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SFY 2014-15 Final State Budget- Health/ Mental Hygiene Budget Update

On Saturday, March 29, 2014, Governor Andrew Cuomo and legislative leaders announced a three-way agreement on a State Budget for State Fiscal Year (SFY) 2014-15. The $137.9 billion budget keeps growth in all spending at 2% and provides $300 million for prekindergarten in New York City and $40 million for the rest of the State. The new budget earmarks $1.5 billion for property tax relief for homeowners and includes a 5% increase in school aid.

Legislators returned to Albany on March 31st and passed all of the budget bills. Governor Cuomo held a bill signing ceremony on April 1st signing budget bills into law. This marks the fourth consecutive year of on-time state budgets in New York State, a priority for the Governor and state lawmakers seeking re-election in November.

Provided below is a sector-by-sector summary of the final spending plan in the Health/Mental Hygiene areas.

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MULTIPLE SECTORS

Across the Board Provider Reductions

The final State Budget **accepts** the Executive Budget proposal to discontinue the 2% across-the-board Medicaid provider cuts effective April 1, 2014. It allows for the extension of the existing alternative method agreements at the discretion of the State Department of Health (DOH) and Division of Budget (DOB) on or after April 1, 2014.

Global Spending Cap
The final State Budget **accepts** the Executive proposal to extend the Medicaid State funds spending cap for one year through March 31, 2016. **Includes** a monthly reporting requirement by DOH and DOB on the global cap savings, upcoming rate adjustments, projected enrollment changes, MRT initiatives, etc. provided to the Legislature and posted on the DOH website. Also DOH is required to provide a detailed accounting of the spending cap on the close out of the prior year, a current year re-estimate, the prospective two-year estimate and other information as appropriate.

Savings under the Medicaid State Cap
The final State Budget **accepts with modifications** the Executive proposal to establish a methodology for distributing at least 50% of available savings under the Medicaid State funds cap during the last quarter of the fiscal year proportionately to Medicaid providers and health care plans. Up to 50% of which shall be distributed to financially distressed and critically needed providers as identified by DOH. The final Budget requires DOH to seek input from the Legislature and organizations representing health care providers, insurers and businesses.

HCRA Reauthorization
The final State Budget **accepts** the Executive proposal to extend provisions of the Health Care Reform Act (HCRA), which finances several health care programs and services through March 31, 2017. HCRA was set to sunset March 31, 2014.

COLA
The final State Budget **rejects** the Executive Budget proposal to defer the human services Cost-of-Living Adjustment (COLA). The budget **includes** a 2% COLA for direct care staff and direct service professionals beginning the last quarter of SFY 2014-15 (January 1-March 31, 2015) and a fully annualized 2% COLA for SFY 2015-16 for direct care, direct service professionals and clinical staff. Organizations are required to attest that money is being used for salary and salary - related fringe only and that they are following guidelines set forth by state agencies and using CFR information as to definitions of the impacted workforce. State agencies include DOH, Office for People with Developmental Disabilities (OPWDD), Office of Mental Health (OMH), Office for Alcoholism and Substance Abuse (OASAS), State Office for the Aging (SOFA) and Office for Children and Family Services (OCFS).

Capital Access Fund
The final State Budget **accepts with modifications** the Executive proposal to create a Capital Restructuring Financing Program with $1.2 billion. For the period of April 1, 2014 through March 31, 2021, funds may be distributed by the Commissioner of Health and President of the Dormitory Authority, in consultation with the Commissioners of OMH, OPWDD and OASAS for capital grants. Those eligible include general hospitals, residential health care facilities, diagnostic and treatment centers, clinics licensed under the public health law or the mental hygiene law, primary care providers, home care providers and assisted living providers. Funding will be available to both Delivery System Reform Incentive Payment Program (DSRIP) and non-DSRIP participating providers

Capital works or purposes may include, but are not limited to closures, mergers, restructuring, infrastructure improvements, development of primary care capacity, promotion of integrated delivery systems that strengthen and protect continued access to essential health services, and telehealth infrastructure development.

The Department is required to create a review panel and establish a formal review process in determining awards, which includes the criteria that much be consulted in making decisions. Also DOH is required to provide a quarterly report to the Legislature on the projects.

Delivery System Reform Incentive Payment Program (DSRIP)
The final State Budget **includes** new language relating to DSRIP which states distribution of DSRIP funds will now be implemented, to the maximum degree practicable and to the extent permitted by the Centers for Medicare & Medicaid Services (CMS), *throughout the entire State*. The above referenced (under Capital Access Fund) advisory panel is established to also provide an impartial review of DSRIP recommendations and applications and advising the Commissioner in this regard. Finally, there is a new quarterly reporting requirement beginning April 1, 2014 by DOH to the Legislature on the status of DSRIP programs, progress, impact, public engagement, and accepted and denied projects.

Vital Access Provider (VAP) Funding
The final Budget **allocates** $313,400,000 for the vital access provider program.

Medicaid 1115 Waiver- Partnership Plan
The final State Budget **accepts with modifications** the Executive proposal to allow DOH to enter into contracts and/or amend contracts awarded to implement the Medicaid 1115 Waiver (Partnership Plan) initiatives without competitive bid or request for proposal processes if approved by the Centers for Medicare and Medicaid Services (CMS). For initial contracts, DOH would be required to post a description of services and criteria for selection on its website and wait at last thirty days from post to award the contracts.

RHICS
The final State Budget **accepts** the Executive Budget proposal to provide $9 million in funding to establish eleven Regional Health Improvement Collaboratives (RHICs) to bring stakeholders together to address health planning issues at a regional level.

All Payor Database/ SHIN-NY
The final State Budget **modifies** the Executive Budget proposal related to the All Payer Database and the Statewide Health Information Network for NY (SHINY-NY) to create a workgroup to evaluate the state's Health Information Technology infrastructure which will issue a final report on December 1, 2014. Funding for SHIN-NY and the All Payor Database was included through the HCRA covered lives assessment.

State Health Innovation Plan (SHIP) Fund
The final State Budget **includes** funding for the SHIP which directs federal funding in an account to be distributed by the Legislature.

Pay for Success
The final State Budget **includes** $53 million for the Pay for Success program focused on prevention programs.

HOSPITALS/ NURSING HOMES/ OTHER HEALTH FACILITIES

Provider Preventable Negative Outcomes (PPNOs)
The final State Budget **accepts with modifications** the Executive Budget proposal to extend Medicaid reimbursement reductions for inpatient hospital potentially preventable readmissions and PPNOs for one year to March 31, 2015.

Inpatient Rebasing
The final State Budget **accepts** the Executive proposal to change the time period for hospital rebasing to occur between April 1, 2014 and July 1, 2014.

