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Final Health/Mental Hygiene State Budget Update for SFY 2021

Just before 4am this morning the State Assembly completed passage of final state budget bills for State Fiscal Year 2021. The Senate completed its work yesterday. The bills were just signed by Governor Cuomo and put in place "a nearly on-time" budget deal which came together in the midst of an "all hands on deck" state response to the COVID-19 pandemic and a growing budget deficit due to the collateral impact of the pandemic on our State's economy.

Entering into 2020, the State had a $6 billion deficit, $2.5 billion of which the Governor attributed to Medicaid overspending. At this point, the Comptroller and Budget Director are saying the deficit could balloon to $15-$16 billion due to the pandemic. The final budget totaling approximately $178 billion attempts to put in place a balanced spending plan through a series of borrowing and cost shifting maneuvers along with federal assistance payments coming to the state through the CARES Act, enhanced Medicaid (FMAP) funds, as well as enacting Medicaid reforms pursuant to the Medicaid Redesign Team 2 recommendations (in some cases with delayed effective date to draw down the FMAP funds) and granting the Governor the authority to revisit the budget at intervals throughout the fiscal year to make adjustments in education, Medicaid and other areas as needed.

Governor Cuomo announced the budget deal on April 2nd saying, "*It would have been very easy to say, 'Oh, this is an extraordinary year; let's just do the bare minimum and go home. 'We did the opposite. We said there is a lot of need and there are a lot of issues that need to be addressed, and we stepped up to the plate and we got it done."*

The final State Budget enacts a permanent paid sick leave program, legalizes gestational surrogacy, enacts a domestic terrorism law, permanently bans hydraulic fracturing and the use of Styrofoam, bans the "Pink Tax" prohibiting differential pricing for substantially similar products appealing to a specific gender, makes changes to the bail reform law enacted in 2019, authorizes the creation of a $3 billion *Restore Mother Nature* Bond Act, adds *E Pluribus Unum* to the State Coat of Arms, among other provisions proposed and touted by the Governor. The budget did not include legalization of adult-use marijuana.

Provided below, please find a sector-by-sector summary of the final Health/Mental Hygiene State Budget. Upon review, please let us know if you have any questions or if we can provide any further details on any provisions. Finally, and most importantly, we thank you for your service which may include putting yourselves in harm's way to ensure New Yorkers have access to the health and mental health care they need during this unprecedented time. Please be safe and reach out if we can be of any assistance to you.

Contents

MULTI-SECTOR/ CARE MANAGEMENT

Capital Restructuring Financing Program for Health
Includes a *re-appropriation* of $1.2 billion for this program.

Health Care Facility Transformation Program
Includes $525 million as a *re-appropriation* for this program.

Global Spending Cap/ Adjustment Authority
Extends the global cap through SFY 2022. Requires the NYSDOH Commissioner to assess on a monthly basis known and projected Department of Health state-funded Medicaid expenditures and calls for implementation of a Medicaid savings allocation adjustment if program spending exceeds the projected Department of Health disbursements. The adjustment would be applied equally across the board unless the Health Commissioner and State Budget Director determine "a specific category

or categories of service are responsible for the growth," in which case the adjustment will be applied to just those areas.

Across-the-Board (ATB) Medicaid Cuts
As recommended by MRT 2, the state will increase the across the board Medicaid provider cut from 1% enacted 1/1/20 to 1.5% effective 4/1/20 for an annual savings of $373 million. Exempt from reductions are payments pursuant to Article 32, 31 and Article 16 of mental hygiene law, payments for Federally Qualified Health Centers, Early Intervention, Family Planning services, Hospice services, School Supportive Health Services Program, Preschool Supportive Health Services Program, payments provided by other state agencies including OCFS, SED and DOCCS, among others.

Public Health Emergency Charitable Trust Fund
Creates this fund in the joint custody of the Commissioner of Taxation and Finance and the State Comptroller to consist of monetary grants, gifts or bequests received by the state. Such monies will be used for goods and services necessary to respond to a public health disaster emergency or aid in responding to such a disaster. Monies shall be kept separate from and shall not be commingled with any other monies in the custody of Tax & Finance or the Comptroller.

