

# **HEALTH & MENTAL HYGIENE**

**By Agency**

# OFFICE FOR THE AGING

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
General Fund	2,923,600	2,850,600	2,850,600	0
Special Revenue-Other	250,000	250,000	250,000	0
Special Revenue-Federal	10,987,000	10,987,000	10,987,000	0
Enterprise	100,000	100,000	100,000	0
<b>Total for STATE OPERATIONS</b>	<b>14,260,600</b>	<b>14,187,600</b>	<b>14,187,600</b>	<b>0</b>
<b>AID TO LOCALITIES</b>				
General Fund	112,883,500	112,311,500	113,904,500	1,593,000
Special Revenue-Other	980,000	980,000	980,000	0
Special Revenue-Federal	113,985,000	114,985,000	114,985,000	0
<b>Total for AID TO LOCALITIES</b>	<b>227,848,500</b>	<b>228,276,500</b>	<b>229,869,500</b>	<b>1,593,000</b>

## LEGISLATIVE ACTION

The Legislature appropriates \$244,057,100 on an All Funds basis, an increase of \$1,593,000 over the Executive's budget submission.

### Legislative Changes

The Legislature restores \$229,000 in support for the Naturally Occurring Retirement Communities (NORC) program and \$229,000 for the Neighborhood NORC program.

The Legislature provides an increase of \$809,850 for the Expanded In-home Services for the Elderly Program and \$325,150 for the Community Services to the Elderly program to offset reductions in county allocations related to the 2010 Census.

### Legislative Additions

The Legislature provides funding for the following:

PROGRAM	APPROPRIATION
EXPANDED IN-HOME SERVICES FOR THE ELDERLY PROGRAM (EISEP)	\$809,850
COMMUNITY SERVICES FOR THE ELDERLY (CSE) PROGRAM	\$325,150
NATURALLY OCCURRING RETIREMENT COMMUNITIES	\$229,000
NEIGHBORHOOD NATURALLY OCCURRING RETIREMENT COMMUNITIES	\$229,000

## DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

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	<b>Adjusted Appropriation 2011-12</b>	<b>Executive Request 2012-13</b>	<b>Legislative Appropriation 2012-13</b>	<b>Change</b>
<b>STATE OPERATIONS</b>				
Special Revenue-Federal	4,750,000	4,750,000	4,750,000	0
Enterprise	10,000	10,000	10,000	0
<b>Total for STATE OPERATIONS</b>	<b>4,760,000</b>	<b>4,760,000</b>	<b>4,760,000</b>	<b>0</b>

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### LEGISLATIVE ACTION

The Legislature concurs with the Executive's recommendation.

## DEPARTMENT OF HEALTH

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
General Fund	244,615,000	238,499,000	236,299,000	(2,200,000)
Special Revenue-Other	525,738,100	517,210,100	517,210,100	0
Special Revenue-Federal	1,480,570,000	1,475,010,000	1,475,010,000	0
<b>Total for STATE OPERATIONS</b>	<b>2,250,923,100</b>	<b>2,230,719,100</b>	<b>2,228,519,100</b>	<b>(2,200,000)</b>
<b>AID TO LOCALITIES</b>				
General Fund	30,209,049,815	31,944,589,915	31,963,646,915	19,057,000
Special Revenue-Other	12,623,573,800	12,492,989,800	12,532,089,800	39,100,000
Special Revenue-Federal	61,788,904,000	62,222,157,000	62,222,157,000	0
<b>Total for AID TO LOCALITIES</b>	<b>104,621,527,615</b>	<b>106,659,736,715</b>	<b>106,717,893,715</b>	<b>58,157,000</b>
<b>CAPITAL PROJECTS</b>				
Capital Projects Fund	15,600,000	15,600,000	15,600,000	0
Federal Capital Projects Fund	74,833,000	24,146,000	24,146,000	0
<b>Total for CAPITAL PROJECTS</b>	<b>90,433,000</b>	<b>39,746,000</b>	<b>39,746,000</b>	<b>0</b>

### LEGISLATIVE ACTION

The Legislature appropriates \$108,986,158,815 on an All Funds basis, an increase of \$55,957,000 over the Executive's budget submission. The budget appropriates funding for the Medical Assistance (Medicaid) program in a two-year interval for State Fiscal Year (SFY) 2012-13 and SFY 2013-14 and continues to limit year-to-year spending increases in Medicaid to the 10-year rolling average of the medical component of the Consumer Price Index.