ICD –10 International Classification of Diseases Version 10
The final State Budget **accepts** the Executive proposal to authorize the Commissioner of Health to make such adjustments in Medicaid rates to provide no aggregate net growth in overall Medicaid expenditures related to the implementation ICD-10 for inpatient and outpatient rates for hospitals.

Medicaid Presumptive Eligibility Determinations by Hospitals
The final State Budget **accepts** the Executive proposal to enact an Affordable Care Act (ACA) requirement that qualified hospitals be able to make presumptive eligibility determinations for MAGI populations including children, pregnant women, and parents and caretaker relatives.

Pediatric Hospital Reimbursement Workgroup
The final State Budget **includes** a new Workgroup within the New York State Department of Health to study the feasibility of reimbursing pediatric hospitals at "non-fee-for-service rates." The Workgroup is charged with determining the types of services that could be provided by bundled rates, any incentives that should be created, and mechanisms to ensure coordination of care with Medicaid managed care plans. A report is due to the Legislature no later than March 1, 2015.

Hospital Inpatient Reimbursement Workgroup
The final State Budget **includes** a new Hospital Inpatient Workgroup to study the impact of certain rate setting methodologies on pediatric specialty hospitals and services. The Workgroup is charged with studying the impact of updated base years in computing Medicaid inpatient rates for critical access hospitals, specialty long term acute hospitals, impatient services provided by cancer hospitals, inpatient psychiatric services, rehabilitation and chemical dependency services, and other specialty services. The Commissioner of Health is required to consider the recommendations of the Workgroup and to update the base years for rates no earlier than the period beginning on April 1, 2015.

Healthcare Facility Establishment in Bronx County
The final State Budget **includes** a new proposal to create a community review process for the proposed establishment of certain health care facilities in the Bronx. The establishment of a free-standing clinic, outpatient facility, or ambulatory care center that is over three stories high or contains over 30,000 square feet would be subject to review by a community forum. The Commissioner of Health is required to take "due consideration" of the community forum's recommendations when taking action on any proposed project.

Upgraded Diagnostic & Treatment Centers
The final State Budget **rejects** the Executive Budget proposal to repeal sections of law which provided for upgraded diagnostic and treatment centers for members of a rural health network to provide limited emergency services.

Safe Patient Handing
The final State Budget **includes** a new requirement for all health care facilities (defined as general hospitals, residential health care facilities, diagnostic and treatment centers, clinics licensed pursuant to article twenty-eight, facilities which provide health services and are licensed pursuant to article eight of the education law, article 19-G of the executive law or the correction law and hospitals and schools defined in section 1.03 of mental hygiene law) to develop and implement a safe patient handling program by January 1, 2017. DOH is required to develop a workgroup to identify best practices for safe patient handling that will be available for all facilities by January 1, 2016 and all facilities shall establish safe patient handling committees by such time. The Department of Financial Services will develop rules establishing requirements for facilities to obtain a reduced workers' compensation rate for implement a program.

Nursing Home Wages
The final State Budget **rejects** the Executive proposal to require all managed care contracts to include a provision requiring a standard rate of compensation to be paid to employees who provide inpatient nursing home services.

Managed Care Default Rate
The final State Budget **accepts** the Executive proposal to establish the nursing home fee-for-service (FFS) rate as the guaranteed residential rate for the transition of the nursing home population into managed care in the absence of a negotiated rate of payment agreed upon between the nursing home and the managed care plan. The default rate would not apply to patients placed in a nursing home for the purpose of receiving time-limited rehabilitation services, to be followed by discharge from the facility.

Nursing Home Case Mix Cap
The final State Budget **rejects** the Executive proposal to limit adjustments to Medicaid payments based on a facility's case mix index to a maximum increase of 2% for any six month period beginning on January 1, 2016 in order to reduce up-coding of rehabilitation services.

Upper Payment Limit
The final State Budget **accepts** the Executive proposal to extend for three years, through March 31, 2017, the Upper Payment Limit distribution to public nursing homes.

Spousal Support
The final State Budget **rejects** the Executive proposal to require spousal support for the costs of community-based long term care.

AMBULATORY CARE SETTINGS

Office Based Surgery (OBS) and Office-Based Anesthesia
The final State Budget **rejects** the Executive proposal to increase oversight of Office Based Surgery Centers by:

- requiring registration with NYS DOH and accreditation by the American Board of Medical Specialties (ABMS); and
- amending the definition of "adverse event" to include a patient visit to an emergency department or assignment to observation services at a hospital within 72 hours of receiving OBS services;
- expanding the definition of anesthesia to include neuraxial anesthesia and major upper or lower extremity regional nerve blocks; and
- limiting OBS procedures to an expected duration of no more than six hours with a safe and appropriate discharge within six hours.

Limited Services Clinics
The final State Budget **rejects** the Executive proposal to regulate "retail clinics" located within pharmacies, stores, shopping malls and other establishments by:

- requiring the clinics to be called "limited services clinics;"
- requiring accreditation;
- prohibiting services to patients under age 18; and
- prohibiting certain immunizations to persons under age 18.

Urgent Care
The final State Budget **rejects** the Executive proposal to regulate urgent care centers by:

- defining "urgent care" as treatment on an unscheduled basis to patients for acute episodic illness or minor traumas that are not life threatening or potentially disabling;
- prohibiting care for conditions that require monitoring and treatment over a prolonged period of time;
- requiring full accreditation as a condition of using the term "urgent care" or a symbol that implies "urgent care;"
- prohibiting signage, advertisements, or symbols that imply that the center is a provider of emergency medical care;
- allowing a hospital to provide urgent care or medical care and display signage and advertising pursuant to regulations of the Commissioner of NYS DOH; and
- authorizing the Commissioner to promulgate regulations defining the scope of services to be provided, staffing, transmission of medical records, and other matters.

Hospital-Sponsored Off-Campus Emergency Departments
The final budget **rejects** the budget proposal to establish Hospital-Sponsored Off Campus Emergency Departments defined as an emergency department that is owned by a general hospital and geographically removed from the hospital's inpatient campus. The proposal provided that a

hospital Off Campus Emergency Department "shall generally operate twenty-four hours per day, seven days per week." However, a hospital may apply to the Public Health and Health Planning Council to operate part time at a minimum of 12 hours per day. Approval shall only be made upon a finding by the Council that local special circumstances necessitate part-time operation and with consideration for the quality and accessibility of emergency care and the public interest.

Upgraded Diagnostic and Treatment Centers

The final State Budget **rejects** the Executive proposal to repeal Sections 25 and 26 of the Public Health law which provide for upgraded Diagnostic and Treatment Centers for members of a rural health networks to provide limited emergency services.

