



**JOINT LEGISLATIVE PUBLIC HEARING ON  
2019-2020 EXECUTIVE BUDGET  
PROPOSAL: MENTAL HYGIENE**

FEBRUARY 7, 2019

**TESTIMONY BY:  
LAURI COLE  
EXECUTIVE DIRECTOR**

Good afternoon. Thank you to the chairs and members of the committees for this opportunity to provide testimony. I'm Lauri Cole, Executive Director of the NYS Council for Community Behavioral Healthcare (NYS Council). We are a statewide membership association representing 100 community organizations that provide mental health and substance use disorder/addiction prevention, treatment and recovery services to tens of thousands of New Yorkers each day. Our membership includes community-based agencies, hospitals, and counties providing direct service.

Our members play an essential role in ensuring access to and continuity of care for some of New York's most vulnerable citizens. We appreciate your efforts over the years to support the behavioral health community and to ensure that the role of community based organizations (including our behavioral health care members) is recognized within the State's health care delivery system and payment reform efforts. However, this year we come to you with an urgent request that is necessary to stabilize the mental health and substance use disorder/addictions community. An historical lack of investment to community based providers is jeopardizing access to and continuity of care at a time when the State is trying to divert patients from hospitals and more costly care. Now is the time to ensure that funding is set-aside for community-based organizations so that we, as a State, can deliver care to people where they live and when they need it.

Our testimony today highlights various high priority issues but all of our concerns relate in one way or another to the historical lack of funding in our sector and the negative consequences this is having. Our core belief is that New York must do everything within its power to protect and enhance access to care for vulnerable children and adults who rely on mental health and substance use disorder/addiction treatment providers as their primary connection to treatment and recovery from living with these complex challenges.

**PRIORITY: Invest in our Workforce and Build in Regulatory Flexibility that Will Increase the Availability of Qualified Practitioners and Prescribers**

- Cost of Living Adjustment (COLA)

The entire behavioral health community stands together in support of a 2.9% COLA for the human services sector. Though the COLA is proposed in the budget every year, it has been deferred by the Executive for most of the last decade. This has resulted in a shortfall of over \$500 million dollars to our sector. The not for profits in the behavioral health community are on the front lines every day providing housing, treatment, and support to over one million New Yorkers. In order to decrease the profound impacts of the opioid epidemic, the increase in suicide completions, and the increase in homelessness and incarceration, we need a robust, healthy, community based sector. In addition, over 80% of the human service workforce is comprised of women and over 40% are individuals of color. Many of these individuals are working one or two additional jobs. *We urge you to ensure the \$140 million COLA is included in this year's budget to provide the necessary funding to support New York's not for profits.*

- Statewide Healthcare Facilities Transformation Grant Initiative  
Community-based organizations (CBOs) have significant and growing needs to add new sites, renovate, and modernize existing physical plants, restructure debt, and access start-up funds. We have historically received a fraction of the grants provided from the State and this past year has been no different. As of February 1, the CBOs have only received 6.5% of the funding from this Grant Initiative. *We request an acceleration of the Statewide Healthcare Facilities Transformation Grant Initiative Phases 2 and 3 and also language that requires disbursements in a timely manner with more transparency in the process.*
- Rate adequacy and reimbursement for actual costs of care  
*We support the executive proposal to extend APGs until 2022 and we also request that the State agencies populate a statewide workgroup to review payment models and determine how to ensure that the cost of care is reimbursed for the services we provide.* APG rate increases are not keeping pace with the costs of care. Providers have a range of fixed costs, in addition to the variable costs, which all continue to rise, such as maintenance of facilities, providing staff benefits, etc. In addition, commercial insurance rates must be brought on par with Medicaid Managed Care rates to ensure equal access to care for commercial insurance beneficiaries.
- Allocation of currently unspent DSRIP Workforce funds to CBOs  
There is a significant amount of funding that has been distributed by the PPS' within the DSRIP projects across the State. However, there is also a sizable portion of the DSRIP funds that has been unspent – currently \$1.8 billion or 46.4%. *We request that a portion of the currently unspent DSRIP funds be used to pay for the human service COLA (\$140 million) and a portion be allocated to a new CBO Workforce Recruitment and Retention Fund (\$169 million).*
- Workforce Recruitment and Retention Fund  
For years, community organizations have been highlighting the negative consequences that workforce shortages are having on public health crises, including increased suicide and opioid overdose rates, a growing number of children in homeless shelters, rising incarceration rates, and limited access to more intensive mental health treatment options in many communities.

