

SFY 2011-12 Conference Committee Agreements Department of Health

State Operations

- The Legislature restores \$6.8 million to mitigate reductions to four state-operated veteran's nursing homes.
- An appropriation related to Federal health reform is amended to ensure a competitive process remains in place.
- The Legislature accepts all other recommendations of the Executive.

Aid to Localities

Medicaid

The Budget Agreement includes restorations for the following:

- An Executive proposal to impose a cap on non-economic damage awards is rejected, and \$121 million is provided to restore Financial Plan needs. The agreement preserves enactment of a Medical Indemnity Fund to provide for the medical costs of providing medical support;
- An additional \$30 million is provided to maintain the "prescriber prevails" provision under Medicaid fee-for-service;
- An additional \$28.3 million is provided to maintain the right of "spousal refusal", to prevent the unnecessary utilization of institutional long-term care;
- An Executive Proposal to increase co-payments for Medicaid and Family Health Plus, and to institute co-payments for Child Health Plus is rejected (\$7.5 million); and
- An additional \$2.5 million is provided to assign certain Federally Qualified Health Centers to the "downstate" region.
- An additional \$800,000 is provided to exempt pediatric nursing homes from a trend factor reduction.

Public Health

The Legislature restores the following:

- Elderly Pharmaceutical Insurance Coverage - \$22.3 million is provided to restore Part D premium assistance for lower-income EPIC participants;
- Roswell Park Cancer Institute is partially restored at \$7.8 million;
- A total \$5.5 million is provided to mitigate a proposed 10 percent reduction in Early Intervention (EI) rates;
- Support for NY Connects is restored at \$950,000;
- A provision to require certain EI providers to bill Medicaid directly is rejected, (\$500,000); and
- Support for the Adelphi Breast Cancer Hotline is restored at \$300,000
- In addition, language is included to ensure that certain providers funded through the AIDS Institute continue to receive State support.

Capital Projects

- The Legislature reduces current-year Health Efficiency and Affordability Law (HEAL) spending by \$40 million or 10 percent.
- The Legislature accepts all other recommendations of the Executive.

Article VII

Part A – Public Health

The Legislature:

- Amends the Executive proposal to eliminate Part D premium assistance through the EPIC program and provides only coverage gap assistance to EPIC participants;
- Amends the Executive proposal to reduce EI rates by only five percent;
- Rejects the Executive proposal to maximize commercial insurance coverage of EI services;
- Rejects the Executive proposal to require certain EI providers to bill Medicaid directly;

- Eliminates reimbursement for non-core services under the General Public Health Work (GPHW) program;
- Rejects the establishment of Local Competitive Performance Grant programs in DOH and SOFA;
- Accepts a proposal to unlink the funding for the Empire State Stem Cell Fund from any potential health-plan conversion proceeds;
- Accepts a provision to clarify the role of the Breast and Cervical Cancer Advisory Council;
- Updates and clarifies the cost components of the methodology used to finance clinical laboratories and blood banks;
- Modifies the Executive proposal to give the Commissioner of Health authority to distribute HEAL-NY funding without a competitive process;
- Extends penalties related to violation of Public Health Law or regulations for three years;
- Extends the Enriched Social Adult Day Services Demonstration Program for three years;
- Extends authorization to allow the use of Office of Professional Medical Conduct funds to support patient safety initiatives for two years;
- Extends health occupation development and workplace demonstration programs for three years;
- Extends authorization for the purchase of goods and services for state hospitals operated by DOH for four years; and
- Extends authorization for the Dormitory Authority of the State of New York to bundle certain primary care capital projects and refinance them at lower cost for four years.

Part B – Medicaid Cost Containment

- The Legislature agrees to the Executive's recommendations regarding supplemental Medicaid payments for SUNY, hospital disproportionate share (DSH) caps, Medicaid payments for Huntington's Disease, and rate adjustments for AIDS Adult Day Health Care.

Part C – Health Care Reform Act (HCRA)

- The Legislature agrees to extend HCRA and its financing components through March 31, 2014 and to amend provisions in order to maximize the use of available revenue sources.

Part D - Prior Year Cost Containment Extensions

The Legislature agrees to:

- Modify the Executive's proposal related to various prior year cost containment initiatives to extend them for an additional two years.
- Accept the Executive's proposal to extend authorization for DOH to establish utilization thresholds for Medicaid services through July 1, 2014.

Part H – Medicaid Redesign Team Recommendations

The Legislature agrees to:

- Eliminate inflationary trend factors, but preserve the trend for pediatric nursing homes;
- Accept the proposal to establish provider-specific aggregate annual spending caps;
- Modify the proposal to implement temporary episodic pricing methodology for Certified Home Health Agencies (CHHAs);
- Accept the proposal to authorize a study to determine actual costs incurred by school districts and counties providing school and pre-school supportive health services to leverage additional federal financial participation;
- Modify the proposal to discontinue reimbursement of equity in the capital component of the rate for proprietary nursing homes;
- Advance legislation allowing New York City HIV special needs plans to participate in a program to maximize federal reimbursements;
- Reject the proposal to eliminate "prescriber prevails" provision under Medicaid fee-for-service recipients;
- Modify the proposal related to pharmacy reimbursement and dispensing fees;
- Reject provisions that would authorize pharmacists to administer immunizations;
- Accept various changes to provisions related to the Pharmacy and Therapeutics Committee;