Certificate of Need (CON) Redesign

The final Budget **rejects** the Executive Budget proposal to make the following CON changes:

- Streamlines the process for hospitals and diagnostic and treatment centers (D&TCs) providing primary care or undertaking limited construction projects without regard to public need in circumstances where there is not a chance in capacity, the types of services provided, major medical equipment, facility replacement or geographic location of services;
- Allows the Public Health and Health Planning Council (PHHPC) to approve the establishment of D&TCs and issue operating certificates for the purpose of providing primary care without regard to the requirements of public need and financial resources;
- Reduces the look back period required for PHHPC approval from ten to seven years for character and competence reviews of existing entities; and
- Merges the different standards of review of transfers of less than 10% of voting right or ownership interest in operator entities under Article 28 or 36, and ensures that PHHPC reviews and consents to all transfers that result in a previously unapproved transferee gaining an interest of 10% or more.

Private Equity Pilot

The final Budget **rejects** the Executive Budget proposal to authorize the Commissioner of Health to establish a pilot program to assist in restructuring the health care delivery system by allowing for increased capital investment in health care facilities. The Public Health and Health Planning Council would have approved the establishment of no more than five business corporations which shall affiliate with at least one academic medical institution or teaching hospital approved by the Commissioner. Publicly traded entities would not have been permitted to participate.

HOME CARE/ LONG TERM CARE

Wage Parity

The final State Budget **accepts** the Executive Budget proposal to direct the Commissioner of Health, beginning March 1, 2014, to adjust Medicaid rates of payment for services provided by Licensed Home Health Care Agencies (LHCSAs) for cost increases stemming from the wage increases required under the home care worker Wage Parity Law. $350 million is provided for this purpose.

Removing Slot Limit on LTHHCPs
The final State Budget **accepts** the Executive Budget proposal to remove LTHHCP slot limits.

CHHA Pre-claim Review Extended to MMC Claims
The final State Budget **accepts** the Executive Budget proposal to extend the authority of OMIG to require MMC CHHA claims be subject to pre-claim review similar to the requirements for FFS claims enacted in 2011.

VAP Funding for LHCSA Providers
The final State Budget **accepts** the Executive Budget proposal to expand Vital Access Provider (VAP) funding to LHCSAs principally engaged in providing home health services to Medicaid patients. Eligible providers would include providers undergoing closure or impacted by the closure of other healthcare providers and providers seeking to maintain access to care.

Temporary Adjustments to Rates
The final State Budget **includes** a proposal to authorize DOH to grant approval of temporary adjustments to the non-capital components of rates, or make lump-sum Medicaid payments, to eligible hospitals, skilled nursing facilities, clinics and home care providers. Eligible providers include those undergoing closure or impacted by other closures, mergers, acquisitions, consolidations or restructuring and applicants much demonstrate how the resources will protect or enhance access or quality of care and/or improve cost effective of the delivery of health care services.

Home and Community Based Workgroup
The final State Budget **includes** a proposal to extend the Workgroup which is to be convened May 15, 2014 and issue reports with recommendations by September 1, 2014 and February 28, 2015. The Workgroup's charge is expanded to include recommendations on best practices for clean claims and related dispute resolution.

Spousal Support
The final State Budget **rejects** the Executive Budget proposal to require spousal support for the costs of community-based long term care.

PHYSICIAN/HEALTH PROVIDERS

Insurance Coverage for Out-of-Network Health Care Services
The final State Budget **modifies** the Executive Budget proposal to regulate out-of-network services, including billing, reimbursement and consumer disclosure for health care services provided to patients by "out-of-network" health care providers who do not participate in a patient's health insurance plan. Key provisions of the bill are provided below.

New Consumer Protections

- The bill affords patients enrolled in all health insurance products the right, currently only available to those enrolled in HMOs, to access out-of-network health care providers at no additional cost to the patient if the insurer does not have an in-network provider with the appropriate training and experience to meet the health care needs of the patient.

- A new right is established for a patient to file an appeal through the Independent External Appeals process when an insurance company denies a patient request to receive services from an out-of-network provider.
- Insurance companies, health care professionals, hospitals and other health care facilities are required to disclose significant information to patients so that they can determine how the insurer calculates the rates, whether a health care provider is in their insurance company's network and, if not, what the patient will be billed for the services.

Out-of-Network Rates/Adequacy

- Usual and customary cost (UCR) is defined as the 80th percentile of all charges for health services performed by a provider in the same or similar specialty and provided in the same geographic area as reported by a benchmarking database maintained by a nonprofit organization specified by the DFS Superintendent (This is understood to mean FAIR Health).
- Insurers that issue a comprehensive group or group remittance policy for out-of-network coverage must "make available" at least one policy that provides coverage of at least 80% of the UCR.
- All insurance products, not just HMOs, are required to have adequate networks.

Independent Dispute Resolution for Emergency Services and Surprise Bills

- Either a non-participating physician or health care plan may submit a dispute regarding a fee to an Independent Dispute Resolution Entity (IDRE) for emergency services and for "surprise bills" for non-emergency services provided in a hospital or ambulatory surgery center.
- An uninsured patient may submit a dispute if they have not timely received all of the required disclosures under the law.
- The IDRE must select either the physician's charges or the insurer's payment based on the following criteria set forth in the law.
- In instances where the IDRE disagrees with both the physician's fee and the insurer's payment, the reviewer would be permitted to ask the parties to negotiate a fee.
- All decisions by the IDRE are required within 30 days.
- The IDRE is required to use licensed physicians in active practice in the same or similar specialty as the physician subject to review. To the extent practicable, the physician must be licensed in this State.
- The losing party pays for the dispute resolution process, except in the case where a health care plan and a physician reach a settlement after being directed to negotiate by the IDRE in which case responsibility for payment is evenly divided between the health care plan and the physician.
- When the IDRE rules in favor of a physician for a dispute brought by an uninsured patient, payment shall be the responsibility of the patient unless the Superintendent determines that this would pose a hardship to the patient.

Out-of-Network Workgroup

A nine member Workgroup is established and appointed by the Governor with recommendations from the Legislature. The Superintendent of the Department of Financial Services and the Commissioner of the Department of Health will serve as Co-Chairpersons. The Workgroup is

charged with reviewing current out-of network rates and coverage and making recommendations to the Governor and the Legislature no later than January 1, 2016.