#### **Legislative Reductions**

The Legislature includes \$40,025,000 in state share reductions to the Medicaid program which are used to support various other Medicaid program restorations. Specifically, the Legislature makes the following reductions:

- \$15,000,000 related to a one-year reduction in support for various affordable housing initiatives;
- \$12,500,000 related to federal upper payment limits (UPL) on outpatient reimbursement;
- \$6,775,000 related a one-year reduction in support for vital access provider rate increases;

- \$4,250,000 related to delaying the implementation of tobacco cessation reimbursement for dentists; and
- \$1,500,000 related to requiring a competitive process for selecting facilitated enrollment contracts for elderly, blind, and disabled populations.

The Legislature denies the creation of an Electronic Death Registration System (EDRS) and eliminates a \$2,200,000 appropriation for this purpose. The Legislature also denies \$2,180,000 in fee revenue that would have been generated by this proposal.

The Legislature reduces Child Health Plus (CHP) expenditures by \$1,207,000 related to denying an expansion of CHP coverage for Early Intervention (EI) program services.

## **Legislative Changes**

Total state share Medicaid expenditures in the SFY 2012-13 Enacted Budget are unchanged from the Executive's budget submission. The Legislature provides a state share restoration of \$40,025,000 to the Medicaid program which is fully supported by the Medicaid program reductions detailed above. Specifically, the Legislature restores:

- \$34,300,000 to reject the elimination of spousal refusal provisions;
- \$3,125,000 to support "prescriber prevails" provisions for anti-psychotic drugs covered under the Medicaid Managed Care program; and
- \$2,600,000 to restore the definition of "estate" to exclude assets that normally bypass probate for the purposes of Medicaid recovery.

The Legislature provides \$30,600,000 in additional support for the Elderly Pharmaceutical Insurance Coverage (EPIC) program which reflects a partial restoration of the reductions included in the SFY 2011-12 enacted budget. Specifically, the Legislature restores EPIC coverage for Medicare Part D co-payments for low-income senior citizens, effective January 1, 2013.

The Legislature provides a restoration of \$5,000,000 for the Tobacco Use, Prevention and Control Program.

The Legislature provides \$19,057,000 in support for various other public health programs, including:

- \$10,000,000 for Home and Personal Care Worker Benefits;
- \$2,000,000 for Infertility Services;
- \$2,000,000 for hospitals operated by the State University of New York (SUNY);
- \$750,000 for Family Planning Services;
- \$557,000 for School Based Health Centers;
- \$525,000 for HIV/AIDS Community Service Programs (CSP);
- \$525,000 for HIV/AIDS Multi-Services Agencies (MSA);
- \$500,000 for the Nurse Family Partnership Program;

- \$500,000 for Women’s Health and Wellness Programs;
- \$452,000 for Public Education for Pain Management;
- \$372,000 for the Niagara Health Quality Coalition;
- \$300,000 for the Maternity and Early Childhood Foundation;
- \$250,000 for the Pluta Cancer Center;
- \$226,000 for Pain Management Continuing Education;
- \$50,000 for the Breast Cancer Network; and
- \$50,000 for a Telehealth Study.

The Legislature provides a \$25,000,000 allocation for the Roswell Park Cancer Institute within prior year Health Care Efficiency and Affordability Law of New Yorkers (HEAL-NY) appropriations.

