

**New York State Psychiatric Association, Inc.  
Area II Council of the American Psychiatric Association  
400 Garden City Plaza, Garden City, N.Y. 11530 • (516) 542-0077**

**Government Relations Office  
Karin Carreau - Spencer/Carreau Consulting**

**Jamie Papapetros – Carreau Consulting**

**Report on Governor Hochul’s \$233 Billion Budget for FY 2024-25 Budget  
(January 18, 2024)**

On Tuesday, January 16, 2024, Governor Hochul presented \$233 billion executive budget for fiscal year 2024-25. The \$233 billion represents a 4.5% increase from FY 2024. State Operating funds for FY 2025 come in at \$129 billion. The final budget is due on April 1. The Senate and Assembly have released [the schedule](#) for the thirteen joint budget hearings, which commence on Tuesday, January 23, 2024 and conclude on Wednesday, February 13, 2024. The health hearing is the first one in the series on Tuesday, January 23. The schedule outlines strict deadlines for those wishing to testify or submit written testimony.

The chart below from the Division of Budget provides a further break down of the financial plan:

FY 2025 EXECUTIVE BUDGET SPENDING ESTIMATES (millions of dollars)				
	FY 2024 Updated	FY 2025 Projected	\$ Change	% Change
<b>State Operating Funds</b>	<b>126,610</b>	<b>129,268</b>	<b>2,658</b>	<b>2.1%</b>
School Aid (School Year Basis) <sup>1</sup>	34,385	35,306	921	2.7%
Medicaid	27,442	30,431	2,989	10.9%
All Other Assistance and Grants	30,382	30,135	(247)	-0.8%
Agency Operations	31,727	33,583	1,856	5.8%
Debt Service	6,312	6,717	405	6.4%
Resource Management/Timing:				
Planned Pension Prepayment	1,709	(1,709)	(3,418)	-
Medicaid DPT Recoupment	1,100	(1,100)	(2,200)	-
Temporary eFMAP	(1,692)	0	1,692	-
FEMA Reimbursement	(1,050)	(400)	650	-
Prior Year Debt Service Prepayments	(3,705)	(3,695)	10	-
<b>Federal Operating</b>	<b>89,324</b>	<b>84,586</b>	<b>(4,738)</b>	<b>-5.3%</b>
<b>Capital Projects</b>	<b>15,670</b>	<b>18,798</b>	<b>3,128</b>	<b>20.0%</b>
<b>All Funds</b>	<b>231,604</b>	<b>232,652</b>	<b>1,048</b>	<b>0.5%</b>
<b>State Operating Funds (Adjusted)</b>	<b>130,248</b>	<b>136,172</b>	<b>5,924</b>	<b>4.5%</b>

<sup>1</sup> The Financial Plan includes a \$921 million (2.7 percent) increase for School Aid in SY 2025, inclusive of the State’s full takeover of funding for pre-kindergarten expansion grants previously supported with Federal ARP Act funds. Excluding the State funds needed to support this takeover, the School Aid increase for SY 2025 totals \$825 million (2.4 percent).

**I. Summary of Each Part of the Health and Mental Hygiene Article VII Budget Legislation**

**Part A – Medicaid Global Cap Extension**

- Extends the Medicaid Global Spending Cap through 2025-2026 requiring total state Medicaid expenditures to stay within the statutory cap.

## **Part B – Extend Various Provisions of the Public Health and Social Services Law**

- Section one of this bill would amend Chapter 57 of the laws of 2019, extending Medicaid coverage for children who are 19- or 20-years old living with their parents who meet certain criteria through October 1, 2029.
- Section two of this bill would amend Chapter 57 of the laws of 2019, extending the Commissioner of Mental Health's authority, in consultation with the Commissioner of Health, to certify Mental Health Special Needs Plans through March 31, 2030.
- Section three of this bill would amend Chapter 56 of the laws of 2020, extending the issuance of certificates of authority to accountable care organizations through December 31, 2028.
- Section four of this bill would amend Chapter 57 of the laws of 2021, extending the authority of the Commissioner of Health to issue certificates of public advantage through December 31, 2028.
- Section five of this bill would amend Chapter 57 of the laws of 2022, extending payment parity for Medicaid fee-for-service and Medicaid managed care services, whether they are provided in a traditional in-person setting or provided via telehealth modalities, through April 1, 2025.
- Section six of this bill would amend Chapter 57 of the laws of 2018, extending affiliation requirements to allow a managed care organization to affiliate with an entity or entities that are controlled by non-profit organizations to provide care coordination services, through December 31, 2029.
- Section seven of this bill would amend Chapter 59 of the laws of 2019, extending the Opioid Stewardship Act, through June 30, 2027.
- Section eight of this bill would amend Chapter 57 of the laws of 2022, extending a Statewide Medicaid integrity and efficiency initiative for the purpose of achieving audit recoveries through March 31, 2026.
- Section nine of this bill would amend Chapter 125 of the laws of 2021, extending authorization for the Commissioner's preparation of an energy audit and/or disaster preparedness review of residential health care facilities, through July 1, 2027.
- Section ten of this bill would amend Chapter 57 of the laws of 2022, extending the ability for the Department of Health (DOH), Office of Mental Health (OMH), Office for People With Developmental Disabilities (OPWDD), and Office of Addiction Services and Supports (OASAS) to waive any necessary regulatory requirements to allow providers involved in DSRIP projects, or authorized replication and scaling activities, to avoid duplicative requirements through April 1, 2026.

## **Part C – Removal of the Temporary Allowance for School Psychologists to Render Early Intervention Services**

- Owing to federal requirements, this part amends State Education Law to remove language that had authorized certified school psychologists to practice as early intervention providers and render early intervention services.
- Extends authorization for school psychologists to render services in certain preschool programs for two additional years through June 30, 2026.