- Accept the elimination of Medicaid wrap-around coverage for Medicare Part D-covered pharmaceuticals;
- Accept the proposal requiring prior authorization for exempt drug classes;
- Accept the proposal to establish utilization controls for enteral formula, prescription footwear and compression stockings and require prior authorization for more than four opioid prescriptions in a thirty day period;
- Accept the proposal to establish utilization limits for physical therapy, occupational therapy, and speech therapy services;
- Reject the proposal to eliminate spousal refusal;
- Accept the proposal to authorize the State to implement behavioral health utilization controls;
- Accept the elimination of the AIDS nursing adjustment for home care services provided by a CHHA or long term home health care program;
- Reject the proposal to create a Public Health Services Corps;
- Accept the expansion of Medicaid coverage for smoking cessation counseling;
- Accept the proposal to unlink workers compensation and no fault rates from hospital inpatient rates;
- Modify the proposal to establish home care worker wage parity requirements for home and community based long-term care;
- Modify the proposal that would establish guidelines for managed care contracting with home care agencies;
- Reject a proposal that would authorize DOH to assume temporary operation of vulnerable facilities
- Modify the proposal to expand the Patient Centered Medical Homes;
- Modify the proposal to authorize regulations relating to potentially preventable conditions, inappropriate use of certain services, and audits of cost reports;
- Modify the proposal to allow the State to coordinate care for high-cost chronic populations through Health Homes;

- Advance legislation to expand the Statewide planning and research cooperative system;
- Advance legislation that would require DOH to make Medicaid waiver and plan amendment applications public;
- Accept the proposal to expand screening, brief intervention and referral to treatment (SBIRT) for alcohol or drug use beyond the emergency room setting;
- Modify the proposal to require mandatory enrollment in Medicaid managed long-term care (MLTC) for certain persons in need of home and community-based long-term care services;
- Modify the proposal to accelerate State assumption of Medicaid administration by centralizing responsibility for enrollment and disenrollment in MLTCs;
- Modify the proposal to authorize the State to contract with regional Behavioral Health Organizations to coordinate care for Medicaid recipients with behavioral health diagnoses;
- Reject Executive proposals to increase or establish co-payments for Medicaid, FHP and CHP;
- Modify the proposal to require hospitals, nursing homes, and assisted living residences to provide access to palliative care and pain management services;
- Reject the proposal to create a task force to study state-run authority for public nursing homes;
- Modify the proposal to reform medical malpractice by removing the proposed cap on non-economic damage award, while establishing an indemnity fund for future medical costs;
- Accept the proposal to expand the definition of estate and increase asset recoveries;
- Accept the proposal to establish a “disregard” for retirement assets to incentivize participation in the Medicaid Buy-In for the Working Poor and Disabled;
- Modify the proposal to eliminate duplicative surveillance activities for laboratory and hospital psychiatric units;
- Modify the proposal to clarify adverse event reporting provisions;
- Reject the expansion of Industrial Development Agency (IDA) financing for health care facilities without adequate labor protections;

- Modify a proposal to require adverse event reporting in adult homes or residences for adults only in circumstances other than those related to the natural course of illness or disease;
- Modify the proposal to reconcile exception and conflict reports statewide;
- Accept the proposal to align Medicare Part B clinic co-insurance with Medicaid coverage and rates;
- Modify the proposal to authorize the establishment of Accountable Care Organizations (ACOs);
- Accept the proposal to extend the HCRA surcharge amnesty through December 31, 2011;
- Reject the proposal to extend the HCRA surcharge to outpatient surgery and radiation physician services, but allow for arrears to be payable without penalty.
- Accept the proposal to redesign the nursing home bed-hold policy;
- Reject provisions to allow approved DOH, OMH, OASAS and OPWDD facilities to add services licensed by another agency through an alternative process;
- Accept the proposal to establish a housing disregard as incentive to join Medicaid MLTC plans;
- Modify the proposal to expand Medicaid Managed Care enrollment and access to services by including previously exempted populations;
- Accept the conversion of certain family planning benefits to a State Plan service;
- Accept the proposal to authorize the Commissioner of Health to establish utilization thresholds for the personal care program;
- Modify the proposal that would authorize a uniform across the board reduction of two percent of Medicaid payments;
- Accept the proposal to limit year-to-year DOH State funds Medicaid spending growth to the ten-year rolling average of the medical component of the consumer price index;
- Modify the Executive proposal to cap DOH State funds Medicaid spending by limiting Executive authority to impose contingency reductions to two state fiscal years. Additionally, the revised proposal would require legislative, consumer and industry input in the development of any proposed reduction plan, as well as

advanced notification and website posting detailing the specific actions proposed to constrain Medicaid spending;

- Advance legislation that would provide supplemental payments and managed care increases for HHC and other public benefit corporation hospitals.
- Advance legislation to expand the downstate region for reimbursement of federally qualified health centers (FQHCs);
- Accept the proposal to implement a mitigation plan for nursing home rebasing and a new statewide pricing methodology by January 1, 2012;
- Accept the proposal to extend the \$210 million gross annual cap on nursing home rate increases through March 31, 2012;
- Accept the proposal to lower the nursing home rate appeals cap by \$30 million; and
- Modify the proposal to permanently extend authorization to collect nursing home gross receipts assessments, to instead sunset such authorization in two years.