## **Article VII**

### **PART A – Modify the Early Intervention (EI) Program**

The Legislature accepts proposed Article VII legislation to:

- require EI service coordinators to notify the Office of Persons with Developmental Disabilities (OPWDD) if a child may be eligible for OPWDD services;
- require EI service coordinators to implement the Individualized Family Service Plans (IFSP) in a timely manner;
- remove the State Education Department’s (SED) authority to approve EI providers for the Pre-school Special Education Program;
- authorize an increase in the percentage of state aid reimbursement to municipalities for EI services;
- authorize the Department of Health (DOH) to contract with a Fiscal Agent through a mini-bid process; and
- require providers to submit claims through a fiscal agent.

The Legislature amends proposed Article VII legislation to:

- remove the authorization for municipalities to contract with EI providers, require service coordinators to assume various responsibilities from the municipality, and require service coordinators to provide performance reports to the municipality by providing for municipal oversight of providers; and
- allow DOH to approve EI providers and enter into agreements as necessary by requiring DOH to use best efforts to ensure adequate provider capacity in the EI program.

The Legislature denies proposed Article VII legislation to:

- require EI program evaluators to belong to the provider network of the parents' HMO or other insurer;
- authorize representatives of third party payors to attend IFSP meetings;
- require children enrolled in EI that are covered under a third party payor plan that provides coverage for EI services to receive such services from a provider within such plan's network except under certain circumstances;
- require an arms-length relationship between an evaluator, service coordinator, and EI provider;
- require all approved evaluators and EI providers to maintain contracts with a sufficient number of insurers;
- require the Child Health Plus program to cover EI services;
- require third party payors to make available an adequate number of EI service providers consistent with EI program enrollment and require third party payors to make the list of EI providers publicly available;
- require insurers to pay in-network provider rates negotiated between the provider and the insurer and require out-of-network providers to be reimbursed at rates set by DOH;
- prohibit third party payors from denying EI service claims;
- provide that covered EI services do not count toward an established maximum annual or lifetime monetary limit but be subject to an insurer's policy or visit limitations; and
- require insurance providers to provide municipalities and service coordinators with information on the extent of benefits within 15 days.

#### **Part B –Roswell Park Cancer Institute (RPCI)**

The Legislature amends legislation to require RPCI to become financially and operationally independent from DOH by March 31, 2014 as a condition of receiving state funding authorized under HCRA and HEAL-NY. The Legislature requires RPCI to develop a plan by January 1, 2014 that specifies how the Institute will promote the health of patients, conduct innovative research, secure financial viability, and achieve operational and fiscal independence, however does not require effectuation of the plan by a certain date.

#### **Part C – Implement an Electronic Death Registration System (EDRS)**

The Legislature denies the Executive proposal to authorize DOH to design, implement, and maintain an EDRS for counties outside of the City of New York.

#### **Part D – Implement Medicaid Redesign Team Recommendations**

The Legislature accepts proposed Article VII legislation to:

- authorize assisted living programs (ALPs) to contract with multiple long-term home health care programs, certified home health agencies and/or other qualified providers;
- expand Medicaid program coverage to podiatry visits for adults with diabetes mellitus, services provided by certified lactation consultants to pregnant and postpartum women, harm reduction counseling and services, and services to promote care coordination and integration for individuals with hepatitis C;

