

Embedded is a broad overview of the Governor's proposed Executive Budget as it relates to Health. While we are still reviewing the various bills associated with the proposal we want NYSACS to be aware of a provision that would establish a "Physician Procedure Surcharge." Under the proposal there will be imposed a 9.63 percent HCRA surcharge on services performed in hospitals would be extended to surgical and radiological procedures provided in private ambulatory surgery centers, physician offices, and urgent care settings. *(2010-11 Savings: \$24.6 million; 2011-12 Savings: \$98.5 million)*

Overview

The mission of the Department of Health (DOH) is to ensure that high quality health services are available to all New Yorkers at a reasonable cost. Consistent with this objective, DOH provides comprehensive health care and long-term care coverage for low and middle income individuals and families through the Medicaid, Family Health Plus, Child Health Plus, and Elderly Pharmaceutical Insurance Coverage (EPIC) programs.

In addition to its health insurance programs, DOH promotes and supervises public health activities throughout the State and operates Helen Hayes Hospital, four veterans' nursing homes, and the Wadsworth Laboratories. The Department also oversees health care facilities.

The Office of the Medicaid Inspector General, established as an independent entity in 2006, preserves the integrity on the Medicaid program by combating fraud, waste and abuse, and recovering inappropriate payments to providers.

The State Office for the Aging (SOFA) promotes and administers programs and services for New Yorkers sixty years of age and older. SOFA oversees community-based services provided through a network of county Area Agencies on Aging and local providers.

II. History/Context

Established in 1965, New York's Medicaid program is the largest payer of health care and long-term care services in the State. More than four million individuals receive Medicaid-eligible services each month through a network of more than 60,000 health care providers and 20 managed care plans.

In the absence of any changes, total Federal, State and county Medicaid spending would reach \$53.2 billion in 2010-11, an increase of more than five percent. Medicaid enrollment has grown by nearly 13 percent since September 2008, largely as a result of recession-driven unemployment. New York's Medicaid program is, by far, the most expensive in the nation. According to the most recent Federal data, New York spends more per capita (\$2,360) than any other state in the country and more than twice the national average (\$1,077).

III. Proposed 2010-11 Budget Actions

The Executive Budget recommends a health care gap-closing package of \$1.9 billion. It includes the following components:

- Nearly \$1.0 billion in reductions to various providers and programs, as well as other key savings measures.
- A total of \$890.2 million* in dedicated taxes and assessments to finance health care investments. Among them are:
 - \$240.2 million in assessments and surcharges on specific sectors that have impacts on providers similar to direct cuts in funding, but without an associated loss of Federal matching funding; and
 - \$650 million* from imposing a syrup excise tax on unhealthy beverages and increasing the cigarette excise tax. These measures will help discourage unhealthy consumption habits that put New Yorkers at risk for obesity, diabetes, cancer, heart failure, strokes, and other diseases.

As part of the nearly \$1.0 billion in reductions and other savings measures included in this plan, the Executive Budget would establish more rational and cost-effective reimbursement methods to produce better care at lower costs; modify reimbursement across sectors; control public health insurance program costs; and reduce spending for public health programs that are less central to DOH's and SOFA's core missions, among other actions detailed below.

Recommendations aimed at rationalizing ineffective reimbursement methodologies include the following:

- **Hospitals.** The budget would modify indigent care reimbursement to exclusively recognize the costs of health care services to the uninsured, thus emphasizing the provision of care rather than an accounting of bad debts; limit payments for preventable conditions as an incentive to provide quality care; and redirect overpayments for indirect medical education to better reflect the cost of other hospital services; increase access to obstetrical care; and expand the Doctors Across New York Program.
- **Nursing Homes.** The budget would implement a regional pricing system that encourages greater efficiencies in nursing home management; more appropriately reflects the costs of hard-to-serve patients; makes investments to promote better quality of care; and reduces nursing home payments for holding beds vacant to discourage unnecessary placements.
- **Personal Care.** The budget would direct the utilization of high-need recipients to more appropriate service settings, so that their care can be better managed.

Even after these actions, 2010-11 All Funds Medicaid spending is still expected to increase over 2009-10 levels by 1.8 percent to \$51.5 billion.