Changes to Nurse Practitioner (NP) Practice Law

The final State Budget **includes with modifications** the Executive Budget proposal to change the law related to the collaboration requirements between physicians and nurse practitioners (NPs) with some modifications. Below is a summary of the final budget provisions:

- Allows for NPs practicing for more than 3600 hours to have a collaborative "relationship" versus "written agreement" with one or more physicians qualified to collaborate in the specialty involved or with a hospital that provides services through licensed physicians in the specialty involved and having privileges at such institution.
- States that NPs electing to have such collaborative relationships would be required to complete and maintain a form created by the State Education Department attested to by the NP and describing the relationships. Collaborative relationships shall mean that the NP shall communicate with a licensed physician to exchange information to provide comprehensive patient care and make referrals as necessary. The form shall also reflect the NP's acknowledgment that if reasonable efforts are made to resolve any dispute that arises with the collaborating physician about a patient's care and they are unsuccessful, the recommendation of the physician shall prevail. Failure to comply with all such requirements by the NP would be subject to professional misconduct.
- Rejects the Executive Budget proposal to allow NPs to collaborate with another NP with more than 3600 hours of experience where they could demonstrate that no physician is available.
- States that as a condition of each triennial registration, the State Education Department shall collect information from the NP as required to evaluate access to needed services, determine which NPs are practicing with a written agreement, which are practicing with collaborative relationships and other information deemed relevant. The Commissioner, in consultation with the Commissioner of Health is required to issue a report based on these findings and any recommendations by September 1, 2018.
- States that these changes shall take effect January 1, 2015 and shall expire June 30, 2021.

Office Based Surgery (OBS) and Office-Based Anesthesia

The final State Budget **rejects** the Executive proposal to increase oversight of Office Based Surgery Centers by:

- requiring registration with NYS DOH and accreditation by the American Board of Medical Specialties (ABMS); and
- amending the definition of “adverse event” to include a patient visit to an emergency department or assignment to observation services at a hospital within 72 hours of receiving OBS services;
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- requiring full accreditation as a condition of using the term "urgent care" or a symbol that implies "urgent care;"
- prohibiting signage, advertisements, or symbols that imply that the center is a provider of emergency medical care;
- allowing a hospital to provide urgent care or medical care and display signage and advertising pursuant to regulations of the Commissioner of NYS DOH; and
- authorizing the Commissioner to promulgate regulations defining the scope of services to be provided, staffing, transmission of medical records, and other matters.

Hospital-Sponsored Off-Campus Emergency Departments
The final budget **rejects** the budget proposal to establish Hospital-Sponsored Off Campus Emergency Departments defined as an emergency department that is owned by a general hospital and geographically removed from the hospital's inpatient campus. The proposal provided that a hospital Off Campus Emergency Department "shall generally operate twenty-four hours per day, seven days per week." However, a hospital may apply to the Public Health and Health Planning Council to operate part time at a minimum of 12 hours per day. Approval shall only be made upon a finding by the Council that local special circumstances necessitate part-time operation and with consideration for the quality and accessibility of emergency care and the public interest.

Upgraded Diagnostic and Treatment Centers
The final State Budget **rejects** the Executive proposal to repeal Sections 25 and 26 of the Public Health law which provide for upgraded Diagnostic and Treatment Centers for members of a rural health networks to provide limited emergency services.

Excess Medical Malpractice Program
The final State Budget **accepts** the Executive proposal to provide $127,400,000 for the physician excess medical malpractice program and extends one year until June 30, 2015 provisions enacted in 2013 to limit eligibility for enrollment in the program to physicians and dentists who were provided coverage through June 30, 2014, subject to openings due to attrition.

Doctors Across New York (DANY)
The final State Budget **accepts** the Executive proposal to provide funding for the Physician Loan Forgiveness and Practice Support programs under DANY to $1,705,000 and $4,360,000. Also the final State Budget **includes** ***$2.5 million in new funding*** for the DANY program for a new cycle of loan forgiveness and practice support grants and includes language to authorize DOH to make loans payment awards without an RFA or competitive bid.

Changes in Social Worker Loan Forgiveness Awards
The final State Budget **includes** changes to the award process for social worker loan forgiveness changing the definition of "critical human service area" to include social workers in home care and to change first priority for the awards to social workers who in the prior year worked in a current critical human service area or a previously designated critical human service area.

Rural Dentistry Pilot
The final State Budget **includes** a proposal to establish a Rural Dentistry Pilot in Chautauqua, Allegany and Cattaraugus Counties and provides $250,000 for the program. The pilot would be in coordination with the University of Buffalo Schools of Dentistry to study ways to provide dental services in underserved areas. DOH is required to issue annual reports on the pilot.

Adirondack Medical Home Demonstration
The final State Budget **rejects** the Executive proposal to extend this demonstration until 2017. It will expire July 1, 2014.

AHEC Funding
The final State Budget **includes** $2,077,000 in funding for the New York State Area Health Education Centers (AHEC) system (the same level of funding included in the final State Budget approved for 2013-14).

Primary Care Service Corps
The final State Budget **accepts** the proposal to revise the Primary Care Service Corps. application process for awarding loan repayment awards (up to $32,000/year) to eligible primary care service corps practitioners to enable the State Department of Health to do so *without a competitive bid or request for proposal process.*

HIV Testing
The final State Budget **accepts** the Executive proposal to make further changes to the HIV testing provisions in law to change existing requirements for written or oral (for rapid tests) consent for HIV testing to "informed" consent by a patient or a person authorized to consent if the patient lacks capacity to do so. In order for there to be informed consent, the person ordering the test must at a minimum advise the individual that an HIV-related test is being performed and shall note the notification in the patient's record. Informed consent is valid until such time as it is revoked.

For tests conducted in a facility under the correction law, individual consent for HIV related testing must be in writing. When used for purposes of patient linkages and retention in care,

patient specific identified information may be shared between local and state health departments and health care providers as approved by the Commissioner of Health.

New York Connects
The final State Budget **includes** a new proposal to require health care practitioners to provide the contact information for *NY Connects: Choices for Long Term Care* to patients or their designated representative whenever they are making a recommendation or referral for receipt of long term care services. NY Connects is a State website http://www.nyconnects.ny.gov/nyprovider/consumer/indexNY.do which provides a search function based on a patient's county of residence for available long term care services.

PHARMACY

AAC/COD Pharmacy Reimbursement Proposal
The final State Budget **removes** Health Department authority to implement average acquisition cost (AAC) reimbursement proposal and broad authority to adjust pharmacy reimbursement and fees. Directs the Department to work with stakeholders to develop a transparent and adequate new pharmacy reimbursement proposal under Medicaid.

Prescriber Prevails Changes
The final State Budget **rejects** the Executive Budget proposal to eliminate "prescriber prevails" provisions in Medicaid fee-for-service and managed care programs for drugs that have FDA-A rated generic equivalents.

Prior Authorization under Medicaid FFS
The final State Budget **rejects** the Executive Budget proposal to authorize the Commissioner of Health to require prior authorization for Medicaid fee-for-service drugs meeting the Clinical Drug Review Program criteria until such time as the Drug Utilization Review Board can make a recommendation to the Commissioner.

Early Refills Proposal
The final State Budget **modifies** the Executive Budget proposal to limit early refills by requiring prior authorization for refills when a patient has more than a *ten* (was six) day supply of the previously dispensed medication remaining, based on prescribed dosing.