- authorize enhanced Medicaid payments for dually enrolled (Medicaid/Medicare) patients receiving treatment in chemical dependence outpatient clinic and opioid treatment programs licensed by the Office of Alcoholism and Substance Abuse Services;
- authorize the Commissioner of Health (Commissioner) to provide grants for coordination of services by community based organizations among providers and plans using health information technology and uniform screening criteria for prenatal risk;
- establish the Primary Care Service Corps Loan Repayment Program for non-physician practitioners who agree to practice full-time in an underserved area of the state;
- allow monies of the Medical Indemnity Fund that are not required for immediate use to be invested in obligations of or guaranteed by the United States, with the proceeds of any such investments to be retained by the Fund;
- eliminate the requirement that providers issue written notice to DOH for repair or maintenance projects under \$6,000,000;
- clarify that allocations for home care workforce recruitment and retention funds shall be made “up to” the amounts specified in existing language;
- expand the entities with which the state will share a savings realized as a result of the use of certified public expenditures in relation to school supportive health services to local school districts and social services districts beyond New York City;
- reinstate mandatory generic substitution for drugs dispensed to Medicaid enrollees, except for brand name drugs that the Commissioner may choose to exempt;
- limit the Medicaid co-insurance for Medicare covered Part B services when the total co-insurance amount would exceed the amount Medicaid would have paid using a Medicaid rate for all qualified individuals, not just persons who are dually eligible for Medicaid and Medicare;
- clarify the existing six-year statute of limitations on audits under the Health Care Reform Act (HCRA) and limit the time for providers to make amendments to their cost reports to the same six-year period;
- require electronic reporting and certification of reports by providers for the health facility cash assessment program and hospital quality contributions;
- permit licensed home care service agencies to contract with Medicaid managed care or managed long-term care plans and to bill Medicaid directly in order to temporarily serve Medicaid recipients who transition to fee-for-service;
- clarify provisions requiring managed care plans and managed long-term care plans to offer the consumer directed personal care program to their enrollees;
- extend for an additional year the authorization for the Commissioner to implement a Medicaid Savings Allocation Plan to maintain spending within the Medicaid Spending Cap and allow the Director of the Budget to modify the cap to reflect reductions in local district claiming for Medicaid administration, consistent with the phased takeover by the state of local government Medicaid administration;
- eliminate an across-the-board reduction in the EI program payments, avoiding a duplicative rate reduction on such payments;



- modify the time frames for the effective date of third party payor revocation of payments on surcharges and assessments on an aggregated basis to be effective on a monthly rather than a quarterly basis; and
- prohibit local governments from claiming for expenses incurred prior to January 1, 2006, when the “local cap” statute that limited local contributions to Medicaid expenditures took effect.

The Legislature amends proposed Article VII legislation to:

- allow for the re-investment of Medicaid savings from hospital and nursing home closures or bed decertifications in order to expand supportive housing and related services by rejecting language notwithstanding procurement provisions in State Finance and Economic Development Law and establishing a grant process for distributing funds;
- eliminate the requirement that Assisted Living Program (ALP) bed establishment be linked to nursing home bed decertifications by maintaining the Commissioner’s authorization to establish up to 6,000 ALP beds;
- allow assisted living programs to conduct initial assessments instead of requiring such assessments;
- require the Commissioner to establish regulations to ensure access to enteral formula for HIV-related illnesses and other conditions;
- specify that HIV Special Needs Plans (SNPs) may enroll related children (up to 21 years old) of an enrollee, the homeless, and other high-need/high-cost users as determined by the Commissioner;
- authorize the Commissioner to promote education, outreach and enrollment assistance for aged, blind and disabled Medicaid applicants by rejecting the proposal to pursue contracts through a mini-bid process;
- extend for three years the authority of the Dormitory Authority of the State of New York to establish one or more subsidiaries for the purpose of limiting the potential liability of the Authority when exercising its powers and duties in pursuit of remedies against a borrower that has defaulted, by extending the provision for two years and limiting the authority to Article 28 facilities only;
- authorize the Commissioner to promulgate regulations to establish new rates for bed reservation payments for hospitals, in order to preserve financial plan savings following a rejection of a proposal to grant the Commissioner authority to eliminate bed holds if such savings are not realized;
- extend the Commissioner’s regulatory authority to limit reimbursement for potentially preventable conditions and complications to outpatient settings by prohibiting measures that are not identified for Medicare nonpayment or limited payment; and
- authorize the Commissioner to promulgate regulations relating to grants awarded through DOH’s Empire Center for Research and Investigation Program for periods on and after April 1, 2013 by maintaining the program in statute.

