Executive Budget also includes an appropriation of $850,000 to provide state aid grants to any county that develops and operates a jail based restoration program.

Office for People with Developmental Disabilities

OPWDD ALL FUNDS APPROPRIATIONS:

	2017-18 proposed	2016-17 Available	Difference	
State Ops	$2,148,560,000	$2,153,901,000	(5,341,000)	-0.25%
local aid	$2,260,280,000	$2,248,926,500	11,353,500	0.50%
capital	$86,000,000	$28,000,000	58,000,000	207.14%
TOTAL	**$4,494,840,000**	**$4,430,827,500**	**$64,012,500**	**1.44%**

The Executive Budget proposes $4.5 billion in All Funds appropriations for OPWDD in SFY 2017-18 which represents an increase of $64 million from 2016-17. The Executive Budget also recommends a year-end workforce target of 18,602 full time equivalent (FTE) employees, representing a decrease of 253 FTEs from 2016-17, primarily related to the attrition of staff.

OPWDD Service Expansion
The Executive Budget recommends $120 million (All Funds) in funding to support new service opportunities for individuals currently living at home or in residential schools as they transition to adult services in the OPWDD system. These resources would support expanded services throughout OPWDD's continuum of care, including certified and non-certified residential opportunities, day programs, employment, case management, and respite services.

START Program
The Executive Budget includes $12 million in new funding to expand START (Systemic Therapeutic Assessment, Respite and Treatment) Programs in the downstate area. START is a crisis and prevention response model that was implemented by OPWDD in 2014.

Transition of Individuals to the Community
The Executive recommends continuing its commitment of providing $24 million in funding to transition individuals from developmental centers (56 individuals) and intermediate care facilities (100 individuals) to more integrated community-based settings. The Executive anticipates the closure of Bernard Fineson Developmental Center by March 31, 2017.

OPWDD Transition to Managed Care
The OPWDD system will transition to managed care in phases, beginning with the development of regional Care Coordination Organizations (CCOs), an enhanced care coordination model, before a transition to a fully capitated rate structure. Beginning in late 2017, CCOs are expected to begin operations and will be rolled out on a regional basis. Enrollment on a voluntary basis in managed care is expected in 2019, and the transition to managed care is planned to be completed within five years. Medicaid Global Cap resources would be used to support the initial start-up costs of transitioning the OPWDD service delivery system from a fee-for-service payment structure to managed care.

Institute for Basic Research on Developmental Disabilities
The Executive proposes to establish a blue ribbon panel to examine the feasibility of transitioning the Institute for Basic Research on Developmental Disabilities from OPWDD to the CUNY College of Staten Island.