## **Part D – Hospitals**

- Provides for a capital rate reduction of 10% for rate periods through September 30, 2024. For rate periods effective October 1, 2024 and thereafter there is to be a reduction of 20%.
- Upper payment limit calculation provisions will move from a state fiscal year to a calendar year beginning January 1, 2025. This will have no fiscal impact to providers.
- Extends Distressed Provider Assistance Program through March 31, 2028.

## **Part E – Nursing Home Reforms**

Medicaid reimbursement rate reforms include:

- Effective April 1, 2024, the operating rate will remain frozen at January 1, 2024 levels while DOH develops and eventually implements a Patient Driven Payment model to replace the RUGIII methodology utilized to reflect a facility's patient acuity and ultimately its reimbursement rate.
- Effective April 1, 2024, reduce allowable facility capital costs by an additional 10%.
- Amend residency requirements for veterans seeking admission to state-run veterans homes from 1 year to 6 months, allowing for increased access to necessary care.

## **Part F – Long-Term Care Facilities**

- Transitions the Special Needs Assisted Living Residence (SNALR) from a pilot program to a regulated permanent program.
- Allows for subsidized costs for individuals with Alzheimer's and Dementia, who are not eligible for Medicaid and reside in special needs assisted living residences
- Requires all assisted living residences to:
  1. Beginning January 31, 2025, report annually on quality measures to be established by DOH.
  2. Post monthly service rates, staffing complement, approved admission or residency agreement and a summary of all service fees in both a public place within the facility and on the facility's website.
  3. Assisted living quality reporting shall be scored by the DOH with top scoring facilities being granted the classification of Advanced Standing on annual surveillance schedules.
  4. Provides that advanced standing facilities will be surveyed every 12-18 months while all other facilities will be surveyed unannounced no less frequently than annually. This timetable does not apply in cases of inspections or investigations due to complaints received by DOH.
  5. Effective January 1, 2025, DOH may post on its' website the results of assisted living quality reporting.
  6. Adult Care Facilities that are dually licensed to provide assisted living may seek accreditation by a nationally recognized accrediting agency approved by the commissioner.
  7. Facilities achieving accreditation may at the discretion of the commissioner, be exempt from inspection for the duration of the time that accreditation is maintained. This exemption is revoked in the event that accreditation is lost.

**Part G – Long-Term Care Proposals**

- Effective October 1, 2024, eliminates the requirement for wage parity for personal assistants in the Consumer Directed Personal Assistant Program (CDPAP) in New York City, Nassau, Suffolk and Westchester counties.

**Part H – Managed Care Proposals**

- Effective April 1, 2024, places a moratorium on approval of applications to establish new managed care providers including applications to expand the scope of eligible enrollee populations. This moratorium does not apply to:
  1. Applications submitted prior to January 1, 2024
  2. Applications seeking approval to transfer ownership
  3. Applications seeking to expand existing approved service areas
  4. Applications that the commissioner deems necessary for the provision and access to adequate healthcare
- Requires a competitive bid process managed by DOH to select qualified managed care providers and established various criteria to be evaluated by the department and commissioner including a plans past performance in meeting contract requirements.
- RFA's may be issued for separate care products
- Bill establishes DOH's responsibilities for eventual RFA's
- Requires selection of a limited number of special needs managed care plans
- Effective April 1, 2024 eliminates the 1% across the board rate increase
- Authorizes liquidated damages from managed care plans for failure to meet contractual obligations and performance standards of their contract.
- Prohibits damages from being passed on to any provider or subcontractor.

**Part I – Pharmacy Related Recommendations**

- Eliminates a prescriber's final determination (i.e., prescriber prevails) under Medicaid Fee for Service (FFS) and Medicaid Managed Care.
- Repeals Medicaid Drug Cap, which has been a component of the Medicaid global cap, and authorizes DOH to establish a supplemental rebate program "...as part of a focused and sustained effort to balance the growth of drug expenditures with the growth of total Medicaid expenditures."
- Authorizes DOH Commissioner to refer drugs, "including but not limited to, drugs in the eightieth percentile or higher of total spend, net of rebate or in the eightieth percentile or higher based on

cost per claim, net of rebate, to the Drug Utilization Review Board." Requires certain information to be submitted by manufacturer when attempts to enter into rebate arrangement are unsuccessful.

- DOH is to develop and implement a cost reporting program for licensed pharmacies participating in the Medicaid program. Program will require submission of an annual cost report on a form designated by DOH, which are subject to audit.

#### **Part J – Essential Plan Proposals**

- Renames the Basic Health Program as the Essential Plan.
- Extends for one year the authority to provide long term care and supports (LTSS) in the Essential Plan to lawfully present individuals between 0-138% of the federal poverty level.
- Delays for one year (January 1, 2025 to January 1, 2026) the implementation date to provide LTSS to individuals in the Essential Plan between 0-200% of the federal poverty level.
- Subject to federal approval, authorizes the use of state funds and availability of 1332 state innovation fund program, DOH Commissioner authorized to establish program to provide subsidies for payment of premium or cost sharing to assist individuals who are eligible to purchase qualified health plans.
- Add 1332 State innovation program to functions of the New York State of Health Marketplace.

#### **Part K – Physician’s Excess Medical Malpractice**

- Extends program through June 30, 2025
- Require that for excess coverage purchased on or after July 1, 2023, funds from the excess liability pool would be used to pay 50% of the premium at the conclusion of the policy period, with the other 50% to be paid the following year.
- For excess coverage purchased on or after July 1, 2024, a provider of excess coverage or equivalent excess coverage would be required to bill the physician or dentist for an amount equal to 50% of the premium for such coverage during the policy period. At the conclusion of the policy period, funds available in the hospital excess liability pool would be used to pay 25% of the remaining half to the provider of excess insurance coverage or equivalent excess coverage, and the remaining 25% would be paid one year thereafter.