Healthcare and Professional Liability for COVID-19
The final budget limits the liability for healthcare professionals, health care facilities and organizations that provide treatment and services related to the COVID-19 state of emergency. This includes immunity from any liability, civil or criminal, for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care service. Retains provisions regarding liability for harm caused by willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

"Health Care Facility "includes a hospital, nursing home or other facility licensed or authorized to provide health care services for any individual under article 28, article sixteen, article thirty-on of the mental hygiene law or under a COVID-19 emergency rule. "Health care professionals" include agents, volunteers, contractors, employees or otherwise that is a licensed or certified physician, physician assistant, specialist assistant, chiropractor, pharmacist, pharmacy technician, nurse, midwife, psychologist, social worker, mental health practitioner, respiratory therapist, clinical lab technician, nursing attendant, certified nurse aide, nursing student, EMT, home care worker, health care facility administrator, supervisor, executive, board member, trustee or other person responsible for directing or managing a facility, or anyone else providing health care within scope of authority permitted by a COVID-19 emergency rule.

HCRA Extenders
Extends the Health Care Reform Act (HCRA) and all surcharges and assessments until March 31, 2023.

Health Homes
Includes $279.35 million, a decrease of $48.7 million from last year's level per the MRT 2 recommendations.

Patient-Centered Medical Homes (PCMH)
Includes reforms to PCMH to achieve $6 million in savings this fiscal year, per MRT 2 recommendations.

Telehealth
Includes MRT 2 proposal to expand telehealth services by adding care managers in Health Homes, PCMHs, hospice, OPWDD services and foster care as allowable providers. Pursuant to federal participation, NYSDOH is authorized to include additional modalities including audio-only and on-line portals to expand access to care for behavioral health, oral health, maternity care and other populations.

Private Duty Nursing
Authorizes NYSDOH to increase fees for private duty nursing under Medicaid for medically fragile children. NYSDOH will also develop a directory of qualified fee for service private duty nursing providers. Includes $12.8 million for this program.

VBP Demonstration Program
Authorizes NYSDOH, in consultation with DFS to implement one or more 5-year demonstration programs designed to implement health outcomes and reduce costs, using value based payments based on an actuarially sound pre-paid, capitated rate. The program may offer funding designed to improve health outcomes, develop infrastructure and systems and connect individuals with community-based organizations focused on social determinants of health.

Regional Population Health Improvement
Authorizes NYSDOH, in consultation with DFS to implement one or more 5-year demonstration programs, beginning January 2022, to accelerate regional population health initiatives using value based payment models and aligning care incentives under an integrated health system.

Pilot Programs Promoting Social Determinant of Health Interventions
Establishes the following pilot programs which will take effect September 1, 2020 or within 90 days of the conclusion of the State of Emergency relating to COVID-19.

- Medically Tailored Meals for individuals with cancer, diabetes, heart failure, and/or HIV/AIDS and who have had one or more hospitalizations within a year
- Respite programs to provide care to homeless patients who are too sick to be on the streets or a traditional shelter, but not sick enough to warrant hospitalization

- Street medicine program to allow diagnostic and treatment centers licensed under Article 28 of the public health law to bill for certain services provided at offsite locations in order to serve the chronically homeless population.

Maternal Health Pilot
Includes MRT 2 proposal for a program to provide Medicaid reimbursement for prenatal childbirth education classes including transportation in order to improve outcomes and reduce maternal-infant mortality.

Diabetes and Chronic Disease Self-Management Pilot
Includes MRT 2 proposal to authorize the Diabetes and Chronic Disease Self Management Pilot in one or more counties to improve clinical outcomes through education, consultation and peer support services. NYSDOH is authorized to develop fees for payments under the program.

Alternative to Opioids Pilot
Includes MRT 2 proposal to authorize Medicaid payments for chiropractor services under a pilot program to promote the use of alternatives to opioids for chronic lower back pain.

Disclosure Requirements for Charitable Nonprofit Entities
Amends Article 7-A of the Executive Law in relation to disclosure of donations to charitable nonprofit entities, which are required to file annual financial reports, funding disclosure reports and/or financial disclosure reports. This applies to any organization that is a 501(c)(3) or 501(c)(4) and/or receives greater than $250,000 in gross revenue and support annually. Any entity that makes a donation in excess of $10,000 shall also be required to file a funding disclosure report. Specifically, the following information must be disclosed:

- The name and address of the donor
- The date and amount of the donation
- A description of any restriction placed on the donation

The financial disclosure report must disclose any donation that is earmarked to pay, in whole or in part, for political communications, including any covered communication by such nonprofit entity which urges any executive or legislative sponsorship, support, opposition or outcome of any proposed legislation, rule, regulation, or decision.