E-Prescribing Incentives
The final State Budget **accepts** the Executive Budget proposal to eliminate state incentive payments to eligible providers for e-prescribing due to federal incentives and state mandate for electronic prescriptions in 2015.

Manufacturer Supplemental Rebates
The final State Budget **rejects** the Executive Budget proposal to authorize the Commissioner of Health to require manufacturers of brand name drugs utilized in Medicaid fee-for-service that are eligible for reimbursement to provide a minimum level supplemental rebate to the State. If such rebate is not provided, the drugs may be subject to prior authorization.

“Off-Label” Drug Use Changes
The final State Budget **rejects** the Executive Budget proposal to require verification of FDA and/or Compendia support for reimbursement for drugs where there is evidence of significant prescribing for non-medically indicated, or "off-label" use.

Medicaid Co-Payments
The final State Budget **accepts** the Executive Budget proposal to require that the co-payment charged to managed care plan enrollees for preferred brand name drugs on their Medicaid managed care plans' formulary is limited to $1 without regard to whether the same preferred brand drug is listed on the preferred fee-for-service Medicaid pharmacy formulary.

Authorization for Pharmacy Dispensing Fee Rates
The final State Budget **accepts** the Executive Budget proposal to extend as part of general HCRA extensions for three years through March 31, 2017 authorization for pharmacy dispensing fee rates.

Limited Services Clinics
The final State Budget **rejects** the Executive Budget proposal to authorize the establishment of “Limited Services Clinics” within retail establishments such as pharmacies, stores and shopping malls.

Elderly Pharmaceutical Insurance Coverage (EPIC)
The final State Budget **includes** a new proposal to increase income eligibility thresholds under the EPIC program for the deductible plan from $35,000 to $75,000 for those who are single and $50,000 to $100,000 for those who are married.

Regulation of Outsourcing Facilities
The final State Budget **includes** a new proposal to provide greater oversight and regulation of outsourcing facilities and sterile compounding by requiring such facilities to be registered with the State Education Department (and under the Federal Food, Drug and Cosmetic Act).

PUBLIC HEALTH

Public Health Program Consolidation
The final State Budget **rejects** the Executive proposal to consolidate 36 programs into ten different categories stating that they serve similar functions or share common characteristics. The proposal did not have a fiscal savings.

Tobacco Control Funding
The final State Budget **rejects** the Executive proposal to move $2,174,600 of total program funding for Tobacco enforcement and education activities to the consolidated pool proposal summarized above. The final State Budget includes full funding for the tobacco control program at the level provided in the FY 2013-14 final Budget.

Cancer Services Funding
The final State Budget **includes** full funding for the cancer services program at the level provided in the FY 2013-14 final Budget.

Diabetes and Obesity Funding
The final State Budget **rejects** the Executive proposal to move $6,803,000 in total program funding to the consolidated pool proposal summarized above. The final State Budget includes full funding for the diabetes and obesity program at the level provided in the FY 2013-14 final Budget.

Stem Cell Funding
The final State Budget **accepts** the Executive proposal to maintain Empire State Stem Cell Research funding at $44,800,000.

Spinal Cord Injury Research Fund
The final State Budget **increases** funding for the Spinal Cord Injury Fund to $7,000,000.

Health Research Science Board (HRSB)
The final State Budget **rejects** the Executive proposal to revise the membership of the HRSB to remove rotating regional appointments and the requirement for one voting member to have survived prostate or testicular cancer. Also it modifies the proposal requiring the Board to meet twice annually and as needed thereafter, adds a new reporting requirement by February 1st of each year to have DOH report to the Legislature on how funding is utilized.

Cancer Detection and Education Program Advisory Council
The final State Budget **accepts** the Executive proposal to rename the Breast, Cervical and Ovarian Cancer Detection and Education Program Advisory Council and expand oversight and representation on the Council to include advice on prostate and testicular cancer.

Prostate and Testicular Cancer Research and Education Fund
The final State Budget **accepts** the Executive proposal to remove references to the "New York State Coalition to Cure Prostate Cancer" as the sole entity who may be supported from the Fund. **Modifies** language stating that monies from the fund shall be made available to the Commissioner of Health to provide grants for prostate and testicular cancer research, support programs and education and may be issued without a competitive bid or RPF process, provided that DOH post on its website the application criteria. Also a written report requirement is added prepared by DOH by February 1st of each year and submitted to the Legislature on how the funds are awarded.

Organ Donation Registry
The final State Budget **accepts with modifications** the Executive proposal to allow the State Department of Health (DOH) to contract out the operation and marketing of the NYS Donate Life Registry to a not-for-profit organization to more effectively promote organ and tissue donation and register potential donors. Also authorizes DOH to utilize funds deposited into the "Life Pass It On" fund collected by the Department of Motor Vehicles (DMV) to support the operation of the NYS Donate Life Registry.

Prenatal Services
The final State Budget **accepts** the Executive proposal to provide that the provision of prenatal clinical health services by municipalities shall be eligible for state aid for uninsured women of any age provided that the municipality makes good faith efforts to assist women with insurance enrollment and until such time as enrollment is effective.

HIV Testing
The final State Budget **accepts** the Executive proposal to further streamline the written consent for HIV testing provision in law to permit informed consent by a patient or a person authorized to consent if the patient lacks capacity to do so. In order for there to be informed consent, the person ordering the test must advise the individual that an HIV-related test is being performed and shall note the notification in the patient's record.

States that for tests conducted in a facility under the correction law, individual consent for HIV related testing must be in writing. When used for purposes of patient linkages and retention in care, patient specific identified information may be shared between local and state health departments and health care providers as approved by the Commissioner of Health.

BEHAVIORAL HEALTH

Closures of Inpatient Psychiatric Services
The final State Budget **accepts with modifications** the Executive proposal to make funds resulting from the reduction of inpatient behavioral health services under Medicaid available to the Commissioners of OMH and OASAS, in consultation with DOH and approval by Division of the Budget (DOB) to implement reinvestment allocation plans, in consultation with voluntary agencies providing behavioral health services and local government units. Such plans shall describe mental health and substance use disorder services designed to meet needs by programs licensed under article 31 and 32 of the mental hygiene law. Also may include programs licensed both under article 31 and article 28 of public health law, or certified under both article 32 and article 28. The Commissioner of Health is required to include details on the implementation of the reinvestment allocation plans in the annual report required on the transition of behavioral health population to managed care as discussed below (see section *Report on Behavioral Health Transition).*

Behavioral Health Services Reinvestment Program
The final State Budget **accepts with modifications** the Executive proposal to authorize DOH to reinvest funds allocated for behavioral health services, which are general fund savings realized directly from the transition to managed care from Medicaid FFS, for purposes of reinvesting in community behavioral health services including residential services certified by OASAS.