IV. Summary of Spending (All Funds)

Category	2009-10 (\$ in millions)	2010-11 (\$ in millions)	Change	
			Dollar (in millions)	Percent
Medicaid (Total)	50,630	51,529	899	1.8
Medicaid (State Funds Excluding Cap and Enhanced FMAP)	16,565	17,115	550	3.3
Medicaid (State Funds)	13,476	14,598	1,122	8.3
Department of Health Spending(Excluding Medicaid)	4,598	4,611	13	0.3
Office of the Medicaid Inspector General	73	73	0	0
State Office for the Aging	225	227	2	0.7

V. Major Initiatives

Gap Closing Actions

Proposal	2010-11 (\$ in millions)	2011-12 (\$ in millions)
Hospital Services	244.6	320.7
Nursing Homes	140.2	162.8
Home Care and Personal Care Services	73.9	100.6
Pharmacy Services	12.2	17.6
Insurance	222.0	248.5
Medicaid Fraud and Abuse Prevention	300.0	300.0
Utilization and Management of Services	13.7	24.3
Managed Care	60.6	72.9
Taxes on Cigarettes and Unhealthy Beverages	650.0	1,175.0
Other Budget Actions	28.5	34.8
Public Health and Aging Programs	104.2	187.3
Total	1,849.9	2,644.5

Hospital Services

A series of proposals are recommended that would properly redirect resources to improve access and quality, while achieving savings through a more rational reimbursement system. These actions would save \$244.6 million in 2010-11 and \$320.7 million in 2011-12.

- **Reduce and Restructure Indigent Care Reimbursement.** Total payments to hospitals would be reduced and determined solely based on the costs of services provided to the uninsured, discontinuing the practice of making payments based almost exclusively on a hospital's accounting of bad debts. A portion of funding is reserved to transition facilities to this new payment methodology. Funding is also recommended to cover the cost of new Federal Disproportionate Share audit requirements. *(2010-11 Savings: \$67.7 million; 2011-12 Savings: \$92.4 million)*
- **Limit Payments for Preventable Conditions.** Consistent with reform efforts, the State would establish quality benchmarks to reduce the level of unnecessary treatments for preventable conditions. Hospitals that perform below these standards would receive reduced reimbursement to encourage improved quality of care. *(2010-11 Savings: \$20.0 million; 2011-12 Savings: \$54.0 million)*
- **Redirect Indirect Medical Education (IME) Payments.** The current hospital reimbursement methodology overpays for IME and under-reimburses for other necessary services. Over a three-year period, IME payments would be reduced to better reflect actual costs and these funds would be reinvested in hospital rates to cover the costs of other services. In addition, a portion of these funds would be used to improve access to quality obstetrical care and increase loans to attract physicians to practice in New York through the Doctors Across New York program. *(2010-11 Savings: \$0 million; 2011-12 Savings: \$0 million)*
- **Increase Assessment on Inpatient Services to 0.75 Percent.** The assessment on hospital inpatient services would be increased from 0.35 percent to 0.75 percent. Assessments have an impact on providers similar to reductions in direct funding, without the associated loss of federal matching funds. *(2010-11 Savings: \$130.2 million; 2011-12 Savings: \$142.0 million)*
- **Eliminate 2010 Trend Factor.** The remaining share of the calendar year 2010 hospital trend factor (1.7 percent) would be eliminated. *(2010-11 Savings: \$26.7 million; 2011-12 Savings: \$32.3 million)*

Nursing Homes

New York spends \$8 billion each year on nursing homes, far more than any other state in the nation. A series of proposals are recommended to rationalize nursing home reimbursement, improve the quality of care and help control rising nursing home costs, allowing New York to bring its costs more in line with other states. These actions would save \$140.2 million in 2010-11 and \$162.8 million in 2011-12.

- **Limit Rate Appeals and Authorize Settlements.** A statutory cap would be established on the processing of nursing home rate appeals for two years and DOH would be authorized to negotiate settlements where appropriate. *(2010-11 Savings: \$16.5 million; 2011-12 Savings: \$20.0 million)*
- **Reduce Reimbursement for Bed Hold Days.** Payments to nursing homes for holding beds vacant would be reduced to 95 percent of operating rates and reimbursement would be limited to 14 days annually for a hospitalization and ten days annually for therapeutic leaves. *(2010-11 Savings: \$6.9 million; 2011-12 Savings: \$9.4 million)*
- **Increase Nursing Home Assessment to Seven Percent.** The assessment on nursing home services would be increased by one percent – from six percent to seven percent. This assessment would not be reimbursable by Medicaid. Assessments have an impact on providers similar to reductions in direct funding, without the associated loss of Federal matching funds. *(2010-11 Savings: \$67.8 million; 2011-12 Savings: \$74.0 million)*
- **Remove Drug Costs from Nursing Home Rates.** Remaining prescription drug costs would be excluded from nursing home rates and reimbursed on a fee-for-service basis. This would allow the State to collect rebates on these drug costs. *(2010-11 Savings: \$2.4 million; 2011-12 Savings: \$3.0 million)*
- **Eliminate 2010 Trend Factor.** The remaining share of the calendar year 2010 nursing home trend factor (1.7 percent) would be eliminated. *(2010-11 Savings: \$46.6 million; 2011-12 Savings: \$56.4 million)*
- **Nursing Home Reimbursement Reform.** The budget would extend nursing home rebasing – the planned update of cost-based rates from 1983 to 2002 – through February 28, 2011 and would implement the new regional pricing model on March 1, 2011. *(2010-11 Savings: \$0 million; 2011-12 Savings: \$0 million)*
- **Nursing Home Quality Incentive Pool.** The budget implements the quality incentive funding pool on April 1, 2010. *(2010-11 Savings: \$0 million; 2011-12 Savings: \$0 million)*

