

# New York State Psychiatric Association, Inc.

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## Report on 2019-20 Approved State Budget

*Budget negotiations between Governor Cuomo, Senate Majority Leader Stewart-Cousins and Assembly Speaker Heastie concluded in the early hours of Sunday, March 31, 2019, with budget bills for FY 2019-20 passing both houses in the hours that followed, resulting in another on-time budget meeting the April 1 deadline.*

*The 2019-20 budget totals \$175.5 billion (all funds). It limits the growth in spending from State operating funds to 2 percent at \$102.1 billion. Education spending is increased by nearly \$1 billion (+3.8%); and the State share spending for Medicaid is increased by \$641 million (3.6%).*

*Other highlights include:*

- *Making the 2% cap on property tax increases permanent;*
- *Enacting Behavioral Health Insurance Parity Reforms (details below);*
- *Codifying in state law the Affordable Care Act, the Essential Health Benefits and the New York State of Health Marketplace (details below);*
- *Establishing Congestion Pricing in NYC below 60<sup>th</sup> Street to be implemented after December 31, 2020;*
- *Criminal justice reforms including the elimination of cash bail for misdemeanors and non-violent felonies, as well as discovery reforms and speedy trial reforms;*
- *Ban on single use plastic bags (with some exceptions) effective March, 2020; and,*
- *Commission to develop recommendations for public funding of campaigns for statewide and legislative offices by December 1, 2019, unless the Legislature returns within 20 days to make modifications.*

*Additional details can be found at: <https://www.governor.ny.gov/news/governor-cuomo-and-legislative-leaders-announce-agreement-fy-2020-budget>.*

## **NYSPA’S PRIORITIES ENACTED AS PART OF 2019-20 BUDGET**

First, thank you to all the NYSPA members who took the time to call and write your legislators. It made a huge difference and paved the way to achieving two of our top budget priorities: **the Behavioral Health Insurance Parity Reforms (BHIPR) and the continued funding for NYSPA’s Veterans Mental Health – Primary Care Training Initiative!**

As we continue to review and analyze the budget bills, totaling thousands of pages, below is a brief report, focusing on the elements of most interest for psychiatry and medicine:

### **1. Behavioral Health Insurance Parity Reforms (BHIPR)**

The BHIPR is a comprehensive overhaul of New York State’s Insurance Law aimed at dramatically curtailing health insurance/health plan practices that restrict New Yorkers, suffering from Mental Health Conditions (MHCs), Substance Use Disorders (SUDs) and Autism Spectrum Disorders (ASDs) from accessing their health insurance benefits for care and treatment. The BHIPR is applicable to all health insurance/ health benefit plans, individual and group, that are issued for delivery in New York State (NYS). The BHIPR sets the landmark federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) as a floor and surpasses it in scope and effect -- prohibiting financial requirements or quantitative and non-quantitative treatment limitations for MHCs, SUDs, and ASDs that are more restrictive, “than the predominant financial requirements and treatment limitations applied to substantially all medical and surgical benefits under the policy [or contract].” Among the BHIPR provisions of importance:

- Provides coverage for ALL MHCs, SUDs, and ASDs as each is defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most recent edition of another generally recognized independent standard of current medical practice such as the International Classification of Diseases (ICD);
- Prohibits preauthorization and concurrent review of SUD services during the initial 28 days of inpatient and outpatient treatment;
- Prohibits preauthorization and concurrent review of for the first 14 days of psychiatric inpatient services for persons under the age of 18;
- Prohibits prior authorization for formulary forms of prescribed medications for treatment of SUD;
- Medical necessity criteria with respect to benefits for MHCs/SUDs and ASDs shall be made available to the insured, prospective insured, or in-network provider upon request;
- Clinical review criteria used by utilization review agents for MHC must be approved by the Commissioner of the OMH or in the case of SUD treatment be designated by the Commissioner of OASAS;
- Prohibits taking any adverse action in retaliation for a provider filing a complaint, making a report, or commenting to a government body regarding policies and practices that violate this statute;
- Requires insurers and health plans to post additional information regarding their in-network providers of MH/SUD services, including whether the provider is accepting new patients as well as the provider's affiliations with participating facilities certified or authorized by OMH or OASAS; and
- Provides additional funding resources for staffing at DFS and DOH to handle oversight and enforcement of parity.

The BHIPR take effect January 1, 2020 and apply to all policies issued, renewed, modified or altered after such date. This is a tremendous and hard-fought victory for NYSPA and the broader mental health and substance use disorder community!

## **2. Funding for NYSPA's Veterans Mental Health – Primary Care Training Initiative**

We are pleased to report the final budget will include \$450,000 for the continuation and expansion of the Veterans Mental Health Training Initiative, a joint undertaking of NYSPA, MSSNY and NASW-NYS with each organization set to receive \$150,000.

## **OTHER MENTAL HYGIENE PROVISIONS OF NOTE**

1. \$3 million in loan forgiveness for psychiatrists through the Doctors Across New York Program. In order to be eligible, psychiatrists must be licensed to practice in New York State and agree to work for a period of at least five years in one or more hospitals or outpatient programs operated by OMH or in an underserved area.

2. Independent Substance Use Disorder and Mental Health Ombudsman – \$1.5 million appropriation for the ombudsman program known as the Community Health Access to Addiction and Mental Healthcare Project (CHAMP), which provides assistance to individuals, families and providers to understand legal rights to insurance and benefits for mental health and substance use disorder as well as work to investigate and resolve complaints regarding denials of coverage.

3. While the enacted budget did not include a 2.9% COLA for all human services agencies, which NYSPA supported along with many other providers and not-for-profits, the enacted budget includes a 2 percent salary increase for OMH, OASAS and OPWDD direct care and support staff effective on January 1, 2020 and then a 2 percent increase on April 1, 2020 as well as a 2 percent salary increase for clinical staff on April 1, 2020.

## **HEALTH RELATED PROVISIONS OF NOTE**

1. The enacted budget includes the codification of the Affordable Care Act, essential health benefits, protections for pre-existing conditions, and New York's insurance marketplace, known as New York State of Health.

2. The repeal of prescriber prevails in Medicaid Fee-For-Service and Medicaid Managed Care was not adopted. *The status quo remains.*

3. A one-year extension of the Physician Excess Medical Malpractice Program at an historic funding level of \$127.4 million with no programmatic or eligibility changes.
4. Expansion of providers that can care for injured workers under the Workers' Compensation Program to include nurse practitioners, licensed clinical social workers, physician assistants, and acupuncturists. These newly authorized providers would be prohibited from performing Independent Medical Examinations.
5. New Excise Tax on Sale of Opioids to be paid by manufacturers, distributors, wholesalers and outsourcing facilities, which is expected to generate \$100 million in revenue for the State. The provision does not prohibit such tax from being passed onto purchasers, such as pharmacies and consumers. The provision states that said tax shall not apply on buprenorphine, methadone or morphine.

### **ITEMS OF NOTE NOT INCLUDED IN ENACTED BUDGET**

1. The final budget did not include a proposed 0.8 percent across the board cut to Medicaid provider payments. However, should the proposed federal cuts to health care, including Medicaid, be adopted, Medicaid provider payments may be reduced to generate \$190.2 million in savings in 2019-20 and 2020-21. NYSPA will continue to monitor the situation. The budget did not include any changes to the payment of Medicare Part B deductibles, which would have impacted providers caring for dual eligible patients.
2. The final budget did not include provisions to provide for establishment of a commission to examine universal access to health care.
3. The final budget did not include regulation of Adult-Use Cannabis and expansion of New York's medical marijuana program.