#### **Part L**

- Discontinue Section 405.4 Hospital Audit Program
- Discontinue the Tick-Borne Disease Program
- Discontinue the MSSNY Committee for Physician Health Program
- Discontinue the Empire Clinical Research Investigator Program (ECRIP)
- Discontinue the EQUAL program
- Discontinue the Enriched Housing Program
- Savings attributed to the discontinuation of the above: \$12.1 million in FY 2025 and \$12.3 in FY 2026

#### **Part M – Continuous Eligibility for Children Ages 0-6**

- Amends Social Services Law and Public Health Law to authorize children under the age of six to remain covered under Medicaid or Child Health Plus Programs. The continuous enrollment would not be impacted by any change in the income of child’s family.

#### **Part N – Maternal and Reproductive Health**

- Provisions call for statewide standing orders for doula services for pregnant, birthing, and postpartum individuals through twelve months postpartum. Adds minors to the list of individuals who may give consent for any and all medical care related to reproductive health, including consent to terminate a pregnancy for any reason. Also allows for the prescription and distribution of contraceptives by a health care provider when, according to the practitioner’s reasonable judgment, they determine the patient is able to medically tolerate said treatment.

#### **Part O – Medical Debt Protections**

- Amends Public Health Law to codify definition of “underinsured” as “an individual with out-of-pocket medical costs that amount to more than ten percent of such’s individual’s gross annual income for the past twelve months.”
- Requires hospitals to extend financial assistance to both uninsured and underinsured persons. The bill would also require hospitals to offer assistance to people up to 400% of the federal poverty line.
- Adjust the amount of financial assistance that hospitals must provide, requiring that hospitals offer more generous discounts than required by current law.
  - Reduction in charges for patient with incomes below 400% of the federal poverty level as follows:
    - For patients below 200% of federal poverty level, the hospital shall waive all charges. No nominal payment may be collected.
    - For patients with incomes between at least 200% and 300% of the federal poverty level, the hospital is authorized to collect no more than the amount identified after application of a proportional sliding fee schedule. For underinsured patients, the maximum is up to 10% of the amount that would have been paid pursuant to such patient’s insurance cost sharing.
    - For patients between 301% and 400% of the federal poverty level, the hospital is authorized to collect no more than the amount identified after application of a proportional sliding fee schedule. For underinsured patients, the maximum is up to 20% of the amount that would have been paid pursuant to such patient’s insurance cost sharing.
- Establish certain additional requirements such as ensuring that hospitals make patients aware of the availability of financial assistance and extending the period of time during which a patient can apply for such assistance.
- Limit the ability of hospitals to sue patients earning less than four hundred percent of the Federal Poverty Level for the purposes of collecting on a medical debt. In any legal action related to the recovery of medical debt or unpaid bills by or on behalf of a hospital, the complaint would have to be accompanied by an affidavit by the hospital’s chief financial officer stating that the patient whom they are taking legal action against does not have an income below four hundred percent of the federal poverty level. Also prohibits a hospital or collection agency from commencing a civil action against a patient for at least 180 days after the first post-service bill “... until hospital has made reasonable efforts to determine whether a patient qualifies for financial assistance.”
- Amend the Public Health Law to require that patient consent for treatment is separate from a patient’s consent to pay for such treatment.
- Amend the General Business Law to prohibit the requirement that a patient pre-authorize their credit card before treatment or have a card on file and would require patients to be notified of the possible risks of paying for treatment with a credit card. Notification must note that by using a credit card to pay for medical services, “the patient is forgoing state and federal protections regarding medical debt.”

**Part P – Scope of Practice Extender**

- Expands COVID Related Scope of Practice provisions to allow pharmacists to direct limited-service laboratories and administer COVID 19 and influenza tests until April 1, 2026.

**Part Q – Expand Scope of Practice**

- Provisions allow for Physician Assistant to practice autonomously once they have 8,000 hours of experience practicing primary care (non-surgical care in the fields of general pediatrics, general adult medicine, general geriatric medicine, general internal medicine, obstetrics and gynecology, family medicine or such other related areas as determined by the commissioner of health), is employed by a health system or hospital, and has completed a program approved by DOH.
- Provisions would also allow Certified Nurse Aides to become certified as Medication Aides in residential health care facilities to administer routine medications to residents under the supervision of a registered nurse. In outpatient settings, licensed physicians, nurse practitioners, and physician assistants could assign and supervise medical assistants’ tasks related to immunizations.
- Further provisions also seek to expand the scope of practice for dentists, allowing them to administer specific vaccines and tests for COVID-19, influenza, HPV or others as the relate to a declared public health emergency.

- Finally, dental hygienists would be allowed, under a collaborative agreement with a dentist to handle additional procedures currently within the exclusive scope of dentists such as: placing pre-fit orthodontic bands, using light-cure composite materials (cavity fillings), taking cephalometric radiographs (comprehensive x ray that provides view of the head and facial structures), taking two-dimensional and three-dimensional photography dentition, adjusting removable appliances including nightguards, bleaching trays, retainers, and dentures.

### **Part R – Join Interstate Compacts**

- Provisions would authorize for two separate interstate compacts for the purposes of allowing licensed physicians and (separately) registered nurses (RNs) and licensed practical nurses (LPNs) from out of state to practice in NY State through streamlined licensure in multiple participating states, adopting the prevailing standards in the state where the patient is located, and requiring providers to practice under the jurisdiction of the state's medical boards, develops interstate compact commissions. Does not alter states existing medical practice acts.

