



TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS
FROM: COURTNEY DAVID, DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: APRIL 19, 2021
SUBJECT: ENACTED SFY 2021-22 EXECUTIVE BUDGET ANALYSIS

GENERAL OVERVIEW

On April 7th, a week past the start of the State’s new fiscal year, the Legislature passed all remaining budget bills and approved a \$212 billion spending plan for SFY 2021-22.

The recent \$1.9 trillion American Rescue Plan delivered \$12.6 billion in unrestricted federal relief to the State with an additional \$10.8 billion going directly to counties and local municipalities. The influx of these federal dollars, coupled by the Legislature’s push for various revenue raising initiatives has helped alleviate the State’s \$15 billion budget gap going into this next fiscal year.

The Enacted Budget was a major win for Legislative Leaders as their negotiation power reached an all-time high due to Democratic supermajorities in both Houses and recent allegations of misconduct and harassment by the Governor. As a result, the Legislature was able to leverage and approve a robust and progressive budget that included \$2 billion in COVID relief for undocumented workers, nursing home reforms, and long sought tax increases on the wealthy. Additionally, lawmakers rejected a handful of the Governor’s budget priorities, including the creation of a COVID-19 emergency relief fund that would have allowed the Executive authority to control spending of any new revenue raisers, authority for periodic spending adjustments, and a permanent 5% cut to local assistance. The Executive’s proposal to implement a 1% across-the board Medicaid cut was also rejected in the final budget.

A week prior to the enactment of the budget, a three-way agreement was announced to remove cannabis legalization from the budget process and pass as stand-alone legislation entitled, “The Marijuana Regulation and Taxation Act (MRTA). The MRTA is anticipated to raise an estimated \$350 million in annual revenue with \$75 million earmarked for local governments. Cities, towns, and villages may opt-out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses by passing a local law by December 31, 2021 or nine months after the effective date of the legislation. They cannot opt-out of adult-use legalization.

The bill also establishes a cannabis revenue fund that will be used for various purposes, including, but not limited to, impacts on public health and the treatment of cannabis use disorder, public safety issues, economic impacts on the public and private sectors. Leftover revenue will then be placed into the state

lottery fund, with two additional sub-funds created within the cannabis revenue fund known as the drug treatment and public education fund and the community grants reinvestment fund. Twenty percent (20%) will be allocated for the drug and education fund, and forty percent (40%) for the community grant reinvestment fund to provide grants to community based nonprofits and local government entities. Revenue from this fund will be directed to communities disproportionately affected by past federal and state drug policies and will support various community-based services, including but not limited to, mental health and SUD treatment, housing, and legal services to address barriers to reentry.

With approximately eight weeks left in the 2021 Regular Legislative Session, lawmakers will look to increase bill introduction and advance remaining legislative priorities before Session concludes on June 10th. CLMHD staff continues to monitor an extensive bill tracking report that consists of over 450 active bills. Updates will be sent to membership, as needed, on the status of all legislative activity that is of interest or concern.

STATUS OF CLMHD BUDGET PRIORITIES FOR SFY 2021-22

REJECTED - State Aid withholds and 5% permanent cut to local assistance programs – OMH, OASAS and OPWDD

The Enacted Budget rejects the Governor’s proposal to implement a permanent 5% cut to local assistance and future State Aid Withholds. 2020 withholds have been restored.

ACCEPTED - 3 YR Extension of Community Reinvestment with a 1 YR Withhold (Expires 3/31/22)

The Enacted Budget accepts the Governor’s proposal to extend community reinvestment for three years and allows the State to withhold one year’s reinvestment to achieve State savings of \$22 million. This provision sunsets 3/31/2022.

REJECTED - Funding to the Regional Planning Consortium (RPC)

The OMH grant to support the RPC was not restored in the final budget, however further discussions regarding continuation of the project are ongoing between CLMHD and OMH.

RESTORED AND ENHANCED - Funding for Substance Use Disorder (SUD) Treatment and Transition Services in County Jails

The Enacted Budget restores \$3.75 million has been restored for jail-based SUD treatment and transition services and includes an increase of \$5 million through a legislative addition to support for medications for jail-based MAT. Total appropriation achieved \$8.75M.