The Legislature denies proposed Article VII legislation to:

- authorize the Commissioner to temporarily suspend or limit an operating certificate of a not-for-profit corporation participating in the Medicaid program and to make certain changes to the board of directors if there are repeated violations of certain provisions of Public Health Law or a member of the board is indicted or convicted of a felony;

- require not-for-profit corporations that are hospital operators to notify DOH of a change of directors at least 120 days prior to the effective date of the change and authorize the DOH to bar such change;
- allow the Commissioner to establish a temporary operator of an adult care facility, a general hospital or a diagnostic and treatment center when a statement of deficiencies has been issued by DOH and upon a determination by the Commissioner that significant management failures exist in the facility;
- eliminate the requirement that hospitals submit information for audit by DOH related to certain hospital medical staff, which is then audited by the federal government;
- eliminate the “prescriber prevails” provisions in fee for service, when the existing limit of four opioid prescribed within 30 days is exceeded;
- reduce the information that must be made available on DOH’s website regarding the meetings of the Pharmacy and Therapeutics Committee;
- allow diagnostic and treatment centers access to funds under the HEAL-NY program for the purpose of facilitating closures, mergers or restructuring of such facilities;
- require counties operating a mandatory Medicaid managed care program to use the enrollment broker;
- eliminate the requirement that an applicant to operate managed long-term care plans be a hospital, licensed or certified home care agency, health maintenance organization or not-for-profit organization with a history of providing or coordinating health care and long-term care services to elderly and disabled persons; and
- eliminate spousal refusal by prohibiting a spouse or parent from refusing to contribute any available income or assets towards the costs of health care services being provided to a spouse or family member.

The Legislature provides Article VII legislation to:

- repeal provisions of the SFY 2011-12 budget that expanded the definition of “estate” to include assets that normally bypass probate for the purposes of Medicaid recovery;
- restore prescriber prevails in Medicaid managed care for anti-psychotic drugs;
- require the Commissioner to track and report on consumer experiences in the transition to managed long-term care;
- require the Commissioner to develop transition and continuity of care policies for participants in home and community based long-term care;
- allow certain Article 28 facilities currently operating a long-term home health care program to transition to providing certified home health care services;
- require DOH to consult with stakeholders to address concerns regarding nursing home capital financing in managed long-term care;
- require the Office of the Medicaid Inspector General to post administrative law judge decisions on its website;
- codify existing Enhances Quality of Adult Living (EQUAL) program regulations in statute;
- limit the use of specialty drug lists that require Medicaid managed care recipients to use mail order for certain prescriptions;

- establish a workgroup on Medicaid payment for services for medically fragile children to make recommendations on the adequacy of Medicaid payment rates to certain pediatric providers;
- require the Commissioner to develop a program to facilitate the use of a triage system of care in Article 28 hospital emergency rooms;
- create a workgroup to streamline the Doctors Across New York application and funding process;
- require, to the extent practicable, an equitable distribution of HEAL-NY funds among health planning regions of the state;
- require administrative decisions regarding certificate of need for certain capital projects of Article 28 clinic to be determined within 90 days;
- create a Prescription Pain Medication Awareness Program to educate health care workers and the public about the dangers of addiction to prescription drugs; and
- create a Telemedicine Demonstration Program in certain counties to study the cost effectiveness of telemedicine in regards to heart disease and diabetes.

#### **Part E – Establish a New York State Health Benefit Exchange**

The Legislature denies proposed Article VII legislation to establish the New York Health Benefit Exchange.

#### **Part F –Phased-In Takeover of Administration of the Medicaid Program**

The Legislature accepts proposed Article VII legislation to:

- provide for a phased-in state assumption of the three percent growth in the local share of Medicaid expenditures for all counties and New York City, at a rate of one percent per year, and modify the DOH Medicaid state funds spending cap to allow for increased state spending associated with providing local government Medicaid relief beginning on April 1, 2013;
- allow Monroe County to opt into the Local Medicaid Cap in lieu of a sales tax intercept by January 1, 2013;
- authorize DOH to assume sole responsibility for commencing Medicaid recovery actions and proceedings; and
- eliminate the annual reconciliation of local government Medicaid expenditures effective April 1, 2015.