Home Care and Personal Care Services

Home care and personal care services are the fastest growing sectors in Medicaid. From 2003 through 2007, personal care spending increased by 27 percent, while the number of people served declined by 6.3 percent. New York spends far more for these services than any other state in the nation, and will continue to do so even after these proposals are implemented. These proposals would redirect the utilization of personal care services to help control growth, and would save \$73.9 million in 2010-11 and \$100.6 million in 2011-12.

- **Limit and Redirect Utilization of Personal Care Services.** Fee-for-service payments for personal care services would be capped at 12 hours per day. Recipients requiring services in excess of this cap would be redirected to alternative community-based service settings where their care can be better managed. An investment of \$1 million is proposed to assist recipients with determining what alternative options are appropriate for them and to assist them with accessing those alternatives. *(2010-11 Savings: \$30 million; 2011-12 Savings: \$48.7 million)*
- **Increase Assessment to 0.7 Percent.** The assessment on total home and personal care provider revenues is increased from 0.35 percent to 0.7 percent. Assessments have an

impact on providers similar to reductions in direct funding, without the associated loss of federal matching funds. (2010-11 Savings: \$17.6 million; 2011-12 Savings: \$19.2 million)

- **Authorize Additional Provider Efficiencies.** Statutory requirements would be modified to extend the time period for long-term home health care program reassessments from 120 days to 180 days, and allow these programs to provide joint case management services to avoid duplication. (2010-11 Savings: \$0.6 million; 2011-12 Savings: \$1.5 million)
- **Eliminate 2010 Trend Factor.** Eliminate the remaining share of the calendar 2010 home and personal care trend factor (1.7 percent). (2010-11 Savings: \$25.8 million; 2011-12 Savings: \$31.2 million)

Pharmacy Services

Proposals in this area would reduce State spending and maximize revenues by increasing drug rebates and by accessing Federal Medicare Part D coverage for New York seniors. These actions would save \$12.2 million in 2010-11 and \$17.6 million in 2011-12.

- **Eliminate Medicare Part D Drug Wrap.** Medicaid coverage for anti-depressants, atypical anti-psychotics, anti-retroviral and anti-rejection drugs for dual eligible enrollees would be discontinued, since these drugs are covered by Medicare. Wrap-around coverage would continue for drugs not covered by Medicare Part D (e.g., barbiturates, benzodiazepines). (2010-11 Savings: \$4.3 million; 2011-12 Savings: \$5.1 million)
- **Discontinue Exemptions under Preferred Drug Program.** The Preferred Drug Program exemption for anti-depressants, atypical anti-psychotics, anti-retroviral and anti-rejection drugs would be discontinued to allow the State to collect supplemental drug rebates for these drug classes. However, these drug classes would not be subject to prior authorization. (2010-11 Savings: \$2.1 million; 2011-12 Savings: \$4.5 million)
- **Expand the List of Physician Administered Drugs.** The State would be allowed to collect rebates on all drugs administered in physicians' offices. (2010-11 Savings: \$2.9 million; 2011-12 Savings: \$4.0 million)
- **Enhance Dispute Resolution Services.** Additional resources would be dedicated to shorten the time frame for dispute resolution and to increase rebate collections. (2010-11 Savings: \$1.2 million; 2011-12 Savings: \$1.6 million)
- **Accelerate Pharmacy and Therapeutics Committee Notice Requirements.** The time period before final recommendations of the Pharmacy and Therapeutics Committee can be implemented would be reduced from 30 days to five days to allow for the accelerated collection of supplemental rebates. (2010-11 Savings: \$0.8 million; 2011-12 Savings: \$1.2 million)
- **Discontinue Special Pharmacy Reimbursement.** The higher special pharmacy reimbursement for HIV pharmacies would be discontinued. (2010-11 Savings: \$0.6 million; 2011-12 Savings: \$0.8 million)
- **Prohibit Inappropriate Gifts to Doctors.** Pharmaceutical companies and their representatives would be restricted from providing inappropriate gifts or misleading/inaccurate information to doctors to promote utilization of a drug. Savings

would accrue by reducing utilization of higher-cost drugs. (2010-11 Savings: \$0.3 million; 2011-12 Savings: \$0.5 million)