If the Department of State determines that the "nature and extent of a covered entity's spending on covered communications is inconsistent with the charitable purposes of such covered entity, the secretary shall cause the reports required by Article 7-A of this chapter filed by such entity to be published on the website of the Department of State upon such finding." This act would take effect January 1, 2021.

SHIN-NY
Includes continued funding of $30 million.

Medical Cannabis Program
Includes continued funding of $9.8 million.

All Payers Database
Includes continued funding of $10 million.

HOSPITAL/INSTITUTIONAL CARE

Antimicrobial Resistance Prevention
Rejects Executive proposal to establish a new requirement for all hospitals and nursing homes to establish an antimicrobial stewardship program.

Excess Liability Program
The Excess Medical Liability program is extended for one year through June 30, 2021 at a funding level of $105 million. MRT 2 proposal to cut program was rejected.

Surprise Bills
Accepts the Governor's proposal on Surprise Bills to provide that when a patient assigns benefits for emergency services, including inpatient services which follow an emergency room visit, to a non-participating physician or hospital that knows the insured is covered under a health care plan, the non-participating physician or hospital shall not bill the insured except for any applicable copayment, co-insurance or deductible.

Sexual Assault Forensic Examiner Program (SAFE)
Rejects the Governor's proposal to require all hospitals with emergency departments to establish SAFE programs. However, hospitals without emergency departments would be required to transport victims of sexual assault to a hospital with a SAFE program. The legislature rejected the Governor's proposal to extend the time that an individual can be detained from 72 hours to 96 hours for observation and treatment when the person is determined to be a danger to themselves or others.

Distressed Provider Assistance Program
Modifies the Executive Budget proposal to shift local Medicaid costs to localities by creating the Distressed Provider Assistance Program. This program establishes a new funding pool to assist financially distressed hospitals and nursing homes. Under the program, counties are responsible for contributing a respective share totaling fifty million dollars annually beginning April 15, 2020, while New York City is responsible for two hundred million dollars annually beginning in 2021.

Indigent Care Pool
Amends the indigent care pool distribution methodology and extends the pool to 2023. Reduces total pool from $994 million to $969 million and includes an

additional reduction in ICP distributions by $150M in the aggregate, annually, from 2020 through 2022, but holds enhanced safety net hospitals harmless from this reduction if they are not major public hospitals. Requires commissioner to promulgate a methodology for such reduction. Removes the "transition collar" from pool. The transition collar had limited 2019 reductions in ICP funding to hospitals to no greater than 17.5% of 2013 payments and was scheduled to increase to no greater than 20% in 2020. Instead of the collar, hospitals, other than major public hospitals, that experience a reduction in ICP payments will be eligible for $64.6M in funding under a methodology established pursuant to regulation and proportional to the reductions experienced by such hospital.

Medical Debt
Speeds up the timeframe for an action on a medical debt by a hospital licensed under Article 28 of the Public Health Law or a health care professional authorized under Title VII of the Education Law to be commenced within three years of treatment, instead of six years.

LONG-TERM CARE

LHCSA Contracting under Medicaid
Pursuant to the MRT 2 NYSDOH proposed a process under the Medicaid program to enter into a "sufficient" number of contracts with Licensed Home Health Care Agencies for Medicaid recipients. Under the proposal the State will pursue a public process, which will include:

- criteria for selection of LHCSA contractors including : licensed under Article 36 PHL; geographic distribution to allow access to rural and underserved areas; cultural and language specific to recipients and workers; ability to provide timely assistance, experience in serving disabled person; efficient and economic administration of LHCSA services; compliance with all federal and state laws including labor laws;
- selection in no less than 30 days after the RFO or public process is posted on DOH website;
- the commissioner may run a continuous recruitment process for LHCSAs under these provisions; and
- the commissioner may terminate any contract with a LHCSA under this program in 30 days.

Any actions taken by the NYSDOH under this program shall not constitute and shall not be construed to constitute an action with respect to a LHCSA's license or enrollment in the medical assistance program.