The current workforce shortages have made it extremely difficult to keep programs and services operational. The statewide average for workforce turnover in our sector in 2017 was 34%. Unaddressed rising job vacancies and turnover rates have resulted in a full scale access to care crisis for community-based primary care, home care, and mental health and substance use disorder services. Continued investments in the community based workforce are critical to ensure the success of the Administration's healthcare policy priorities and to reinforce the centrality of these providers to the healthcare system. *We request that a new CBO Workforce Recruitment and Retention Fund be established in the amount of \$169 million for community based organizations that includes loan forgiveness, scholarships, retention bonuses, etc.*

- Legalization of Marijuana  
Before New York legalizes the adult use of marijuana, there should be a methodology identified for disbursement of revenues when they begin to flow. We believe that the

majority of taxes placed on marijuana and marijuana product sales, wholesale and retail, should be devoted to public education about addiction; prevention of addiction; addiction treatment; health effects of cannabis and synthetic cannabinoid use; prevention of initiation of cannabis and cannabinoid use by youth; and research on the health risks and potential benefits of marijuana, “natural” cannabinoids, and synthetic cannabinoids. Specifically, our suggestions for the taxes are as follows:

- 50% of taxes collected should be used to strengthen prevention, treatment, recovery, and harm reduction services with emphasis on addressing substance use disorders related to marijuana;
- 25% of taxes should go to assist law enforcement efforts to address impaired driving and other public safety issues arising from marijuana use; and
- 25% of taxes should go to create state infrastructure to regulate marijuana and support expanded SUD and law enforcement efforts.

### **PRIORITY: Insurance Reforms are Needed to Preserve and Enhance Access to Care and Enhance NYS Commitment to Parity Enforcement**

As New York continues to grapple with the Opioid Epidemic and increased rates of completed suicides, proposals that strengthen consumer protections and enhance surveillance of payers’ compliance with parity laws and regulations are essential. The Governor’s proposals that address parity and other insurance and access to care issues demonstrate his support for New Yorkers with substance use disorder/addictions or mental health conditions. These proposals acknowledge that what is most important is that timely care be available and this care be provided at the right frequency and intensity to meet the needs of unique individuals. Unfortunately, in our initial analysis of the Executive Budget, it does not appear to include new resources for OASAS (money not already in the pipeline). This is deeply troubling given the public crisis our State currently faces. *Given this, we request that the Legislature dig deep, as they have in the past, to increase the tools at our disposal to fight this epidemic.*

The NYS Council has worked for many years to educate state leaders and lawmakers and to provide concrete evidence of the many barriers that prevent or delay access to and continuity of care for mental health and substance use disorder/addictions care recipients. We have described in detail the consequences associated with delayed/denied care as well as delayed/denied reimbursement as they impact consumers and the agencies that provide services.

The executive budget proposal includes language that devotes several million dollars in new resources to DOH and DFS for dedicated staff whose primary responsibility will be to identify network adequacy issues and more generally, review existing health plans to ensure compliance with all parity laws. Another executive budget proposal would establish a new Commission designed to make recommendations to the Executive regarding New York’s new goal of universal access to healthcare and (as part of its work) would identify barriers to achieving this objective. This includes commercial market rates that signal the State is taking seriously its’ role in the enforcement and surveillance of the barriers we have been citing for years.

The budget also includes specific proposals designed to remove barriers to care and address stigma that prevents those who need care from seeking it. They include:

- Empowering OMH to review medical necessity criteria employed by insurers to determine the level of care they will pay for and expanding OMH authority to ensure that medical necessity criteria reflect current standards of practice.
- Allowing hospitals to admit children (under 18) for inpatient care for up to 14 days, without obtaining prior authorization, and without risk of non-payment, assuming the services are medically necessary.

In addition, the proposed budget builds on the Governor's efforts to address the Opioid Epidemic that continues to ravage our communities, by increasing access to buprenorphine and other medication assisted treatment, eliminating some insurance barriers, and expanding parity compliance efforts. One proposal, in particular, is a game changer for limited income New Yorkers who may have to choose between treatments they need and the basics of daily living and that proposal would limit co-payments for SUD outpatient to a single co-payment for one treatment visit.