Insurance

Prior approval of health insurance premium increases and the extension of Health Care Reform Act surcharges to certain physician procedures are recommended for gap-closing purposes. These actions would save \$222 million in 2010-11 and \$248.5 million in 2011-12.

- **Reinstitute Prior Approval of Health Premium Increases.** Since prior approval of health insurance premiums was phased out, health insurance premiums have grown by double-digits, increasing nearly 14 percent annually in the HMO small group market. While many factors contributed to this growth, the Insurance Department would be authorized to review health insurance premiums to protect consumers from unnecessary increases. Medical loss ratios also would be increased to ensure that a greater percentage of premium revenues are used to pay medical claims. Savings are expected to result by reducing the number of consumers with access to employer-based coverage that enroll in public health insurance programs. (2010-11 Savings: \$70 million; 2011-12 Savings: \$150 million)
- **Delay Excess Medical Malpractice Payment.** Excess medical malpractice payments would be delayed – changing from March to a July payment date – to more appropriately reflect when insurers require the funding. (2010-11 Savings: \$127.4 million; 2011-12 Savings: \$0 million)
- **Establish Physician Procedure Surcharge.** The 9.63 percent HCRA surcharge on services performed in hospitals would be extended to surgical and radiological procedures provided in private ambulatory surgery centers, physician offices, and urgent care settings. This would help level the playing field among care settings offering comparable services. (2010-11 Savings: \$24.6 million; 2011-12 Savings: \$98.5 million)

Medicaid Fraud and Abuse Prevention

Over the last several years, the State has substantially increased resources used to identify fraud and abuse in the Medicaid system. The number of staff dedicated to fighting fraud in the Office of the Medicaid Inspector General has been significantly increased (nearly 200 since 2006-07), computer systems have been upgraded to utilize state-of-the art technology, and positive relationships have been developed within the provider community to prevent fraudulent payments before they are made.

The Executive Budget proposes a series of actions that would improve the coordination and administration of public benefits, and prevent and uncover public benefits fraud. These include:

- Increased civil penalties for first-time and repeat offenders who commit Medicaid fraud;
- Collaboration between the Office of the Welfare Inspector General (OWIG) and the Department of Labor (DOL) to target those who illegally shift the cost of employees' medical care to Medicaid by paying people under the table to lower their own insurance

costs and/or enable employees who receive public benefits to earn income in excess of established eligibility levels;

- Shared services between OMIG and OWIG to provide greater efficiency and strengthen collaborative efforts to detect and control public benefits fraud;
- Match individuals and providers who are disqualified from the Medicaid program and thus prohibited from billing for Medicaid services to the records of the Department of Taxation and Finance and the Workers' Compensation Board to ensure that Medicaid is not billed;
- Document citizenship and audit tax return data to determine eligibility in Medicaid and CHP;
- Close loopholes that allow for the transfer of assets; and
- Implement an asset verification system to identify resources not captured today.

Prior-year investments and these proposed actions would promote greater integrity within the Medicaid program and allow the State share of collections from Medicaid fraud enforcement to reach record levels of \$1.17 billion, an increase of \$300 million from 2009-10 Enacted Budget estimates.

Utilization and Management of Services

These proposals would continue efforts commenced in recent years to ensure that Medicaid services are appropriate, meet patient needs and are provided in the most cost-effective manner possible. Total savings of \$13.7 million in 2010-11 and \$24.3 million in 2011-12 are expected to be generated in this area.

- **Establish Transportation Managers.** DOH would contract with an external organization to manage non-emergency transportation services. *(2010-11 Savings: \$8.3 million; 2011-12 Savings: \$17.8 million)*
- **Control Physical and Occupational Therapy Spending.** Prior approval of certain physical and occupational therapy services would be required. *(2010-11 Savings: \$3.5 million; 2011-12 Savings: \$4.2 million)*
- **Apply Additional Utilization Review Controls.** Additional controls would be implemented to prevent inappropriate payments for certain medical supplies, including: incontinence supplies; wheeled mobility products and accessories; shoes; diabetic needle supplies; hearing aids; and oxygen delivery systems. *(2010-11 Savings: \$1.9 million; 2011-12 Savings: \$2.3 million)*

Managed Care

These proposals would reduce managed care spending and make necessary changes to comply with Federal program requirements.