ACCEPTED - Comprehensive Crisis Stabilization Reform

The Enacted Budget accepts the Governor’s proposal to establish crisis stabilization centers.

REJECTED - Creation of the Office of Addiction and Mental Health Services

The Enacted Budget rejects the Governor’s proposal to consolidate OMH and OASAS into one unified agency. Talks continue post budget as to possible advancement of this initiative through stand-alone legislation.

ACCEPTED - Comprehensive Regulatory Telehealth Reform

The Enacted Budget accepts the Governor’s proposal to expand telehealth services. The provisions allow for any site in the U.S. or its territories to be designated as an eligible distant site for delivery and

payment purposes. Adds certified peer recovery advocate services and peer providers credentialed by OASAS and peers certified or credentialed by OMH as telehealth providers.

ACCEPTED - Bring it Home Campaign/OMH Supported Housing

The Enacted Budget includes \$20M to support OMH housing rates with a portion of federal dollars to be used for Medicaid housing programs (no local share). \$60M in Capitol funds for property preservation, and \$250M for a 6th round of ESSHI grants.

OTHER AREAS OF INTEREST

Opioid Settlement Funds

The Enacted Budget directs \$32 million in opioid settlement funds from the McKinsey Lawsuit to the General Fund with an intent to direct funds towards the treatment and prevention of Opioid Use Disorder (OUD).

Restoration of 1% Cost of Living Adjustment (COLA) for Human Services

The Enacted Budget includes the following COLA adjustments:

- \$4.325 million for OASAS
- \$14.96 million for OMH
- \$26.9 million for OPWDD
- \$2 million for SOFA
- \$2.5 million for OCFS

Enhanced Federal Medical Assistance Percentage (FMAP) Rate Increases for HCBS Services

The Enacted Budget includes appropriation authority for OMH, OASAS and OPWDD to direct increases/adjustments to the enhanced FMAP of 10% to support HCBS and rehabilitative services for one year starting 4/1/2021 to 3/31/2022. The agencies await further guidance from CMS with the specifics and parameters for allowable spending.

CMHS & SAPT Block Grant Funding

Last month, OMH received a notice of award from SAMHSA for the supplementary Community Mental Health Services Block Grant (CMHS) as part of the recently approved federal stimulus relief packages. Through this grant, OMH is set to receive \$43.5 million from 3/15/2021 to March 2023 with an additional award that must be expended by September 30, 2025, anticipated to be upwards of \$90 million. Funds are restricted to community mental health services for adults with SMI or children with SED. The State is not allowed to use funds on inpatient, residential services, capital infrastructure or providers' losses.

Additionally, OASAS has been awarded the supplementary Substance Abuse Prevention and Treatment Block Grant (SAPT) totaling \$104.8 million. This grant also covers two rounds of funding. There is no state cost sharing/matching and a 20% set aside for prevention (approx. \$21 million). Authorized activities include the planning, carryout and evaluation of SUD, HIV and TB activities and co-occurring disorders. Restricted activities include hospital inpatient services, cash payments to recipients of services, purchase of land/bldg, for profits, supplying of syringes and no medical marijuana for SUD or

MH. However, OASAS has indicated SAMHSA will allow some flexibility for the use of funds through the availability of waivers.

CLMHD Committee Chairs and staff have been working closely with OMH and OASAS and have provided LGU specific recommendations for their consideration.

Essential Plan

The Enacted Budget eliminates \$20 premiums for those insured under the State’s Essential Plan.

Mobile Sports Betting

The Enacted Budget includes the authority to allow for mobile sports betting in the State and outlines revenue at over \$500 million annually which will be used to support youth sports, education and efforts to combat problem gambling. No new casinos were authorized under the statute.

Broadband Accessibility

The Enacted Budget includes a first-in-the-nation provision to require internet service providers to offer internet plans costing \$15 per month for eligible low-income customers, and free internet access to 50,000 students through the ConnectedED NY Emergency Fund.