### **Part S – Healthcare Safety Net Transformation Program**

- Establishes the Healthcare Safety Net Transformation Program to support the transformation of safety net hospitals to improve access, equity, quality, outcomes, and the fiscal sustainability of the hospitals. This program builds on the previous five Statewide Health Care Facility Transformation Programs (SHCFTP).
- Up to \$500 million is directed to be transferred from available SHCFTP IV and V to support the program.
- Eligible hospitals:
  - public hospital, rural emergency hospital, CAH, or sole community hospital,
  - Have at least 30% of inpatient discharges and 35% of outpatient visits made up of Medicaid, uninsured, or dually eligible individuals,
  - Serve at least 30% of residents of a county or multi-county area who are Medicaid, uninsured, or dually eligible individuals, OR
  - At the discretion of the Commissioner of Health, serve a significant portion of Medicaid, uninsured, or dually eligible individuals. The provision specifies thresholds.
- Eligible hospitals and partner organizations may jointly apply, and funding may be provided to the safety net hospital or its partner organization. Partner organizations are defined but the Commissioner has the discretion to deem any organization a partner organization if doing so will advance the program's goals.
- DOH may waive regulations to facilitate projects, except regulations pertaining to patient safety, quality, patient rights, scope of practice, professional licensure, environmental protections, and others, and as long as a waiver will not place patient safety at risk.
- Safety net hospitals and their partners must include in their applications, a 5-year strategic and operational transformation plan. Ongoing funding throughout the contract term may be withheld if progress toward milestones is not met.

### **Part T – Ending the Epidemic**

- Require clinics performing diagnostic HIV, HBV, and HCV tests report negative results as well as positive test results.
- Requires notices in multiple languages when HIV test is ordered and informing patient testing is voluntary.
- Authorizes registered nurses to facilitate Hepatitis B testing through non-patient specific standing order.
- Authorizes pharmacists to dispense HIV Pre-exposure Prophylaxis (PrEP) without a patient specific order and mandates pharmacists to annually confirm that the patient prescribed PrEP is HIV negative. Provision includes additional requirements for pharmacists before dispensing PrEP including directing patients who have tested positive to a licensed physician, providing the patient with a self-screening risk assessment questionnaire developed by the Commissioner, providing patient with a fact sheet and receiving training required under Commissioner's regulations. Pharmacist must also notify the patient's primary care practitioner unless patient opts out with 72

hours of dispensing PrEP. In cases where the patient does not have a primary care practitioner, the pharmacist is to provide a written record of medication dispensed.

- Decriminalizes venereal diseases by repealing section 2307 of the Public Health Law.

#### **Part U – Opioids and Overdose Prevention**

- Amends the Public Health Law to codify the definition of public health surveillance and patient identifying information as follows:
  - Public Health Surveillance is defined as “the continuous, systematic collection, analysis, and interpretation of health-related data needed for planning, implementation, and evaluation of public health practice. Public health surveillance is authorized to be used for all of the following purposes: “(a) as an early warning system for impending public health emergencies; (b) to document the impact of an intervention; (c) to track progress towards specified goals; (d) to monitor and clarify the epidemiology of health outcomes; (e) to establish public health priorities; and (f) to inform public health policy and strategies.”
  - Patient Identifying information is defined as “information or direct identifiers and demographic information that can be used to readily identify a particular patient as may be specified in more detail in regulations promulgated by the commissioner.”
  - Establishes an additional exception for practitioners to consult the Prescription Monitoring Program when a practitioner is prescribing or ordering a controlled substance for use on the premises of a correctional facility, an inpatient mental facility licensed under the Mental Hygiene Law, or a nursing home licensed under Article 28 of the Public Health Law.
  - Extends the record expungement period from five to ten years.
  - Allows enhanced data sharing while maintaining confidentiality and privacy.
  - Updates State’s controlled substance schedules to align with Drug Enforcement Agency (DEA)
  - Aligns State law with recently revised DEA regulations authorizing providers to distribute up to a 3-day supply of narcotic for the purpose of initiating maintenance or detoxification treatment while arrangements are being made for referral.

#### **Part V – EMS and Hospital at Home**

- Amends sections of PHL to support innovative, flexible models to efficiently provide safe, effective care in an evolving landscape. Proposed initiatives include:
  - Expanding hospital-physician-home care collaborations to include multiple provider types including EMS providers, nursing homes, hospices, and others, to meet community health care needs, including outside a hospital. Collaborative initiatives between at least two provider types may be supported by grants or reimbursement rate adjustments.
  - Allowing general hospitals to provide or arrange for care in a patient’s home if the patient has a pre-existing relationship with the hospital and at least 51% of the hospital’s total care hours are provided in the hospital;
  - Allowing general hospitals to provide off-site primary care and medical services, including acute care and preventive wellness services, under certain circumstances;
  - Allowing FQHC’s to provide off-site services consistent with regulations;
  - Authorizing DOH to establish Medicaid reimbursement rates to support these innovative models, and mandates that general hospitals approved for such projects provide specific cost data to DOH to facilitate rate setting.
  - Extending the ability of approved mobile integrated and community paramedicine programs to operate from 2025 to March 31, 2031. It also creates a path for unapproved programs or approved limited-purpose programs to apply for and secure DOH approval for non-limited programs. The proposal authorizes DOH to approve up to 200 such programs, through March 31, 2031;
  - Expanding the definition of “emergency medical service” beyond initial emergency medical assistance to include emergency and non-emergency care, community education programs, and other functions.
- Amends Education Law to allow physicians and nurse practitioners to prescribe and order a non-patient specific regimen of care to emergency medical service practitioners for immunizations.
- Establishes the Emergency Medical Services (EMS) Essential Services Act to:

- Establish a framework of uniform, effective, and coordinated response to medical emergencies;
- Designate emergency medical response and emergency medical dispatch as essential services to standardize an effective system of emergency response and dispatch; as such, each county must, either individually or jointly with another county, provide such services and establish an emergency response plan;
- Establish rules for the licensing, funding, and operational standards of EMS;
- Require licensure of all emergency medical dispatch agencies and that all dispatchers must complete a certification course & maintain continuous certification;
- Amends PHL to:
  - Authorize EMS demonstration programs to participate in proposed health care delivery collaborative initiatives;
  - Authorize DOH to establish minimum standard for EMS practitioners;
  - Establish a paramedic urgent care program to evaluate the role of EMS providers in the delivery of health care services, including the use of telehealth, in rural counties. Such programs must be supervised by a qualified physician, be staffed by appropriate health care personnel, utilize appropriately trained advanced emergency medical technicians, and be integrated with a hospital or other appropriate health care organization.