Funds for the program will be subject to an annual appropriation and the methodology to calculate the savings from the transition to managed care shall be determined by DOH, DOB in consultation with OMH and OASAS. In no event shall annual value of the Program savings exceed the amount of DOH general fund reductions resulting from the transition.

When appropriation increases are recommended for the Program but savings from the transition to managed care do not occur at level estimated and planned, the Program's funding may be reduced by that amount the next year. DOH Commissioner shall promulgate regulations to implement by October 1, 2015 and may do so by emergency regulations. The Commissioner of Health is required to include details on the methodology used to calculate savings for reinvestment, the results and implementation in the annual report required on the transition of behavioral health population to managed care as discussed below (see section *Report on Behavioral Health Transition).*

Community Mental Health and Workforce Reinvestment

The final State Budget **includes** language to increase from seventy thousand (70,000) to one hundred ten thousand ($110,000) the savings from each inpatient bed closure on an annual basis.

Collaborative Care Delivery Model and Integrated Services

The final State Budget **accepts with modifications** the Executive proposal to authorize the Commissioner of DOH, in consultation with the Commissioner of OMH to establish an evidence-based, collaborative care clinical delivery model in clinics licensed under article 28 of the public health law for purposes of improving the detection of depression and other diagnosed mental or substance use disorders and the treatment of individuals with such conditions in an integrated manner. The Commissioners shall develop criteria for the designation of clinics to be providers of collaborative care services. At a minimum such clinics shall provide:

- Screening for depression;
- Medical diagnosis of patients who screen positive;
- Evidence-based depression care;
- Ongoing tracking of patient progress;
- Care management; and
- A designated psychiatric practitioner who consults with the care manager and primary care physician.

The rates of payment and billing rules for the service will be developed by the Commissioner of DOH, in consultation with the Commissioner of OMH, and with the approval of the Director of the Budget.

The Budget also includes language adding emergency regulatory authority for the Commissioners of DOH, OASAS, OPWDD and OMH to promulgate emergency regulations by October 1, 2015 to implement integrated mental health, substance abuse and physical health services in a single location in out outpatient hospital or clinic services.

The Commissioner of Health is required to include details on the implementation of the collaborative care clinical delivery model and on any regulations promulgated on the integrated services in the annual report required on the transition of behavioral health population to managed care as discussed below (see section *Report on Behavioral Health Transition).*

Behavioral Health Transition to Managed Care

The final State Budget **accepts with modifications** the Executive proposal related to the following:

- Broadens authority for the Commissioners of OASAS and OMH to transfer to DOH funds to be utilized for the purpose of increasing payments to Medicaid Managed Care plans for the purpose of reimbursing *providers* licensed pursuant to article 28 of the public health law or article 31 or 32 of the mental hygiene law for ambulatory behavioral health services provided to Medicaid-eligible outpatients.
- The increase in such ambulatory behavioral health fees to providers shall be through December 31, 2016 for patients in New York City, through June 30, 2017 for patients outside New York City and through December 31, 2017 for services provided to persons under age 21.
- Managed care organizations and providers may negotiate different rates and methods of payment during the periods described above, subject to approval by DOH, in consultation with OASAS and OMH.
- The Commissioner of DOH, in consultation with the Commissioners of OASAS and OMH may promulgate emergency regulations prior to October 1, 2015 to establish the rates for ambulatory behavioral health services as necessary to implement this section.
- Rates promulgated under this section shall be included in the annual report required on the transition of behavioral health population to managed care as discussed below (see section *Report on Behavioral Health Transition).*
- All provisions expire January 1, 2018 (previously March 31, 2016).

Report on Behavioral Health Transition

The final State Budget **includes** new language amending the reporting requirement on the behavioral health transition to managed care included in the final FY 2013-14 State Budget to require an annual report beginning January 1, 2016 and to expand the report to include the following:

- Details on implementation of the reinvestment allocation plans from the reductions of inpatient behavioral health services;
- Details on the methodology used to calculate the amount of savings resulting from the transition of individuals into managed care and the manner in which the reinvestment will address service needs;
- Details on implementation of the collaborative care clinical delivery model;
- Rationale for any waiver of existing regulations or use of emergency regulations pursuant to the behavioral health services transition;
- Implementation of infrastructure and organizational modifications and investments in health information technology and training and technical assistance; and
- Details regarding the implementation of the plan to transition adult and children's behavioral health providers and services into managed care.

Provisions related to the reporting requirements expire January 1, 2018.

Funding for Transition to Managed Care

The final State Budget **accepts** the Executive Budget proposal to include $20 million in funding for the Commissioner of Health to distribute to local government units, Medicaid Managed Care plans, Health Homes and Behavioral Health providers licensed by OMH or OASAS and consortiums of providers to prepare for the transition adult and child behavioral health services into managed care.

Funding is subject to the availability of federal financial participation and may be used for infrastructure and organizational modifications and investments in health information technology and training assistance. Funds would be distributed pursuant to a plan developed by DOH, in consultation with OMH and OASAS and in developing the plan they may take into account the size and scope of a grantee's operations as a factor relevant to eligibility for, and the amount of, such funds. DOH is authorized to audit such funds and recoup any that are not used for the intended purposes.

Health Home Infrastructure Funding

The final State Budget **accepts with modifications** the Executive Budget proposal to subject to available federal funds, authorize DOH to distribute $10 million (was $15 million) in funds for the purpose of further developing health home infrastructure including member engagement, staff training and retraining, health information technology implementation, joint governance technical assistance or other purposes determined by DOH, in consultation with OMH and OASAS. Funding applications will address and prioritize implementation challenges, leverage regional partnerships, link care coordination networks and not otherwise duplicate available funds through other programs.

VAPs Funding for Behavioral Health Services

The final State Budget **accepts with modifications** the Executive Budget proposal to include $30 million (was $40 million) in funding for Medicaid Vital Access Providers (VAPs) services to preserve access to essential behavioral health inpatient and other services in targeted areas of the State.

Opioid and Heroin Prevention and Treatment Funding

The final State Budget **includes** a total of $2.45 million for opioid and heroin prevention and treatment programs.

OMH Funding

The final State Budget **accepts** the Executive Budget proposal to provide $25 million for reinvestment services and expenses for expansion of state community hubs and voluntary operated services for adults and children and $6.5 million in renal stipends for supported housing units downstate (New York City and Long Island). The final Budget also **includes** $75,000 in new funding for services and expenses associated with a study on the impact of expanded community services.

OASAS Funding

- The final State Budget **includes** $800,000 in additional funding for OASAS residential treatment services, $5 million in Medicaid funding to support OASAS' plan to restructure residential services, and $5 million in Medicaid funding to preserve access to critical inpatient rehabilitation services.