Included here are additional proposals that would:

- Increase access – allow for immediate access to all Medication Assisted Treatment for opioid use disorders by eliminating prior authorization; require hospitals to make buprenorphine available in Emergency Departments; and remove the exemption for emergency department staff to check the ISTOP prescription drug monitoring program.
- Eliminate insurance barriers – allow all SUD treatment to start and continue without insurer interference for 21 days; make co-payments for SUD and mental health outpatient treatment the same as a doctor's office visit; require insurers to cover naloxone to those covered under an insurance policy; and prohibit insurers from retaliating against providers who complain about insurer compliance with the enhanced MH and SUD coverage protections.
- Expand parity compliance – require insurers to provide more detailed information regarding their efforts at compliance and make this information public; and, add state law parity protections for mental health and autism spectrum disorder services.

*We request that you support the Governor's proposals related to parity, insurance, and access to care issues.*

**PRIORITY: Major System Transitions Require New Investments, Enhanced Surveillance and Monitoring and Inclusive Practices to Ensure Success of Reforms**

To continue efforts to transform the healthcare system, there needs to be an adequate investment of resources for all sectors charged with making these changes. *The NYS Council*

*urges you to assist us with pressing demands on our sector to transform our organizations and improve care by allocating the appropriate amount of resources required for us to meet current workforce shortages, upgrade and/or expand our facilities, and enter into new business arrangements and/or mergers, acquisitions and consolidations.*

Of importance now is the current transformation of the children's system that includes a major reform of the continuum of care. These changes have been made to modernize the continuum. Our concern is that New York's children have adequate access and continuing care and don't get lost in the shuffle.

- CFTSS Services in Child Health Plus

The new CFTSS services that are available to children and families as part of the Children's transition are currently not part of the Child Health Plus package. *Since many of our children face significant mental health challenges and are enrolled in Child Health Plus, it would make sense to add the CFTSS services to this benefits package.*

In addition, we support the following related to overall system transformation:

- Children's Transition: Enhance surveillance and monitoring of protective indicators that "red flag" children/families that may be falling through the cracks during this major system transition.
- In the event that the CCBHC Demo is not extended by the federal government, NYS must fully fund this ongoing initiative.
- Revise NY's definition of what constitutes a valid VBP Level 2 & 3 arrangement to require participation by one or more legal entities that have met criteria for funding as BHCC.
- Promulgate Network Adequacy criteria for entities entering into VBP 2 & 3 contracts to ensure Medicaid beneficiaries have access to behavioral health care.
- Enable BHCC access to the Master Medicaid Data Warehouse.
- Include a data sharing requirement in future contracts with MMC plans and PPSs so that BHCCs can access necessary utilization, cost and other data at no cost.