Wage Parity
Reinforces that funding must be provided to workers and not retained by LHCSA or FIs. New reporting and audited financials, and criminal penalties were included in the final budget language.

LHCSAs and FIs will be required to provide an annual statement of wage parity hours and expenses accompanied by an independently audited financial statement verifying such expenses. The provisions include an annual certification not just attestation.

Remove FIs from being exempt from liability for LHCSA or FI failed to comply with Wage Parity Requirements. MCOs, CHHAs and LTHHCPs continue to be exempt from liability provided they conduct the monitoring and reporting now required.

Nursing Home Capital Reimbursement
Adopts MRT 2 recommendation to reduce Capital nursing home Medicaid rates by 5% for facilities refinancing.

Residual Equity
Adopts MRT 2 recommendation to eliminate funding for residual reimbursement in the capital cost for nursing homes (State share $30 million annually).

Upper Payment
Extends the Upper Payment limit and intergovernmental transfers for public residential health care facilities through March 31, 2023.

Shared Savings Program – Real Property
Adopts proposal to modify health care facility real property costs to effectuate a shared savings program of 50% of savings on any refinancing of loans through 3/31/2025.

Medicare Maximization Program
Extends the Nursing Home MMP program through 2/1/23.

Adult Day Health Care Transportation
Allows ADHC providers to elect to use the services of the State's transportation manager but does not require use.

Home Based Primary Care for Elderly for the Elderly Demonstration Project Extension
Extends the Project for an additional five (5) years through 2026.
The demonstration program allows nursing homes that also provide a variety of community-based care to provide home based physician, nurse practitioner and physician assistant services to elderly patients in their homes.

Vital Access Provider (VAP) Funding
$66 million is appropriated.

Independent Assessor for Personal Care and CDPAP
Includes a recommendation by the MRT 2 to require DOH to establish or procure an independent assessor to take over from LDSSs, MCOs, and MLTCs the UAS Community Health Assessments and reassessments required for determining needs for personal care services. The use of the independent assessor must be implemented by October 1, 2022.

Notice of Consumer Directed Program
Adopts a recommendation by the MRT 2 to eliminate requirement that managed care plans and LDSS educate consumers about the availability of the CDPAP program annually. The final budget expands this provision to limit the ability of individuals to apply for participation in CDPAP only once annually.

Independent Review for CDPAP and Personal Care Cases
Includes a recommendation by the MRT 2 to establish an independent panel of clinicians to determine eligibility for CDPAP cases.

Spousal Refusal
Rejects the recommendation of the MRT 2 and Executive to eliminate ability of spouses living together in the community and parents living with their child to refuse to make their income and resources available during the determination of an applicant's eligibility for Medicaid.

Electronic Verification System
Includes an appropriation to institute the electronic Medicaid eligibility verification system for home health care and other providers.

Home Health Aide Registry
$1,800,000 is appropriated.

Medicare Maximization
Extends program through February 1, 2023.

Home Care Workforce Recruitment and Retention
Extends program through March 31, 2023.

Miscellaneous Appropriations
Continuing Care Retirement Community Account: $121,000
Nurse Home Receivership Account: $2,000,000
Quality of Care Improvement Account: $1,000,000
Program for Background: $3,000,000

TRANSPORTATION

Single Broker

The State will transition to a single Medicaid Transportation Broker for non-emergency transportation. Brokers will be selected through a competitive bidding process. They may be paid a per member per month capitated fee or a combination of capitation and fixed cost reimbursement. Transportation is carved out of the MLTC Benefit (excluding PACE) and into FFS.

Ground Emergency Medical Transportation Services
The final State budget authorizes the Department of Health to establish a program for federal financial participation in reimbursement for ground emergency medical transportation services provided to Medicaid patients and to establish a methodology for supplemental reimbursement.

PHYSICIANS/HEALTH PROFESSIONALS

Excess Liability Program
The Excess Medical Liability program is extended for one year through June 30, 2021 at a funding level of $105 million.

Medical Indemnity Fund
Extended through December 31, 2021.

Office of Professional Medical Conduct (OPMC) Changes
Rejects the Governor's proposal for OPMC changes.

Physician Profile
The Legislature rejected the Governor's proposal to require additional information on physician profiles which would have included hours or operation, availability of assistance technology, and availability to take new patients.