Medicaid Managed Care Advisory Review Panel

The final State Budget **accepts** the Executive Budget proposal to expand the Review Panel membership from 12 to 16 members by adding consumer representatives for individuals with

behavioral health needs and representatives for dually eligible individuals and representatives of providers that serve both populations.

Office of Mental Health and OPWDD Facility Directors as Representative
The final State Budget **accepts** the Executive Budget proposal to extend the clarification for three more years that OMH and OPWDD facility directors who use a person's funds for his or her own care are not in violation of the Mental Hygiene Law.

Authorizes Commissioner of OMH to Recover Medicaid Exempt Income from Certain Providers
The final State Budget **accepts with modifications** the Executive Budget proposal to authorize the Commissioner of OMH to recover Medicaid exempt income from providers of community residences licensed by OMH by extending such authority one year through December 31, 2015 outside New York City and through June 30, 2015 in New York City.

Inpatient Facilities
The final State Budget **accepts** the Executive Budget proposal to provide for periodic update of the base year for inpatient psychiatric facilities, specialty inpatient facilities and inpatient detoxification facilities with the first base year taking effect no later than January 1, 2015 for these facilities.

Foster Care
The final State Budget **accepts with modifications** the Executive Budget proposal to authorize DOH to spend $5 million on a pilot program with OCFS to develop rates for Managed Care, Health Homes and Foster Care per diems to facilitate the transition of children in foster care to Medicaid Managed Care. The final Budget requires a report on this initiative.

Juvenile Justice
The final State Budget **accepts** the Executive Budget proposal to establish the Commission on Youth Public Safety and Justice to make recommendations regarding increasing the age of juvenile jurisdiction since 16 and 17 year olds are currently prosecuted in the adult criminal system in the State.

DWI Changes
The final State Budget **rejects** the Executive Budget proposal to suspend for five years driving privileges for anyone who has committed two DWI violations over the course of three years and would have permanently revoked a driver's license for anyone who has committed three or more violations.

DEVELOPMENTAL DISABILITIES

Expands Exemption in the Nurse Practice Act to Non-Certified Settings under OPWDD
The final State Budget **accepts with modifications** the Executive Budget proposal to expand the current law's Nurse Practice Act exemption to direct care staff in non-certified settings to provide greater flexibility in the performance of certain health-related tasks under the supervision of registered professional nurses.

Office of Mental Health and OPWDD Facility Directors as Representative

The final State Budget **accepts** the Executive Budget proposal to extend the clarification for three more years that OMH and OPWDD facility directors who use a person's funds for his or her own care are not in violation of the Mental Hygiene Law.

Medicaid Managed Care Advisory Review Panel

The final State Budget **accepts** the Executive Budget proposal to expand the Review Panel membership from 12 to 16 members by adding consumer representatives for individuals with behavioral health needs and representatives for dually eligible individuals and representatives of providers that serve both populations.

Developmental Disability Advisory Group

The final State Budget **includes** language authorizing the Commissioner of DOH to establish a disability clinician advisory group of individuals who have an understanding of the comprehensive needs of people with disabilities. The group shall provide DOH with information and data on the effect of policies including proposed regulation or statutes, and of fiscal proposals including rate setting and appropriations on the delivery of supports and services for individuals with disabilities including but not limited to the role of specialty services.

DSP Credentialing Pilot

The final State Budget **includes** language stating that by January 1, 2016, OPWDD shall issue a report to the Governor and Legislative Leaders setting forth recommendations for the establishment of a direct support professional (DSP) credentialing pilot program. The recommendations shall consider national and international models, career ladders, current salaries and training requirements, classroom and on the job training requirements for existing credentialing programs and the impact of the requirements on provider operations, ongoing and continuing education, the fiscal impact of a credentialing pilot, and financial incentives for those who successful complete the program.

Integrated Employment Plan

The final State Budget **includes** language related to an integrated employment plan requiring the Department to work with the Developmental Disability Advisory Council and stakeholders to establish a plan to increase employment opportunities for people with developmental disabilities.

Development Disability Managed Care Advocacy Program

The final State Budget **includes** language authorizing the Department to establish a managed care for persons with developmental disabilities advocacy program coordinated with the independent Medicaid Managed Care ombuds services provided to persons enrolling in managed care. The advocacy programs shall provide support to such individuals and the Commissioner shall select an independent organization or organizations to provide such advocacy services.

Workers with Disabilities Tax Credit

The final State Budget **includes** language which specifically provides tax incentives to employers for employing people with developmental disabilities. The section authorizes the Commissioner to allocate up to $6 million of tax credits annually.

EARLY INTERVENTION (EI)

The final State Budget **includes** provisions for payment of back EI claims as follows:

- Requires payment of EI claims submitted between April 1, 2013 and June 30, 2013 for which the third party payor has not, as of April 1, 2014, made payment in whole or in part or has not rendered a determination that it is not obligated to pay the claim.
- Payment must be made within 45 days of the effective date of the bill (April 1, 2014) which brings the payment date to May 15, 2014.
- The provider is authorized to seek payment of the claim from the municipality through the State Fiscal Agent and is required to render any assistance needed and provide any information and documentation requested by the payor to facilitate payment even if the provider has already received the payment.
- Claims paid by a third party payor after the provider receives payment from a municipality shall be reconciled against future payments due the provider from the municipality.

SPECIAL EDUCATION

New York City RFP for Preschool Services

The final State Budget **modifies** the Executive Budget proposal by including language stating that "Commencing with the 2015-2016 school year, special itinerant services shall be provided by approved programs, and such approved programs shall be reimbursed based on the actual attendance of preschool children."

School District Waivers

The final State Budget **rejects** the Executive Budget proposal to grant authority to a local school district, approved private school, or Board of Cooperative Education Services (BOCES) to submit a waiver to SED for an exemption from any State requirements in law or regulation that govern the duties and responsibilities of school districts and SED with respect to children with handicapping conditions**.**

853/4410 Preschool Special Education Teacher Salaries

The final State Budget **includes** a total of $4 million in new funds for 853 private day and residential schools and 4410 preschools for special education services to reduce the turnover of certified teachers through a targeted adjustment of compensation for teachers providing direct instructional services to children. The Commissioner of SED is required to develop an allocation plan for the distribution of funds.

ADULT HOME/ ASSISTED LIVING/ HOUSING

ACF/ALR Application Process

The final State Budget **accepts with modifications** the Executive Budget proposal related to following initiatives recommended by the DOH Licensure Streamlining Workgroup:

- Allowing ACF/ALR ownership transfers of less than 10% and certain business conversions upon notice to DOH;

- Increasing the maximum ACF/ALR respite stay from 6 weeks to 4 months, and allowing providers to start respite programs upon notice to DOH; and
- Increasing the number of EALR/SNALR beds that can be added pursuant to an expedited process from 5 to 9 beds.