- **Reduce Premiums.** Premiums for Medicaid Managed Care and Family Health Plus plans would be reduced by 1.7 percent. *(2010-11 Savings: \$61.4 million; 2011-12 Savings: \$75.2 million)*

- **Expand Child Health Plus Benefit.** Medically necessary orthodontia services would be added to the Child Health Plus benefit package, as required by the Federal Child Health Insurance Program Reauthorization Act of 2009. (2010-11 Cost: \$0.8 million; 2011-12 Cost: \$2.3 million)
- **Modify Family Health Plus Buy-In.** Copayments under the Family Health Plus Buy-In Program would be increased to improve affordability for not-for-profit employers and sponsors. (2010-11 Cost: \$0 million; 2011-12 Cost: \$0 million)

Taxes on Cigarettes and Unhealthy Beverages

The Executive Budget proposes two tax actions – a \$1.00 increase in the cigarette excise tax, and a new excise tax on beverage syrups and soft drinks – intended to lower long-term health care costs by discouraging unhealthy consumption habits that put New Yorkers at risk for obesity, diabetes, cancer, heart failure, strokes, and other diseases. These measures would produce revenue of \$650 million in 2010-11 and \$1.2 billion in 2011-12. See the “A Healthier New York” section of the briefing book for more information on the health benefits of these taxes.

- **Institute a Syrup Excise Tax.** The Executive Budget proposes an excise tax on beverage syrups and soft drinks at a tax rate of \$7.68 per gallon for beverage syrups or simple syrups, and \$1.28 per gallon for bottled or powdered soft drinks – with the proceeds directed to finance health care spending. Currently, one in four New York adults is obese and another 35 percent are overweight. Medical and economic research demonstrates that price increases discourage individuals, especially children and teenagers, from consumption and help lower obesity rates. (2010-11 Savings: \$450 million; 2011-12 Savings: \$970 million)
- **Increase Cigarette Tax.** The State tax on cigarettes would be increased by \$1.00 – from \$2.75 per pack to \$3.75 per pack – with the proceeds directed to finance health care spending. This increase would result in New York having the highest cigarette tax in the nation, and a combined State and local tax of \$5.25 per pack in New York City. The increase in the tax is expected to prevent more than 100,000 children from becoming smokers and cause more than 50,000 adult smokers to quit. (2010-11 Savings: \$200 million; 2011-12 Savings: \$205 million)

Other Budget Actions

A variety of other health care savings are recommended, totaling \$28.5 million in 2010-11 and \$34.8 million in 2011-12.

- **Discontinue Spending for Selected HCRA Programs.** Funding for disease management demonstrations (\$1.8 million), Long Term Care Education and Outreach (\$1.3 million) and anti-tobacco funding for Roswell Park Cancer Institute research (\$13.6 million) would be eliminated. (2010-11 Savings: \$16.7 million; 2011-12 Savings: \$16.7 million)
- **Consolidate Poison Control Centers.** Currently, there are five poison control centers operating in the State. The operations of these centers would be consolidated into two centers. (2010-11 Savings: \$2.5 million; 2011-12 Savings: \$2.5 million)

- **Expand Estate Recoveries.** The definition of “estate” for the purpose of Medicaid recoveries would be expanded to enable recoveries from assets that individuals could otherwise shelter from recovery by bypassing probate. *(2010-11 Savings: \$1.1 million; 2011-12 Savings: \$2.6 million)*
- **Require All Pre-Need Funeral Accounts to be Irrevocable.** The budget would require pre-need funeral accounts established for consideration in a Medicaid eligibility determination, including those for a spouse or family members, to be irrevocable. *(2010-11 Savings: \$1.0 million; 2011-12 Savings: \$1.0 million)*
- **Early Intervention (EI) Medicaid Savings.** Medicaid savings are associated with recommendations proposed as part of the public health budget and include: requiring preferred assessment tools for EI evaluations; modifying speech eligibility standards; allowing paraprofessional behavioral aides for children with severe disabilities; revising EI home and facility-based rates; requiring EI providers to bill Medicaid; auditing EI providers; and maximizing commercial insurance reimbursement. *(2010-11 Savings: \$7.2 million; 2011-12 Savings: \$12.0 million)*