Surprise Bills
Accepts the Governor's proposal on Surprise Bills to provide that when a patient assigns benefits for emergency services, including inpatient services which follow an emergency room visit, to a non-participating physician or hospital that knows the insured is covered under a health care plan, the non-participating physician or hospital shall not bill the insured except for any applicable copayment, co-insurance or deductible.

Prescriber Prevails
Rejects MRT 2 recommendation and retains "prescriber prevails" for Fee-for-Service (FFS) and existing classes under Medicaid Managed Care.

Doctors Across New York
Includes level funding of $9,065 million for physician loan repayment and practice support.

Extend E-Prescribing Waiver
Extends the e-prescribing exemption for prescribers writing 25 or less scripts per year through June 1, 2023.

Extend Immunizer Law
Extends the sunset date on NY's pharmacist immunizer law two years to July 1, 2022.

Extend CDTM Law
Extends the sunset date of NY's Collaborative Drug Therapy Management (CDTM) program between physicians and pharmacists in hospitals law two years to July 1, 2022.

MRT 2 Scope of Practice
Rejects scope of practice changes in multiple professional areas proposed by MRT 2.

Healthcare and Professional Liability for COVID-19
The final budget limits the liability for healthcare professionals, health care facilities and organizations that provide treatment and services related to the COVID-19 state of emergency. This includes immunity from any liability, civil or criminal, for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care service. The provision retains provisions regarding liability for harm caused by willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

"Health Care Facility "includes a hospital, nursing home or other facility licensed or authorized to provide health care services for any individual under article 28, article sixteen, article thirty-on of the mental hygiene law or under a COVID-19 emergency rule. "Health care professionals" include agents, volunteers, contractors, employees or otherwise that is a licensed or certified physician, physician assistant, specialist assistant, chiropractor, pharmacist, pharmacy technician, nurse, midwife, psychologist, social worker, mental health practitioner, respiratory therapist, clinical lab technician, nursing attendant, certified nurse aide, nursing student, EMT, home care worker, health care facility administrator, supervisor, executive, board member, trustee or other person responsible for directing or managing a facility, or anyone else providing health care within scope of authority permitted by a COVID-19 emergency rule.

PHARMACY/PHARMACEUTICALS

Shift Pharmacy Benefit to Fee-for-Service (FFS)
Includes language stating that it is in the best interest of the Medicaid program/patients to move the pharmacy benefit from Medicaid Managed Care back to Fee for Service and NYSDOH is granted the administrative authority to do so. NYSDOH shall not implement the transition sooner than April 1, 2021 and upon federal approval. NYSDOH is authorized to establish uniform standards, payment

policies and reimbursement methodologies based on actual acquisition costs and professional dispensing fee, including for 340B drugs. NYSDOH is required to convene an advisory group of stakeholder representatives for the purposes of providing non-binding recommendations to the department by 10/1/20 on available methods of achieving savings beginning on and after 4/1/21.

Extend Immunizer Law
Extends the sunset date of NY's pharmacist immunizer law two years to July 1, 2022.

Extend CDTM Law
Extends the sunset date of NY's Collaborative Drug Therapy Management (CDTM) program between physicians and pharmacists in hospitals law two years to July 1, 2022.

PBM Regulation
Rejects the Executive Budget proposal to regulate Pharmacy Benefit Managers.

Medicaid OTC/CoPay Changes
Rejects Executive Budget proposals to limit OTC coverage and increase Medicaid copayments.

Insulin Out of Pocket Cap
Caps the total amount insured individuals are required to pay out-of-pocket for covered prescription insulin drugs at $100 per 30-day supply. The cap will apply regardless of the amount or type of insulin needed to fill the prescription and the person's deductible, co-payment or other cost-sharing requirements.

Extend E-Prescribing Waiver
Extends the e-prescribing exemption for prescribers writing 25 or less scripts per year through June 1, 2023.

Add to CS Schedule
Adds a series of fentanyl analogs to the state's schedule of controlled substances.

Medicaid Drug Cap
Modifies the drug cap growth to the 10-year rolling average of the CPI medical index plus 2%. Drug cap is placed within the global spending cap.