FULL ANALYSIS –AGENCY PROPOSALS

Department of Health (DOH)/Medicaid

ALL FUNDS APPROPRIATIONS (dollars)

Category	Executive Proposed	Enacted	Difference
State Operations	3,273,961,000	3,278,061,000	4,100,000
Aid To Localities	184,551,596,800	190,356,747,971	5,805,151,171
Capital Projects	221,170,000	221,170,000	0
Total	188,046,727,800	193,855,978,971	5,809,251,171

(The Enacted Budget did not include new DOH appropriations as part of the Capital Projects Bill)

The Enacted Budget includes \$2 billion for increased minimum wage costs.

Other DOH focused items of interest:

DSRIP

The Enacted Budget extends the continuation of the DSRIP regulatory waiver authority through 12/31/2024.

1115 Medicaid Waiver

The Enacted Budget accepts the Governor's proposal for the submission of a new 1115 Medicaid Waiver extension.

Global Spending Cap

The Enacted Budget extends the Medicaid Global Cap spending authority through SFY 2022-23 and changes reporting requirements on spending from monthly to quarterly.

Health Homes

The Enacted Budget includes \$524.01 million for the continuation of Health Homes.

Healthcare Transformation

The Enacted Budget accepts the Governor's proposal to extend re-appropriation authority to issue grants to eligible healthcare providers through the Healthcare Transformation Fund.

MMC Value Based Payment (VBP) Regional Demonstration Program

The Enacted Budget allows for a new Medicaid Managed Care VBP regional demonstration program in one of the following regions: WNY, CNY, Southern Tier or Capital Region.

Medical Respite Program

The Enacted Budget accepts the Governor's proposal to establish Medical Respite Program to provide care to homeless patients who are too sick to be on the street or in a traditional shelter, but not sick enough to warrant inpatient hospitalization. Designed to provide temporary room and board and the arrangement of health care and support services in order to improve the health of medically impacted homeless individuals while also decreasing costly hospital use.

Pharmaceutical Efficiencies

The Enacted Budget delays MMC Carve-out for 2 years to 4/1/23 and rejects Executive's proposals to eliminate prescriber prevails and regulate pharmacy benefit managers (PBMs).

Hospital Actions

The Enacted Budget restores the Public Indigent Care Pool (ICP) and restores the hospital capital rate add-on.

Residential Health Care for Children with Medical Fragility

The Enacted Budget establishes a demonstration program for two residential health care facilities to provide residential health care for children with medical fragility, as defined in transition to young adults and for young adults.

Office of Mental Health (OMH)

ALL FUNDS APPROPRIATIONS (dollars)

Category	Executive Proposed	Enacted	Difference
State Operations	2,217,733,000	2,229,733,000	12,000,000
Aid To Localities	1,683,367,000	1,723,687,000	40,320,000
Capital Projects	534,472,000	534,472,000	0
Total	4,435,572,000	4,487,892,000	52,320,000

(The Enacted Budget did not include new OMH appropriations as part of the Capital Projects Bill)

The Enacted Budget increases community mental health program funding by \$26.3 million in SFY 2021-22.

1% COLA Increase

The Enacted Budget includes \$14.96 million for COLA increases.

Minimum Wage

The Enacted Budget includes \$5.1M to support the costs of the move to \$15 p/hr minimum wage.

Behavioral Vital Assistance Program (VAP) Funding

The Enacted Budget continues this level of funding at \$50 million.

State Psychiatric Center Downsizing and Community Reinvestment

The Enacted Budget extends the Commissioner's authority for reinvestment for an additional 3 years, and includes a notwithstanding provision to suspend reinvestment for 1 year to direct \$22 million in savings into the General Fund. This provision sunsets 3/31/2022.

Enhance Support for Existing OMH Residential Programs

The Enacted Budget includes \$20M to support OMH housing rates with a portion of federal dollars to be used for Medicaid housing programs (no local share). \$60M in Capitol funds for property preservation, and \$250M for a 6th round of ESSHI grants.