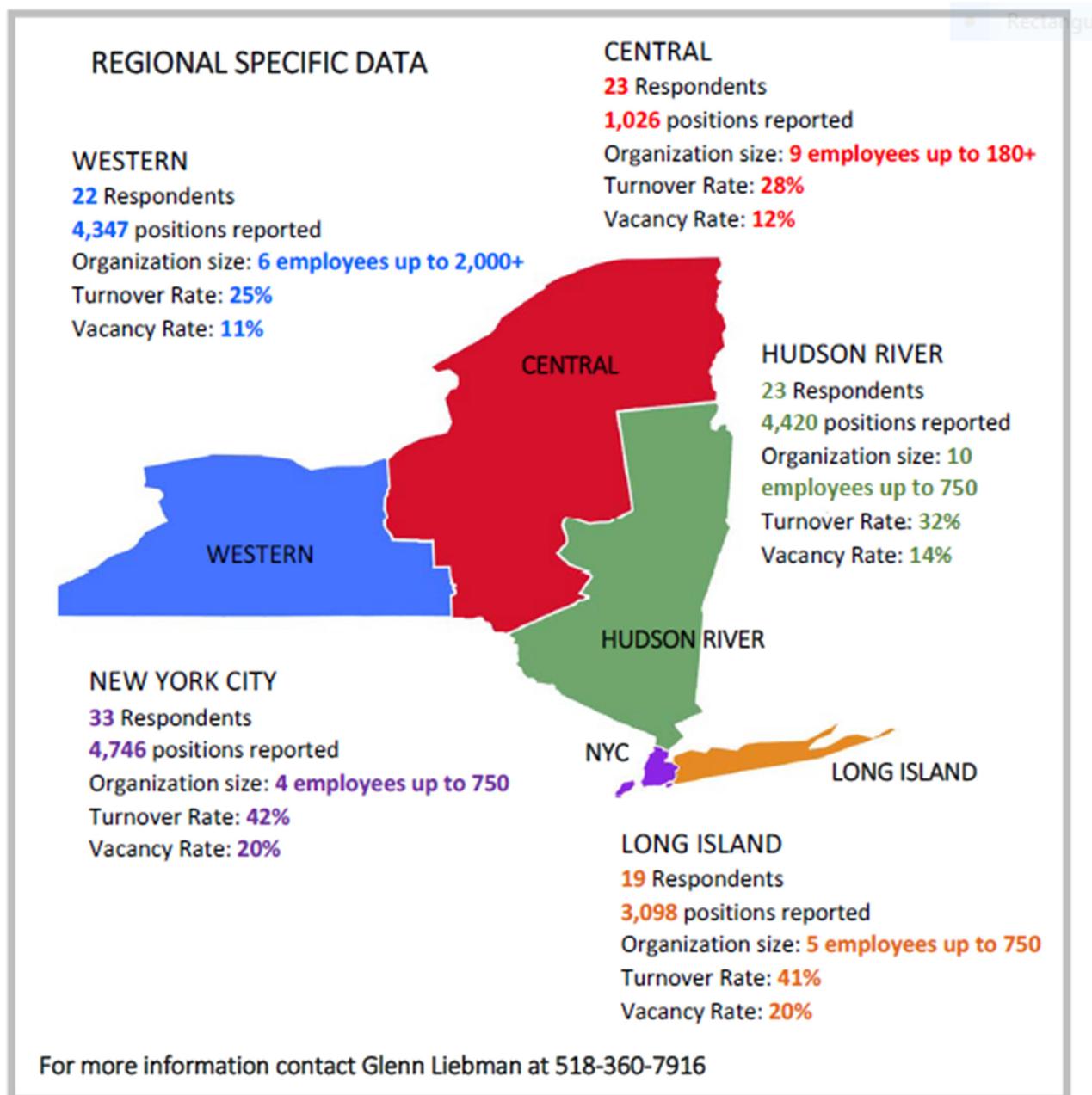
Thank you for your time and the opportunity to comment. And, thank you for your public service and your commitment to the behavioral health field. We look forward to working with you throughout the remainder of the legislative process.

# WORKFORCE TURNOVER AND VACANCY SURVEY FINDINGS

Compiled by NYS Behavioral Health Providers and Advocates

## STATE-WIDE DATA

- 126 respondents representing organizations in 61 Counties (Livingston is not represented)
- 14,449 positions reported
- Organization size: 4 employees up to over 2,000 employees
- Turnover Rate for 2017 = 34% (Range: 0% up to 55%)
- Vacancy Rate for the week of October 15 – 21, 2018 = 14%





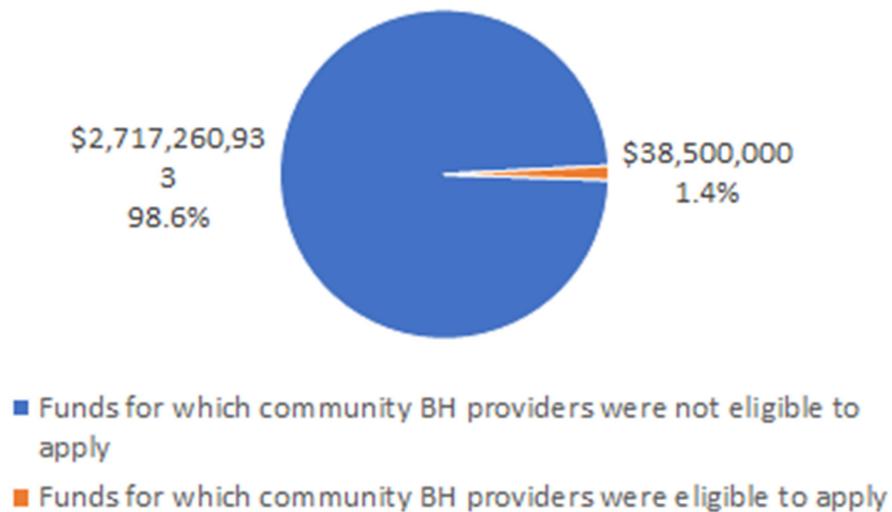
## Council for Community Behavioral Healthcare