#### **Part W – Creating of Interagency Council of Elder Justice**

- Amends Elder Law to establish Interagency Council of Elder Justice, which would be responsible for developing strategies to combat elder abuse with an annual report to the Governor and Legislature.
- The council is to be chaired by the Director of the Office for Aging and include representation from Office of Victims Services, Department of Financial Services, Division of Criminal Justice Services, Office of Mental Health, Office for Prevention of Domestic Violence, Department of Health, Office for People with Developmental Disabilities, New York State Police, Justice Center for Protection of People with Special Needs, and Department of State's Division of Consumer Protection. Council is to seek input from stakeholders, advocates, experts and coalitions.
- The council shall: (a) develop and implement a cohesive, comprehensive state plan on elder justice that aligns state elder justice policy and programs across state agency responsibilities; (b) develop plans for a coordinated and comprehensive response from state and local government and other entities when elder abuse is reported; (c) facilitate interagency planning and policy development on elder justice; (d) review and propose specific agency initiatives for their impact on systems and services related to elder justice; (e) coordinate activities for world elder abuse awareness day and other events; and (f) make recommendations to the governor that will improve New York's elder abuse prevention and intervention efforts.
- The Council is to meet regularly and submit its report no later than December 31, 2025, and annually thereafter.

#### **Part X – Make the Opioid Stewardship fund Permanent**

- Makes the Opioid Stewardship Fund permanent in the State Finance Law. The Opioid Stewardship Fund is used by OASAS to support opioid treatment, recovery, prevention and education services.

#### **Part Y – Make the Community Mental Health Support and Workforce Reinvestment Program Permanent**

- Permanently extends the law requiring OMH to continue its practice of reinvesting savings from State Psychiatric Center inpatient bed closures for community mental health services and workforce

#### **Part Z – Makes Flexibilities for Demonstration Program Permanent**

- Permanently extends the law authorizing OMH, OPWDD, & OASAS to utilize flexibilities to develop new methods of services through demonstration projects.

#### **Part AA – Require Minimum Commercial Insurance Reimbursement Rates for Behavioral Health Services**

- Amends various sections of Insurance Law requiring minimum reimbursement rates to authorized in-network OMH and OASAS licensed mental health and addiction services providers. The provisions

require reimbursement rates for covered outpatient treatment at no less than the Medicaid rates in effect for such services.

### **Part BB – Make the Comprehensive Psychiatric Emergency Programs Permanent**

- Removes the time limitation of July 1, 2024, on the ability of the Commissioner of Mental Health to designate general hospitals, local governmental units, and voluntary agencies to operate Comprehensive Psychiatric Emergency Programs (CPEP). The OMH Commissioner now has that authority with no time deadline.

### **Part CC – Justice Center**

- Amends the Social Services Law regarding the Justice Center's obligation to refer substantiated reports of abuse or neglect in facilities or provider agencies in receipt of medical assistance to the Office of Medicaid Inspector General (OMIG). This provision clarifies such reports must be made to OMIG once such reports are no longer subject to amendment or appeal and could be the subject of OMIG sanction. The parameters will be established by the Justice Center in consultation with OMIG.

### **Part DD – Representative payee authority for mental hygiene directors**

- Permanently extends law providing authority of State mental hygiene facility directors, acting as federally appointed representatives, to use funds for the cost of care and treatment of persons receiving services.

### **Part EE – Support Access to More Independent Living**

- Amends State Education Law with respect to nursing to allow Direct Support Professionals (DSPs) in certain OPWDD community-based settings, such as a person's private home or apartment, to perform certain nursing tasks "... where nursing services are under the instruction of a service recipient or family, or household member determined by a registered professional nurse to be capable of providing such instruction."

### **Part FF – Human Services Cost of Living (COLA)**

- Provisions establish a one-time COLA for fiscal year 2025 at a rate of 1.5 percent to eligible human services programs including OMH, OPWDD, OASAS, OTDA, OCFS and SOFA.

## **II. Summary of Key Parts of Education, Labor & Family Assistance Article VII Budget Legislation**

- **Authorizes the Pass-Through of any Federal Supplemental Security Income Cost of Living Adjustment – Education, Labor and Family Assistance (Part H)** – Provisions would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2024 to account for the SSI Cost of Living Adjustment (COLA) and allow such benefits to be further increased in 2025 if there are increases in the Federal benefit during the first half of that calendar year. It also would update the Personal Needs Allowance (PNA) for SSI recipients in congregate care and allow for those to be adjusted in 2025 based on any Federal SSI COLA in the first half-of that calendar year. Increased amounts as follows – \$181.00 (from \$175.00) in the case of an individual receiving family care, \$208.00 (from \$202.00) in the case of each individual receiving residential care, and \$249.00 (from \$241.00) in the case of each individual receiving enhanced residential care, effective January 1, 2024. This language would also set forth the 2024 PNA amounts for SSI recipients in congregate care, which varies depending on the type of congregate care setting, and to allow those amounts to be automatically increased in 2025 by the percentage of any Federal SSI COLA that becomes effective within the first half of the calendar year 2025.
- **Implement Mandatory Federal Child Support Changes (Part I)** – In order to comply with federal law and regulations regarding child support, the provisions amend the Family Court Act and the Domestic Relations Law to comply with the Federal Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs. Per the budget briefing materials, "Current law requires an incarcerated person to continue to make child support payments in accordance with their former resources or income if the incarceration was the result of non-payment of a child support order, or if the person committed an offense against the custodial parent or child who is the subject of the order of judgment. This proposal

would amend the relevant DRL and FCA provisions to remove these two grounds for determining a parent has voluntarily reduced their income."