NYSDOH Direct Negotiations for Rebates
Expands authority for NYSDOH for the period through March 31, 2023 to negotiate directly with manufacturers for supplemental rebates under Medicaid for certain drug classes including MAT for opioid addiction, gene therapies and high cost "blockbuster" drugs. Gives NYSDOH new tool during drug rebate discussions to limit or reduce reimbursement of physician-administered drugs and/or remove any manufacturer's drug from managed care formularies if rebate discussions are unsatisfactory.

Establishes a Statewide Formulary for Opioid Dependence Agents
Establishes a Statewide Formulary for opioid dependence agents and opioid antagonists which shall be published by NYSDOH and shall include "preferred drugs" in such classes with no prior authorization required. The Cost for MAT must be equal/less than lowest cost paid in FFS/MC. Under MC, if the drug prescribed is not on the statewide formulary, the prescriber shall consult the plan based on criteria (similar to what is in place for step therapy) for approval of the non-preferred or non-formulary drug. MC plans may not require prior authorization for methadone when used for an opioid disorder or part of a program.

Drug Pricing Investigations
Grants the Superintendent of DFS discretion and authority to investigate drug prices that have increased over the course of a 12-month period by more than 50% to an amount greater than $5 per unit and where there is suspected false pretense, fraud, illegality and if determine to be in the public interest. With any investigation, DFS will have subpoena authority, require statements under oath and to levy civil penalties. DFS may require manufacturer data with confidentiality protections but information may be disclosed to newly created Drug Accountability Board, summarized below.

Creates a Drug Accountability Board
Create a 9-member Board appointed by DFS with one member appointed by the Senate and Assembly each respectively to 3-year terms. The Board shall aid in drug pricing investigations when DFS determines it would be needed. The Board may request manufacturer information. Following review, the Board would report its findings to DFS. Such report can be kept confidential or released to the public if in the public interest. Hearings may also be convened on the Board's findings.

Pharmacy Tobacco Sales
Bans the sale of tobacco/ e-cigarette products in pharmacies.

PUBLIC HEALTH/WORKFORCE

Comprehensive Tobacco/E-Cigarette Package
Includes a series of tobacco control/vaping restrictions as follows:

- Bans the sale of flavored e-cigarettes with an exemption for FDA Premarket Tobacco Application (PMTA) authorized products.
- Ban on couponing and discounting for all tobacco products.
- Ban on transport for vaping products, similar to laws surrounding tobacco products.
- Ban on sales of all tobacco products in pharmacies, including pharmacies that are departments within larger establishments.

- Ban on the exterior window display of all tobacco products or advertising for same within 1500 feet of a school (500 feet in NYC)
- Bans free distribution of vapor products.
- Requires ingredient disclosure on vapor products.
- Increases reporting on license holders and violations for tobacco/vaping retailers.
- Adds vaping/e-cigarette to the work plan of the State's tobacco control program.

The flavored e-cigarette ban is effective 45 days from enactment. All other provisions are effective July 1st.

Discontinues Public Health Workforce Programs
Accepts Executive proposals to discontinue funding for Area Health Education Centers (AHECs), Ambulatory Care Training and Health Workforce Retraining programs under HCRA.

School-Based Health Centers
Includes continued funding of $8.3 million including $3.8 million from the legislature for School-Based Health Centers.

Curing Alzheimer's Health Consortium
Establishes the Curing Alzheimer's Health Consortium within the State University of New York with the purpose of identifying genes that predict an increased risk for developing the disease and other statewide research collaboration. SUNY shall issue an FRP to partner with hospitals to map genomes of individuals suffering from or at risk of Alzheimer's.

Tanning Bed Inspection Fee
Raises the biennial inspection fee for facilities offering tanning bed services from $50 to $200 per device.

Spinal Cord Injury Research Fund Account
Continues to allocate $8.5 million.

Tobacco Control Program (TCP)
Includes level funding for the program at $33.1 million. The final budget also includes language to expand the TCP's scope to include vaping and increases the targeted audience to age 21. It also adds a new vaping prevention, awareness and control program specifically targeted for students, parents, and schools.

Cancer Services Program
Includes level funding of $19.8 million.

Adult Cystic Fibrosis Program

Accepts the Executive's proposal to repeal this program.

Area Health Education Centers
Accepts the Executive's proposal to discontinue funding for the Area Health Education Center.

BEHAVIORAL HEALTH

Children's Behavioral Health Services
Includes investment of $1.7 million for such services under Medicaid.