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### How Behavioral Health Providers Have Been Shortchanged

A story in a series of charts

## Capital Funding: HEAL NY (2006-2012)

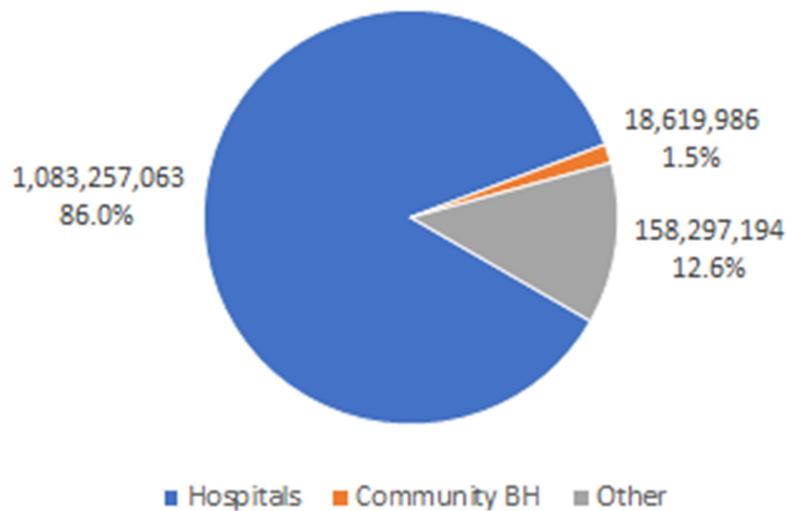


Source: [https://www.health.ny.gov/health\\_care/managed\\_care/app/extension/docs/l-shrp\\_annual\\_report\\_oct\\_spt\\_2012.pdf](https://www.health.ny.gov/health_care/managed_care/app/extension/docs/l-shrp_annual_report_oct_spt_2012.pdf)



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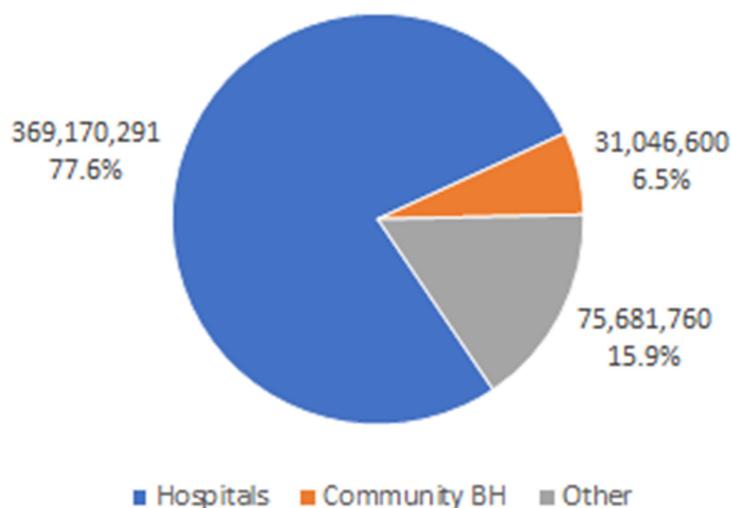
## Capital Funding: Capital Restructuring Financing Program (2017)



Note: Other includes FQHCs, primary care providers, nursing and long term care facilities, and other social service providers.  
Source: NYS press release (2017). Governor Cuomo Announces Funding to Strengthen Health Care.



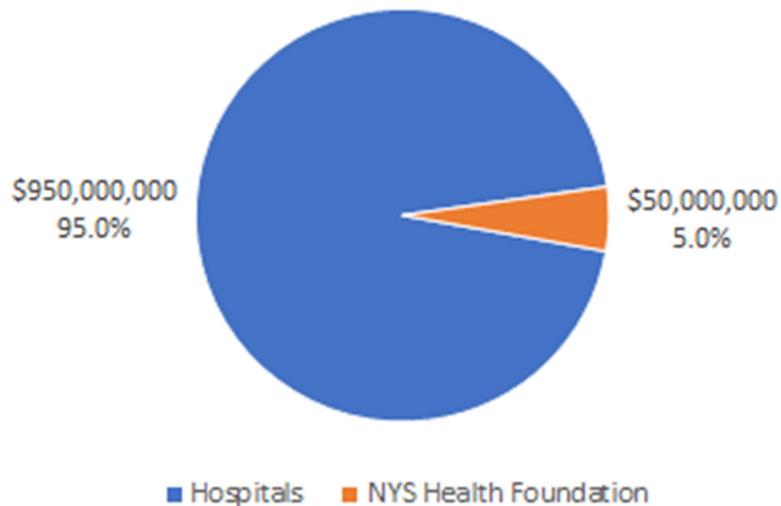
## Capital Funding: Statewide Healthcare Facility Transformation Program Phase I (2017)