- **Sunset the State's COVID-19 Sick Leave Law (Part M)** – Bill would sunset the law as of July 31, 2024. The memo for the legislation states, "Chapter 25 of the Laws of 2020 enacted the State's COVID-19 Sick Leave Law, which required employers to provide sick leave benefits, paid family leave, and benefits due to disability for employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. New York's nation-leading paid sick leave laws provide all New Yorkers with sick leave protections, regardless of which illness they are experiencing. As the federal COVID-19 state of emergency has concluded, it would be prudent for this COVID-19 sick leave initiative to conclude as well."
- **Require Paid Breaks for Breast Milk Expression in the Workplace (Part J)** – Amends the Labor law to require paid breaks for up to 20 minutes, for breast milk expression. Nursing employees who take in excess of 20 minutes to express breast milk would be permitted to be covered using existing paid break time or meal time.

### **III. Summary of Key Parts of Transportation, Economic Development and Environmental Conservation**

#### **Article VII Budget Legislation**

- **Extends Minority and Women Owned Business** program for five years through December 31, 2029. (Part Y)
- **Insulin Cost Sharing** – Amends §§§ 3216, 3221 and 4303 of the Insurance Law, with respect to covered prescription insulin drug cost sharing to ensure that insulin drugs are not subject to a deductible, copayment, coinsurance, or any other cost sharing requirement. This would take effect on January 1, 2025, and apply to any policy or contract issued, modified, altered or amended after such date. (Part EE)
- **Mental Health Parity (Part HH)** – Amend the Insurance Law by raising the penalties that the Department of Financial Services would impose on an authorized insurer, and any representative thereof, that violates any mental health or substance use disorder provision or the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. The provisions stipulate that. If the Superintendent finds after notice and hearing willful violation of the law or regulations with respect to mental health and substance use disorders, a penalty of up to \$2,000 per offense may be issued.

### **IV. Summary of Key Parts of Public Protection and General Government Article VII Budget Legislation**

#### **Part D - Correctional Facility Closures**

- Authorizes the closure of up to five correctional facilities with 90-day notice.

#### **Part F- Judicial Protection**

- Establish a process for New York State judges and federal judges in New York State, as well as certain court personnel, and their immediate families to request the removal of their personal information from public disclosure.

#### **Part G – Combat Unlicensed Sale of Cannabis**

- Expands OCM's authority to seal a building or premises of an illicit cannabis operator upon the presence of certain factors and following issuance of a notice of violation and order to cease unlicensed activity. This bill would also increase the civil penalties for any person engaging in unlicensed activity who refuses to let OCM perform a regulatory inspection from \$4,000 to \$20,000 for a first refusal and \$8,000 to \$40,000 for subsequent refusals.
- Per the budget briefing materials, "Authorizes localities to adopt their own laws to establish a process for the locality to execute closure orders, seize and destroy illicit cannabis, and to establish their own civil penalties against the illicit operators. The bill would also require those localities that adopt a local law or ordinance to establish a local registry with all licensees in their municipality, mirroring OCM's licensee registry. This bill would allow localities to receive penalty revenue from any legal actions they take related to unlicensed activity."

#### **Part M - Establish First-in-Nation Paid Prenatal Leave**

- Amend Workers' Compensation Law to provide 40 additional hours of leave to New York's Paid Family Leave Law for eligible pregnant employees to attend appointments for prenatal care, including physical exams, monitoring and testing, and discussions with a health care provider. The amendment would provide 40 hours within a 52-week calendar period, available in hourly increments.
- Leave for prenatal care would not reduce the 12 weeks of Paid Family Leave or 26 weeks of disability leave for eligible employees. Leave benefits would be paid hourly and written notice or proof to the employer for leave would be due within 30 days following the appointment.
- If enacted, provision would take effect on January 1, 2025.

#### **Part N – Increase Short-Term Disability Leave Benefits**

- Increase the maximum weekly payment for eligible employees on short-term disability from \$170 to two-thirds of an employee's average weekly wage, capped at two-thirds of the Statewide Average Weekly Wage (SAWW) by 2029 for the first twelve weeks of disability. Thereafter the benefit would be capped at \$280 weekly for weeks thirteen through twenty-six.
- Increase to the weekly benefit would roll out in annual increments, starting at half of an employee's average weekly wage in 2025, capped at \$400, and ending at two-thirds of the SAWW by 2029. Tying the benefit to the SAWW ensures the weekly payments would keep pace with wage growth over time.

#### **Part O – Stop Addictive Feeds Exploitation (SAFE) for Kids Act**

- Prohibit social media platforms from providing an addictive feed to children younger than age 18 and require such platforms to obtain parental consent before permitting notifications to children between 12:00 AM and 6:00 AM. Additionally, operators would be required to provide options for parents to limit their child's access to addictive social media to a length of time per day.
- Empower the Office of the Attorney General to enforce the SAFE for Kids Act and bring an action to obtain injunctive relief, restitution, disgorgement of profits obtained from a violation, damages and civil penalties of up to \$5,000 per violation.
- Covered users, or their parent or guardian, could also bring an action for violations to obtain damages of up to \$5,000 or actual damages, whichever is greater as well as injunctive or declaratory relief.

#### **Part P – Child Data Protection Act**

- Protects the data of covered users under eighteen, permits data collection only when necessary for the site or application to function, or upon receiving informed consent. For users under thirteen, data is protected except for processing covered under 15 U.S.C. § 6502.
- Upon discovery of violations of the Act, the Attorney General of New York could bring a legal action for injunctive relief, restitution, disgorgement of profits, damages and civil penalties of up to \$5000 per violation. Covered users or parents of minors could bring an action for violations to seek injunctive relief and damages of the greater of up to \$5000 or actual damages.

#### **V. Summary of Key Parts of Revenue Article VII Budget Legislation**

- Repeal and Replace the Cannabis Potency Tax (Part L) – Amends New York State Tax Law to replace the potency tax on adult-use cannabis ("AUC") products with a percentage tax on the wholesale price. Specially, this provision replaces these potency-based tax rates with a single percentage-based tax rate of 9 percent of the amount charged for the sale or transfer of AUC products by a distributor to a cannabis retailer.
- Provide that for retail sales by vertically-integrated microbusinesses and registered organizations, the tax rate of 9 percent would apply to 75 percent of the amount they charge for their sale or transfer of AUC products to a retail customer.
- Simplify tax computation and reporting for distributors. It would also adjust for the fact that microbusinesses and registered organizations pay tax on their retail sales based on the amount charged to the retail customer, rather than wholesale price on which other distributors' taxes are based.