BH Parity Compliance
Creates the MH/SUD compliance fund for penalties collected from insurer violations to be deposited into a fund under the Comptroller and Tax Department, known as the Behavioral Health Parity Compliance Fund. Monies shall only be used for initiatives supporting parity implementation and enforcement including the behavioral health ombudsman program.

Further, NYSDOH and DFS are required to develop regulations, which establish standards and criteria for compliance programs for public or governmentally sponsored or supported insurance plans.

Children's Residential Treatment
Modifies the Executive proposal to streamline pre-admission for children and youth with mental illness entering residential treatment facilities by:

- Expanding the newly created Advisory Board to include family representatives and medical personnel,
- Requiring the Advisory Board to issue an annual report to the Governor and Legislature;
- Limiting medical necessity checks to be done no sooner than 14 days after admission; and
- Requiring OMH to consult with the residential treatment facility regarding placement before doing so.

Services for Sex Offenders
Establishes a separate appointing authority within OMH (Secure Treatment and Rehabilitation Center) for the care and treatment of sex offenders requiring confinement.

Comprehensive Psychiatric Emergency Programs (CPEPs)
Extends the CPEPs program for four years and:

- Requires that triage and referral services be provided by a psychiatric nurse practitioner or physician as soon as a person is received into the comprehensive psychiatric emergency program;

- Requires that if a patient is not discharged within six hours, they must be examined by a physician; and
- Permits hospitals that operate CPEPs, upon approval of the Commissioner of OMH, to operate satellite facilities. A satellite facility is defined as a medical facility providing psychiatric emergency services that is managed and operated by a hospital who holds a valid operating certificate for a CPEP and is located away from the central campus of the general hospital.

Extend Exemption in OPWDD, OCFS and OMH programs
Extends from July 1, 2020 to July 1, 2025, the exemption allowing OPWDD, OMH and OCFS to employ qualified professionals for services, which may otherwise fall within the scope of practice for Applied Behavior Analysis.

Children and Youth with Special Health Care Needs (CYSHCN) Program
Makes amends to the program within a county with a population of less than 150,000, allowing the county health director to serve as director of the program.

MLTC Coverage of Behavioral Health
Authorizes Managed Long Term Care (MLTC) plans to cover behavioral health services for enrollees.

OASAS Funding
Community Treatment Services funding is up $2.6M by adding: $2M for NYC DoE to hire additional substance abuse prevention and intervention specialists and $600,000 for the Family & Children's Association

Includes $1.4M to support minimum wage payments, $9.6M to support continuation of 2% worker salary increases and $3M for the SUD/MH ombudsman, among other funds.

OMH Funding
Adult Services Program funding is up by over $2 million by adding: $175,000 for the South Fork Behavioral Health Institute, and $2,017,500 for the Joseph P. Dwyer Veteran Peer to Peer Services program.
Includes $4 million to support minimum wage payments, $22.3 million to support continuation of worker salary increases, among other funds.

School Mental Health Funding
Includes $10 million in funding for grants to school districts to improve student access to mental health resources and services. The program will be administered by OMH, in consultation with SED.

DEVELOPMENTAL DISABILITIES

OPWDD Funding
Includes Aid to Localities funding at the level proposed by the Executive Budget including $23.7 million to support minimum wage payments, $74,706,000 to support continuation of 2% direct care salary increases.

Health Homes for DD population
Transfers oversight of Medicaid funding community-based services, including those provided by Health Homes to OPWDD. Such providers will be subject to OPWDD oversight and will no longer be subject to the separate NYSDOH Criminal History Record Check.

Extend Exemption in OPWDD, OCFS and OMH programs
Extends from July 1, 2020 to July 1, 2025, the exemption allowing OPWDD, OMH and OCFS to employ qualified professionals for services, which may otherwise fall within the scope of practice for Applied Behavior Analysis.

Individualized Residential Alternatives (IRAs)
Extends the notification requirements upon the closure or transfer of state operated IRAs until March 31, 2022.

Children and Youth with Special Health Care Needs (CYSHCN) Program
Makes amends to the program within a county with a population of less than 150,000, allowing the county health director to serve as director of the program.

Autism Awareness and Research Fund
Includes Executive budget proposal to transfer responsibility for this fund from NYSDOH to OPWDD.