The Legislature amends proposed Article VII legislation to:

- cap state reimbursement of local government Medicaid administration by authorizing the Commissioner to distribute additional financial plan savings related to the state takeover of Medicaid administration to districts where administrative costs are projected to exceed the cap; and
- authorize the Commissioner to take actions necessary to transfer administration of the Medicaid program from local social service districts to DOH by requiring the Commissioner to elicit a statement of interest from districts to perform administrative functions, and requiring the Commissioner to report annually to the Legislature on progress until full implementation in 2018.

### **Part G – Medicaid Extenders**

The Legislature accepts proposed Article VII legislation to extend certain hospital rate adjustments for potentially preventable re-admissions and negative outcomes until March 31, 2013.

The Legislature modifies proposed Article VII legislation to extend certain provisions of the preferred Drug Program temporarily by instead providing for a permanent extension.

### **Part S - Excess Medical Malpractice Coverage Pool**

The Legislature amends proposed Article VII legislation to:

- limit access to the pool to physicians or dentists who had a full or partial policy for coverage period ending June 30, 2010, June 30, 2011 and June 30, 2012;
- authorize hospitals to certify physicians and dentists on a proportional basis if the number of physicians or dentists eligible under this methodology is less than the number of physicians or dentists who had coverage on June 30, 2010; and
- require the Superintendent of the Department of Financial Services and the Commissioner of Health to review and issue a report to the Legislature by November 1, 2012 on the coverage pool.

### **Part T - Elderly Pharmaceutical Insurance Coverage (EPIC) Program**

The Legislature provides new language to restore EPIC coverage for drugs on a participant's Part D formulary during the initial coverage and catastrophic phases of Medicare Part D, effective January 1, 2013. Under this benefit, instead of paying the Part D co-payment which is a percentage of a drug's cost, EPIC participants will only be responsible for the EPIC co-payment that will be no higher than \$20.

### **Merge State Entities**

The Legislature accepts proposed Article VII legislation to merge the Breast and Cervical Cancer Detection and Education Program Advisory Committee and the Ovarian Cancer Information Advisory Committee to create the new Breast, Cervical, and Ovarian Cancer Detection and Education Program Advisory Council.

The Legislature denies proposed Article VII legislation that would merge the four related emergency medical services boards: the State Emergency Medical Services Council, the State Trauma Advisory Committee, the Emergency Medical Services for Children Advisory Committee, and the State Emergency Medical Advisory Committee, to create the NYS Emergency Medical Services Advisory Board.

## **Legislative Additions**

The Legislature provides funding for the following:

<b>PROGRAM</b>	<b>APPROPRIATION</b>
REJECT THE ELIMINATION OF SPOUSAL REFUSAL	\$102,800,000
ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM - CO-PAYMENT COVERAGE	\$34,100,000
PRESCRIBER PREVAILS PROVISION	\$15,625,000
HOME CARE WORKER BENEFITS	\$10,000,000
RESTORE THE DEFINITION OF ESTATE	\$5,300,000
TOBACCO USE PREVENTION AND CONTROL PROGRAM	\$5,000,000