- Change the administrative provisions of this tax from Article 27 of the Tax Law to Article 28 to, among other things, provide accountability by responsible persons for unpaid taxes due in the cannabis industry.

## VI. Mental Health Hygiene Spending & Investments

Breakdown by agency comparing FY 2024 with proposed FY 2025:

Summary of All Funds Mental Hygiene Spending				
CATEGORY	FY 2024 (MILLIONS OF DOLLARS)	FY 2025 (MILLIONS OF DOLLARS)	DOLLAR CHANGE (MILLIONS OF DOLLARS)	PERCENT CHANGE (%)
OPWDD	4,811.65	5,050.81	239.16	5.0
OMH	4,254.07	4,823.91	569.84	13.4
OASAS	997.68	1,005.42	7.74	0.8
Justice Center*	52.01	49.38	(2.63)	(5.1)
CDD	4.20	4.20	0.00	0.0
<b>SUBTOTAL</b>	<b>10,119.61</b>	<b>10,933.72</b>	<b>814.11</b>	<b>8.0</b>
Adjustments - OPWDD**	2,091.20	(1,855.45)	(3,946.65)	(188.7)
<b>TOTAL</b>	<b>12,210.81</b>	<b>9,078.27</b>	<b>(3,132.54)</b>	<b>-25.7</b>

\*Justice Center spending decrease reflects a decrease in projected federal reimbursement.

\*\*OPWDD Adjustments reflect OPWDD-related local share expenses that will be funded outside of the DOH Global Cap through use of additional Financial Plan resources. This shift has no impact on OPWDD service delivery or operations.

- **\$55 million** to create 200 new inpatient psychiatric beds.
- **\$43 million** to keep supportive housing units for people in need of mental health services.
- **\$42.2 million** to increase reimbursement for mental health treatment services.
- **\$37 million** to build new programs for unhoused individuals living with mental illness
- **\$60 million** – 9-8-8 suicide prevention crisis hotline
- **\$24 million** to help people with mental health problems who are in the criminal justice system.
- **\$250,000** for New York’s Most Integrated Setting Coordinating Council (MISCC) to issue an Olmstead Plan. This will ensure that people with disabilities receive services in the most integrated setting appropriate to their needs. Under the Office of the Chief Disability Officer and the new Olmstead Director, this plan will include people with physical, sensory, developmental, and/or intellectual, mental, and behavioral disabilities.
- **\$57 million** in State funds to support minimum wage increases, including indexing minimum wage to inflation, for staff at programs licensed, certified, or otherwise authorized by OPWDD, OMH, and OASAS
- **\$6.2 million** to provide mental health specialists and peers in mental health courts, \$2.8 million to provide housing and supports to individuals with mental illness experiencing homelessness and/ or involved in the criminal justice system, and \$9.6 million to enhance and expand specialized Forensic Assertive Community Treatment (FACT) teams to support individuals with serious mental illness in the community.

## VII. Children's Mental Health

- **\$45 million** for youth mental health including school-based services and peer-to-peer counseling.
- **\$53,289,000** for services and expenses related to home-based crisis intervention program for children
- **\$9.6 million to create 12 new Youth Assertive Community Treatment (ACT) Teams** – These additional youth teams will help address the needs of children who are at risk of needing, or returning home from, high end services.
- **\$10,000,000** for services and expenses related to youth suicide prevention
- **\$10,000,000** for services and expenses related to high fidelity wrap around services for children
- **\$2.8 million** invested annually to enhance Partial Hospitalization Program (PHP) children's services rates by 25 percent and develop several new PHP programs.
- **\$1.5 million** annually to expand Project TEACH (Training and Education for the Advancement of Children's Health) through specialized support for mental health and substance use treatment for individuals during pregnancy and postpartum. This funding will enhance provider education, consultation, and awareness of mental health and substance use resources for: therapists; lactation consultants; Women, Infant and Children (WIC) staff; home visiting nurses; and other frontline practitioners working directly with the perinatal population.
- **\$4 million** – Establish Loan Forgiveness Program for Mental Health Clinicians Serving Children specifically for licensed mental health clinicians serving children and families in OMH and Office of Children and Family Services licensed settings.
- **\$2 million** will expand peer-to-peer supports, including Teen Mental Health First Aid and safe spaces outside of the home and school where youth can meet with peers, provide support to each other, and utilize established connections to professionals and trained adults to better address mental health and wellness challenges.
- **\$187,000** to expand crisis intervention training
- **\$1 million** annually to increase training and specialized programs focusing on children with welfare system involvement. Funding will support two programs in Children's Community Residences in each OMH region to support reunification with families and build networks to mental health services.

## VIII. Education Appropriations/Provisions of Note in ATL/Article VII

- **\$35.3 billion** in total school aid, an increase of **\$825 million** (2.4 percent) from FY24. This includes a **\$507 million** increase in Foundation Aid.
- **\$10 million** to train 20,000 teachers and teaching assistants in best practices for evidence-based literacy instructional practices.
- **4-year** extension of Mayoral Control over New York City public schools.
- **\$1,500,000** for service and expenses to school mental health programs including \$500,000 for School Mental Health Resource and Training Center (page 194)
- **\$3,000,000** for grants to school districts to increase the use of alternative approaches to student discipline (page 194)
- **\$466,000** for services and expenses of the New York State Center for School Safety
- **\$22,383,000** shall be available for reimbursement for the education of homeless children and youth for the 2024- 56 25 school year
- **\$4,200,000** shall be available during the 2024-25 school year for the education of youth incarcerated in county correctional facilities
- **\$34,125,000** shall be available for the 2024-25 school year for the education of students who reside in a school operated by the office of mental health or the office for people with developmental disabilities
- **\$24,344,000** For competitive grants for the 2024-25 school year for extended day programs and school violence prevention programs pursuant to section 2814 of the education law provided, however, notwithstanding any inconsistent provisions of law, eligible entities receiving funds for extended day programs may include not-for-profit organizations working in collaboration with a public school or school district