Note: Other includes FQHCs, primary care providers, nursing and long term care facilities, and other social service providers.  
Source: NYS press release (2017). Governor Cuomo Announces Funding to Strengthen Health Care.



## MCO Conversions: BCBS (2002)

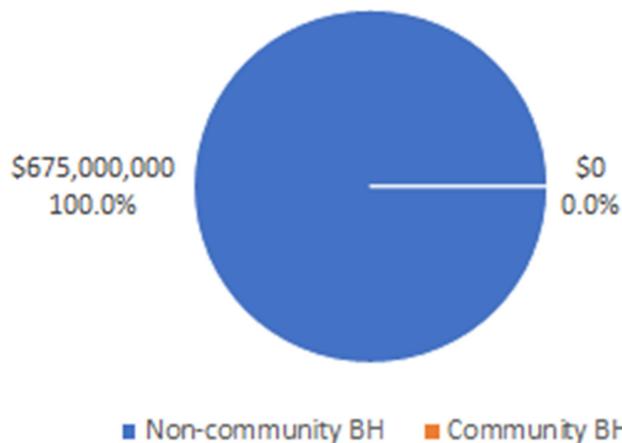


Source: <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.22.4.100>  
Note: During calendar year 2017 and 2018, 3% of NYS Health Foundation's grants went to behavioral healthcare providers.



## MCO Conversions: Fidelis (2018)

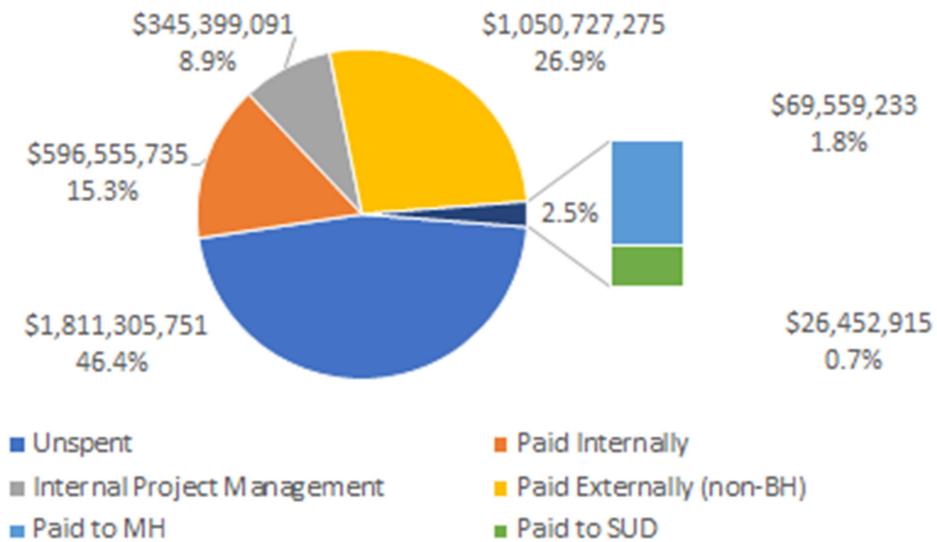
Portion of Fidelis Funds Allocated to Providers



LaMantia, J. Behavioral Health, Home-Care: Providers Want a Piece of Fidelis Windfall, New York Association of Psychiatric Rehabilitation Services, Inc.; Campanile, C. Cuomo quietly raises hospital Medicaid rates as election nears. *New York Post*, November 2, 2018.



# How PPSs Have Used DSRIP Funds



Source: [https://www.health.ny.gov/health\\_care/medicaid/re-design/dsrp/paop/meetings/2018/docs/2018-11-29\\_updates.pdf](https://www.health.ny.gov/health_care/medicaid/re-design/dsrp/paop/meetings/2018/docs/2018-11-29_updates.pdf)



# Comparison between PPS and BHCC Funding