Establish Crisis Stabilization Centers

The Enacted Budget authorizes the launch of Crisis Stabilization centers. These centers shall serve as a voluntary and urgent service provider for persons at risk of a mental health or SUD crisis or who are experiencing a crisis related to a psychiatric and/or SUD that are in need of crisis stabilization services. Each center shall provide or contract to provide person centered and patient driven crisis stabilization services for mental health or SUD 24/7. Each center must submit a plan to be approved by the Commissioners prior to the issuance of a license. Centers are also required to participate in county and community planning annually, and as additionally needed to participate in local community service planning processes. Staffing must include a multi-disciplinary team which must include one psychiatrist or psychiatric nurse practitioner, a CASAC, and one peer support specialist at all times.

Previously established centers may be issued a license if the provider can demonstrate compliance to the new statute. Funding will be provided for first responders and law enforcement for training and other entities deemed necessary. For persons in need of emergency observation under 9.41, 9.43, 9.45 or 9.58, the referring must inform the individual of the available services and the center may conduct an assessment prior to accepting the referral. The Center can make a referral to hospital or other emergency program if needs cannot be met.

Effective date is January 1, 2022.

Create the Office of Addiction and Mental Health Services

The Enacted Budget rejects the creation of a consolidated OMH and OASAS Agency.

Comprehensive Outpatient Services

The Enacted Budget rejects the proposal authorizing the Commissioners of DOH, OMH and OASAS to jointly establish a single set of licensing standards and requirements for the construction, operation, reporting and surveillance of comprehensive outpatient services centers.

Operating Certificate Authority

The Enacted Budget accepts the proposal to allow the Commissioner to establish a schedule of fees for process applications for the issuance of operating certificates.

Kendra’s Law and Involuntary Commitment

The Enacted Budget rejects the proposal to include new provisions related to expanding Kendra’s Law.

Article 9 Definition Changes

The Enacted Budget rejects the proposal to add a third basis for involuntary admission, namely that the person evidences a substantial risk of physical harm to the person arising from such complete neglect of the basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness or death is highly probable if care by another is not taken.

OMH Extenders

The Enacted Budget accepts the Governor’s proposal to extend authority for appointing of temporary operators to 3/31/22, and extends the demonstration for children and adult specialized inpatient psych units through 3/31/24.

Suicide Prevention

The Enacted Budget provides \$1 million for suicide prevention for high-risk populations.

Dwyer Veteran Peer to Peer Program Restorations

The Enacted Budget restores \$4.5 million for the Dwyer Veteran Peer to Peer Programs.

Sub-schedule:

Broome County	185,000
Cattaraugus County	135,000
Chautauqua County	185,000
Columbia County	100,000
Dutchess County	185,000
Erie County	185,000
Genesee, Orleans, and Wyoming Counties	185,000

Jefferson County 185,000
 Monroe County 185,000
 Nassau County 185,000
 Niagara County 185,000
 Onondaga County 185,000
 Orange County 185,000
 Putnam County 185,000
 Rensselaer County 145,000
 Rockland County 185,000
 Saratoga County 185,000
 Suffolk County 185,000
 Sullivan County 185,000
 Ulster County 185,000
 Warren and Washington Counties 185,000
 Westchester County 185,000
 University at Albany School of
 Social Welfare 210,000
 New York City 400,000

The Enacted Budget also restores the following programs:

Comprehensive Care Centers for Eating Disorders
 1,060,000
 Westchester Jewish Community Services, Inc. 200,000
 Mental Health Association in New York State,
 100,000
 FarmNet 600,000
 North Fork Mental Health Initiative 175,000
 South Fork Behavioral Health Initiative 175,000
 Garnet Health Medical Center Catskills 100,000
 Crisis Intervention Teams 1,000,000
 Korean Community Services 10,000
 St. Joseph's Neighborhood Center 10,000
 The Penn Foundation, Inc. 25,000
 The Derech Shalom Center, Inc. 55,000
 Crisis Services of Buffalo and Erie county 300,000

Office of Addiction Services and Supports (OASAS)

ALL FUNDS APPROPRIATIONS (dollars)

Category	Executive Proposed	Enacted	Difference
State Operations	147,190,000	147,190,000	0
Aid To Localities	681,759,000	739,126,500	57,367,500
Capital Projects	90,000,000	90,000,000	0
Total	91,8949,000	9,76,316,500	57,367,500

(The Enacted Budget did not include new OASAS appropriations as part of the Capital Projects or State Operations Bills)

The Enacted Budget provides a \$3.765 million increase for residential services.