INSURANCE

Rejects PBM Regulation
Rejects the Executive Budget proposal to regulate Pharmacy Benefit Managers.

MLTC Coverage of Behavioral Health
Authorizes Managed Long Term Care (MLTC) plans to cover behavioral health services for enrollees.

Remove Medicaid Visit Caps: OT, PT, Speech Therapy
Effective October 1, 2020, Medicaid visit caps for speech therapy, physical therapy, including related rehabilitative services, and occupational therapy are repealed.

Surprise Bills
The Surprise Bill law is amended to provide that when a patient assigns benefits for emergency services, including inpatient services which follow an emergency room visit, to a non-participating physician or hospital that knows the insured is covered

under a health care plan, the non-participating physician or hospital shall not bill the insured except for any applicable copayment, co-insurance or deductible.

COVID-19 Claims for Inpatient Hospital and Emergency Services
Precludes insurance companies from retrospectively denying emergency department and inpatient hospital services claims for the treatment of COVID-19 during the declared State of Emergency.

Hospital Administrative Denials
Currently, the State Insurance law prohibits insurance company denials of medically necessary inpatient services following an emergency admission if a hospital failed to notify an insurance company of the services. The Governor's final budget extends this prohibition to all types of administrative denials and to emergency services, observation stays, and all inpatient admissions with the following exceptions:

- Based on a reasonable belief of fraud, intentional misconduct, or abusive billing;
- When required by a State or federal government program (e.g. Medicaid);
- For coverage that is provided by the State or municipality to its respective employees, retirees or members;
- A duplicate claim, or for non-covered benefits or a non-covered person;
- Untimely claim submissions;
- Out-of-Network providers; or
- For services for which preauthorization was denied prior to the delivery of services.

New language was added to permit insurance companies to deny claims on the basis that a hospital failed to seek prior authorization if a hospital has "repeatedly and systemically" over the previous 12-month period failed to seek preauthorization for services for which preauthorization was required. In addition, language was added to change the maximum penalty for failing to comply with a plan's administrative requirements from the lesser of $2000 or 12% to no more than 7.5%.

Health Care Administrative Simplification Workgroup
Establishes a workgroup comprised of insurers, hospitals, physicians, and consumers to study ways to reduce administrative costs through claims standardization, simplification, and technology.

Utilization Review
Procedures for utilization review (UR) under the Public Health and Insurance laws are changed to repeal the requirement that UR agents and insurance companies must transmit notifications to enrollees electronically. UR agents and insurance companies are required to have procedures for obtaining an enrollee's preference for receiving notifications and must allow the preference to be changed at any time.

Provisional Credentialing

Requires health insurers to "provisionally" credential newly licensed physicians, those who newly relocate into the state, or those who receive a new tax ID based on a corporate practice change. Such "provisionally" credentialed physician could not serve as an enrollee's primary care provider. The "provisional" credential applies for physicians newly employed by a hospital, D&TC or OMH-licensed facility that has a contract with the insurer. Plans for pay for services provided by the physician for up to 60 days after submission of an application.

Prompt Payment Notifications
Applies to state-regulated public and private plans and requires insurers to notify providers and enrollees that a claim is denied or that additional information is necessary to pay the claim through the Internet or other electronic means for claims submitted electronically. If the insurer requests more information after submission of a claim, the insurer must make any additional payments determined to be due within 15 days of the determination.

OMIG

Revises compliance program requirements under the Office of the Medicaid Inspector General (OMIG)
Requires that Medicaid providers, Managed Care (MC) plans and Managed Long Term Care (MLTC) plans must adopt and implement an effective compliance program that includes measures to prevent, detect and correct non-compliance with Medicaid requirements, and fraud, waste and abuse. Includes ability for OMIG to impose a per-month penalty for failure to adopt and implement such programs.

Medicaid Monetary Penalties
Authorizes OMIG, in consultation with DOH, to apply monetary penalties to providers, MC plans and MLTC plans for failure to grant timely access to facilities/records, for failure to report known or should have known overpayments and for contracting with any individual or entity known or should have know to be suspended or excluded from Medicaid.

Medicaid Integrity Extender
Extends for 2 years the authority of NYSDOH to establish a statewide Medicaid integrity and efficiency initiative for audit recoveries.