Assisted Living Program (ALP)
The final State Budget **accepts** the Executive Budget proposal to extend for 2 years through April 2016 the timeframe for the Department to issue the 6,000 ALP beds first created back in 2009. A new annual report requirement on DOH is included to report on the number of ALP beds made available and number that are vacant by county.

Transitional Adult Homes
The final State Budget **accepts** the Executive Budget proposal to include $30 million for:
- Services and expenses associated with the implementation of the Federal settlement, including "education, assessments, training, in-reach, care coordination, supported housing and the services needed by mentally ill residents of adult homes who are discharged from adult homes"; and
- Up to $7 million for a contract with the Research Foundation for Mental Hygiene, Inc. to conduct two mental health demonstration programs, one of which will be a "mental health and health care coordination demonstration program for persons with mental illness who are discharged from impacted adult homes" in New York City.

Supportive Housing
The final State Budget **includes** $222,069,000 in the total funding for Medicaid Redesign Team supportive housing initiatives.

INSURANCE/ AFFORDABLE CARE ACT

Utilization Thresholds
The final State Budget **accepts** the Executive Budget proposal to extend for three years through March 31, 2017 authorization for DOH to establish utilization thresholds for Medicaid services.

Fair Hearings
The final State Budget **includes** language to provide managed care enrollees receiving long term care services access to a fair hearing and continued aid without regard to any prior authorization period.

***New York State of Health* Exchange Funding**
The final State Budget **accepts** the Executive Budget proposal to allocate $54.3 million in State funding in 2014-15 for the New York Health Benefit Exchange.

Basic Health Plan
The final State Budget **accepts** the Executive Budget proposal to authorize DOH to establish a Basic Health Program (BHP), which will provide enhanced Federal Medical Assistance Percentages (FMAP) for Medicaid expenditures pursuant to Division of Budget approval.

Under the proposal entities licensed or certified pursuant to Insurance Law Articles 32 and 42 and Public Health Law Article 44 are eligible to apply to underwrite a BHP plan. DOH will consult with the Department of Financial Services to develop the health care services provided by the BHP, which will be based on essential health benefits and the reference or benchmark plan selected by DOH.

To be eligible for the BHP, an individual must meet the following requirements:

- New York State resident under 65;
- Not be eligible for Medicaid or CHP;
- Not be eligible for minimum essential coverage, or, if eligible for employer sponsored coverage, such coverage is unaffordable; and
- Have income at or below 200% FPL but above 133% FPL (MAGI-eligible aliens that are lawfully present are also eligible even if their income is below 133% FPL).

Individuals will lose eligibility if they fail to make the required premium payment within timeframes established by DOH. The Budget proposes the following additional requirements beyond what is required federally including:

- Having continuous open enrollment;
- Eligibility for coverage will be prospective consistent with qualified health plan rules;
- Eligibility will continue for a twelve month period even if an individual's income changes;
- A premium of up to $20/month will be applicable for individuals between 150-200% of federal poverty level; and
- Establishes the Basic Health Program Trust Fund in the joint custody of the Comptroller and the Commissioner of Taxation and Finance.

Modified Adjusted Gross Income (MAGI) Income Standard for Spend-Down

The final State Budget **accepts** the Executive Budget proposal to provide for Medicaid spend-down eligibility under the MAGI income standard.

Child Health Plus (CHP) Premiums/ Rate Setting

The final State Budget **rejects** the Executive Budget proposal to move CHP rate setting from DFS to DOH and **accepts** the Executive Budget proposal to keep CHP premiums through March 2015 at the levels approved prior to April 1, 2014.

CHP Waiting Period

The final State Budget **accepts** the Executive Budget proposal to eliminate the CHP waiting period which is currently 6 months for children who voluntarily lose employer-sponsored coverage and has been reduced to 90 days under the ACA.

CHP Program Extension

The final State Budget **modifies** the Executive Budget proposal by extending the CHP statute through 2017.

Insurance Coverage for Out-of-Network Health Care Services

The final State Budget **modifies** the Executive Budget proposal to regulate out-of-network services, including billing, reimbursement and consumer disclosure for health care services provided to patients by "out-of-network" health care providers who do not participate in a patient's health insurance plan. Key provisions of the bill are provided below.

New Consumer Protections

- The bill affords patients enrolled in all health insurance products the right, currently only available to those enrolled in HMOs, to access out-of-network health care providers at no additional cost to the patient if the insurer does not have an in-network provider with the appropriate training and experience to meet the health care needs of the patient.
- A new right is established for a patient to file an appeal through the Independent External Appeals process when an insurance company denies a patient request to receive services from an out-of-network provider.
- Insurance companies, health care professionals, hospitals and other health care facilities are required to disclose significant information to patients so that they can determine how the insurer calculates the rates, whether a health care provider is in their insurance company's network and, if not, what the patient will be billed for the services.

Out-of-Network Rates/Adequacy

- Usual and customary cost (UCR) is defined as the 80th percentile of all charges for health services performed by a provider in the same or similar specialty and provided in the same geographic area as reported by a benchmarking database maintained by a nonprofit organization specified by the DFS Superintendent (This is understood to mean FAIR Health).
- Insurers that issue a comprehensive group or group remittance policy for out-of-network coverage must "make available" at least one policy that provides coverage of at least 80% of the UCR.
- All insurance products, not just HMOs, are required to have adequate networks.

Independent Dispute Resolution for Emergency Services and Surprise Bills

- Either a non-participating physician or health care plan may submit a dispute regarding a fee to an Independent Dispute Resolution Entity (IDRE) for emergency services and for "surprise bills" for non-emergency services provided in a hospital or ambulatory surgery center.
- An uninsured patient may submit a dispute if they have not timely received all of the required disclosures under the law.
- The IDRE must select either the physician's charges or the insurer's payment based on the following criteria set forth in the law.
- In instances where the IDRE disagrees with both the physician's fee and the insurer's payment, the reviewer would be permitted to ask the parties to negotiate a fee.
- All decisions by the IDRE are required within 30 days.
- The IDRE is required to use licensed physicians in active practice in the same or similar specialty as the physician subject to review. To the extent practicable, the physician must be licensed in this State.

- The losing party pays for the dispute resolution process, except in the case where a health care plan and a physician reach a settlement after being directed to negotiate by the IDRE in which case responsibility for payment is evenly divided between the health care plan and the physician.
- When the IDRE rules in favor of a physician for a dispute brought by an uninsured patient, payment shall be the responsibility of the patient unless the Superintendent determines that this would pose a hardship to the patient.

Out-of-Network Workgroup

A nine member Workgroup is established and appointed by the Governor with recommendations from the Legislature. The Superintendent of the Department of Financial Services and the Commissioner of the Department of Health will serve as Co-Chairpersons. The Workgroup is charged with reviewing current out-of network rates and coverage and making recommendations to the Governor and the Legislature no later than January 1, 2016.