Minimum Wage

The Enacted Budget includes \$1.8M to support the costs associated with the move to \$15/hr minimum wage.

1% COLA Increase

The Enacted Budget includes \$4.325 million for COLA increases.

Scope of Practice/Professional Credentialing

The Enacted Budget rejects the proposal to authorize OASAS to establish practice standards for addiction professionals and sets fees for credentialing, licensing, certifying, or authorizing addiction professionals and providers, as well as the establishment, certification or recertification of OASAS programs and services.

OASAS Services Additions and Restorations

The Enacted Budget adds or restores the following appropriations:

- \$3.75M for Jail-based SUD Funding and includes \$5M via Legislative Add for Jail-based MAT funding
- \$32M from McKinsey Opioid Settlement Fund
- \$2M for NYC to hire additional substance abuse prevention and intervention specialists
- \$150K for the Center for Family Life and Recovery

Local Contracts:

Family and Children's Association	600,000
SAFE Foundation, Inc.	30,000
Recovery community and outreach center	350,000
Save the Michaels of the World, Inc.	500,000
Camelot of Staten Island	25,000
Long Island Council on Alcoholism Inc.	25,000
YES Community Counseling Center	45,000
Drug Crisis In Our Backyard, Inc.	50,000
Hit a Home Run Against Drugs, Inc.	12,500
Alcoholism and Substance Abuse Providers of New York State	250,000
Addiction recovery supportive transportation services demonstration program	500,000

Combat Heroin/Opioid Abuse Initiatives

The Executive Budget proposal includes the following OASAS investments:

- \$3M to support the State’s Ombudsman Program
- \$350K for Recovery Outreach Centers
- \$250K for Adolescent Clubhouses

Office of People with Developmental Disabilities (OPWDD)

ALL FUNDS APPROPRIATIONS (dollars)

Category	Executive Proposed	Enacted	Difference
State Operations	2,229,429,000	2,230,429,000	1,000,000
Aid To Localities	2,604,063,000	2,675,487,000	71,424,000
Capital Projects	108,600,000	108,600,000	0
Total	4,942,092,000	5,014,516,000	72,424,000

(The Enacted Budget did not include new OPWDD appropriations as part of the Capital Projects Bill)

The Enacted Budget restores \$31.3 million by rejecting the proposed 1% ATB Medicaid Cut.

1% COLA Increase

The Enacted Budget includes \$26.9 million for COLA adjustments.

Minimum Wage

The Enacted Budget includes \$31.6M to support the costs associated with the move to \$15 per hour minimum wage.

CCO Rate Adjustments

The Enacted Budget rejects the proposal to adjust CCO rates, and restores \$20.8 million. OPWDD will be taking a closer look at cost reports, CFRs, data analysis to determine what rates should be moving forward.

Creation of Division of Developmental Disabilities Research Programs

The Enacted Budget rejects the proposal to consolidates the NY Institute for Basic Research in Developmental Disabilities (IBR) and NYS Psychiatric Institute (NYSPI) as a new Division of Developmental Disabilities Research Program.

Extension of Authority

The Enacted Budget accepts extension for OPWDD to appoint temporary operators to 3/31/22.

OPWDD Services Additions and Restorations

The Enacted Budget adds or restores the following appropriations:

Summit Center	200,000
Autism Society of the Greater Capital Region	200,000
Jawonio, Inc.	140,000
Westchester Jewish Community Services for Special Education Advocacy Service	30,000
Epilepsy Foundation of Northeastern New York	50,000
Special Olympics New York, Inc.	150,000
Best Buddies International, Inc.	150,000
Jawonio, Inc.	130,000
Community Mainstreaming Associates, Inc.	10,000
NYSARC Inc. Rockland County Chapter	40,000
AccessCNY, Inc.	100,000