- **\$7,920,000** For services and expenses of a foster youth initiative, to provide additional services and expenses to expand opportunities through existing postsecondary opportunity programs at the State University of New York, City University of New York, and other degree-granting institutions for foster youth; and to provide any necessary supplemental financial aid for foster youth, which may include the cost of tuition and fees, books, transportation, housing and other expenses as determined by the commissioner to be necessary for such foster youth to attend college; financial aid outreach to foster youth; summer college preparation programs to help foster youth transition to college, prepare them to navigate on-campus systems, and provide preparation in reading, writing, and mathematics for foster youth who need it; advisement, counseling, tutoring, and academic assistance for foster youth; and supplemental housing and meals for foster youth. A portion of these funds may be suballocated to other state departments, agencies, the State University of New York, and the City University of New York. Notwithstanding any law, rule, or regulation to the contrary, funds provided to the State University of New York may be utilized to support state-operated campuses, statutory colleges, or community colleges as appropriate.
- \$100.75 M – Advantage afterschool
- The Budget maintains the Community Schools set-aside at \$250 million to ensure support for community schools located in high need school districts. These community hubs offer wrap-around services such as after-school mentoring, summer learning activities, and health and dental care services.

## IX. Human Services/Child Welfare

- **\$70 million** – Medical care for Foster Youth and DV
- **\$13.7M** – Family First Prevention Services Act
- **\$401 million** Foster Care Block Grant
- **\$900 million** child welfare preventative
- **\$233 million** adoption subsidy program
- **\$26 million** home visiting
- **\$1.7 million** toddler mental health resource centers - . Currently, there are Infant Toddler Mental Health Consultants (ITMHCs) located at seven regional infant and toddler resource centers. The additional funding will go to these resource centers to expand mental health consultants to providers across the State.
- **\$5 million** for family child care networks. New York will pilot staffed Family Child Care Networks (FCCNs) in regions around the State, with a focus on supporting and growing the capacity of family and group family child care providers. These types of providers operate small programs out of their homes for children and care for a large portion of children in families participating in the Child Care Assistance Program (CCAP). (OCFS, page 307)
- **\$2 million** for the distribution of portable cribs for under-resourced New Yorkers at no cost to reduce The Risk of Sudden Unexpected Infant Deaths (SUID)
- **\$50 million** in one-time Federal TANF resources in locally driven anti-poverty initiatives in Rochester, Syracuse, and Buffalo, where this poverty is most concentrated. (Page 502)
- **Reimburse Child Care Providers for Quality Improvements** -- OCFS will create an increased differential payment rate for high-quality providers that are accredited by a nationally recognized child care organization, participate in New York's Quality Rating & Improvement system, or have completed training and are an active participant in the OCFS Non-Patient Epinephrine Auto-Injector Initiative.
- **Additional \$4.7 million** to provide year-round employment opportunities for at-risk youth through the Summer Youth Employment Program (totaling \$50 million) and the Youth Opportunities Program (totaling \$38.8 million).
- **Provide Summer Food Benefits to Students** -- FY 2025 Executive Budget invests approximately \$13 million to support the administration of the program that is estimated to provide over \$200 million in benefits to over 2 million children.

## X. Public Safety Investments

- **\$347 million** investment in programs to prevent and reduce gun violence.

- **DCJS Budget:** The Executive Budget also includes an increase of \$10 million for the next round of the Securing Communities Against Hate Crimes (SCAHC) program, for a total of \$35 million, and \$50 million of funding for communities most impacted by gun violence.
- **\$290 million** to restore the effectiveness of the continuum of the criminal justice system.
- **\$120 million** in victim assistance funding.
- **\$40.2 million** to address retail theft and bring relief to small businesses.
- **\$40.8 million** to reduce assaults with a focus on domestic violence.
- **\$35 million** for the next round of the Securing Communities Against Hate Crimes program.
- **\$5 million** for the Commercial Security Tax Credit to help business owners offset the costs of retail theft.
- **\$11,376,000** - Supervision and Treatment Services for Juveniles Program (STSJP). STSJP supports intensive, wraparound case management and programming for a wide range of youth pre-adjudication. This is a \$3 million increase proposed for FY 2025 "...to support additional programming for new interventions or increased capacity for youth alleged to have engaged in violent behavior, trafficked youth or those at risk of a gang recruitment."
- **\$250 million** for raising the age (Re-appropriations totaling \$841,946,000)

## XI. Supports for New York's Health Care System

- **\$35.5 billion** for Medicaid, along with targeted and transformational changes to ensure the long-term solvency and sustainability of the Medicaid program.
- **\$315 million** to provide health insurance subsidies for individuals up to 350 percent of the federal poverty line enrolled in Qualified Health Plans.
- **\$67 million** from the Opioid Settlement Fund for harm reduction, prevention and recovery services.
- **\$45 million** for disability services and independent living opportunities.
- **\$25 million** to catalyze innovation in research and treatment for ALS and other rare diseases.
- **\$6.7 million** to become an "employment first" state for the disability community.

## XII. Addressing the Migrant and Asylum Seeker Crisis

- Governor Hochul will increase State support of the City's efforts to **\$2.4 billion**. This includes **\$500 million** drawn from the State's reserves which are intended for use during one-time emergencies.

### Resources

**Budget Briefing Book** - <https://www.budget.ny.gov/pubs/archive/fy25/ex/book/briefingbook.pdf>

**Schedule for Legislative Budget Hearings** - <https://nyassembly.gov/Press/?sec=story&story=108807>