ADDITIONAL FUNDING FOR SUNY HOSPITALS	\$2,000,000
FUNDING FOR IMPROVED ACCESS TO INFERTILITY SERVICES	\$1,000,000
FUNDING FOR IMPROVED ACCESS TO INFERTILITY SERVICES	\$1,000,000
FAMILY PLANNING SERVICES	\$750,000
SCHOOL BASED HEALTH CLINICS	\$557,000
AIDS: HIV/AIDS-COMMUNITY SERVICE PROGRAM (CSP)	\$525,000
AIDS: HIV/AIDS-MULTI SERVICE AGENCIES (MSA)	\$525,000
NURSE FAMILY PARTNERSHIP	\$500,000
WOMEN'S HEALTH AND WELLNESS PROGRAM	\$500,000
PUBLIC EDUCATION FOR PAIN MANAGEMENT	\$452,000
NIAGARA HEALTH QUALITY COALITION	\$372,000
MATERNITY AND EARLY CHILDHOOD FOUNDATION	\$300,000
PLUTA CANCER CENTER	\$250,000
PAIN MANAGEMENT AND CONTINUING EDUCATION	\$226,000
BREAST CANCER - SUPPORT AND EDUCATION SERVICES	\$50,000
TELEHEALTH STUDY	\$50,000

# OFFICE OF THE MEDICAID INSPECTOR GENERAL

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	<b>Adjusted Appropriation 2011-12</b>	<b>Executive Request 2012-13</b>	<b>Legislative Appropriation 2012-13</b>	<b>Change</b>
<b>STATE OPERATIONS</b>				
General Fund	29,577,000	28,461,000	28,461,000	0
Special Revenue-Other	3,700,000	3,700,000	3,700,000	0
Special Revenue-Federal	47,076,000	43,726,000	43,726,000	0
<b>Total for STATE OPERATIONS</b>	<b>80,353,000</b>	<b>75,887,000</b>	<b>75,887,000</b>	<b>0</b>

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## LEGISLATIVE ACTION

The Legislature concurs with the Executive's recommendation.

### **Article VII**

The Legislature provides language to require the Office of the Medicaid Inspector General (Office) to post on its internet website all final determinations issued by administrative law judges in connection with any actions taken by the Office.

## DEPARTMENT OF MENTAL HYGIENE

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	<b>Adjusted Appropriation 2011-12</b>	<b>Executive Request 2012-13</b>	<b>Legislative Appropriation 2012-13</b>	<b>Change</b>
<b>STATE OPERATIONS</b>				
Special Revenue-Other	600,000,000	600,000,000	600,000,000	0
<b>Total for STATE OPERATIONS</b>	<b>600,000,000</b>	<b>600,000,000</b>	<b>600,000,000</b>	<b>0</b>

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### LEGISLATIVE ACTION

The Legislature concurs with the Executive's recommendation.

# OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
Special Revenue-Other	112,483,400	110,421,000	110,421,000	0
Special Revenue-Federal	6,530,000	6,530,000	6,530,000	0
<b>Total for STATE OPERATIONS</b>	<b>119,013,400</b>	<b>116,951,000</b>	<b>116,951,000</b>	<b>0</b>
<b>AID TO LOCALITIES</b>				
General Fund	36,878,000	36,878,000	36,878,000	0
Special Revenue-Other	284,118,000	285,618,000	285,618,000	0
Special Revenue-Federal	135,000,000	135,000,000	135,000,000	0
<b>Total for AID TO LOCALITIES</b>	<b>455,996,000</b>	<b>457,496,000</b>	<b>457,496,000</b>	<b>0</b>
<b>CAPITAL PROJECTS</b>				
Capital Projects Fund	9,560,000	9,560,000	9,560,000	0
Mental Hygiene Capital Improvement Fund-389	88,046,000	88,046,000	88,046,000	0
<b>Total for CAPITAL PROJECTS</b>	<b>97,606,000</b>	<b>97,606,000</b>	<b>97,606,000</b>	<b>0</b>

## LEGISLATIVE ACTION

The Legislature concurs with the Executive's recommendation.

### Legislative Changes

The Legislature includes appropriation language to specify that \$14,859,531 of the \$42,553,000 that supports the continuation of prior year contracts for entities providing services for problem gambling and chemical dependency prevention and treatment services is available to the New York City Department of Education.

The Legislature denies appropriation language that would have transferred the Alcohol and Drug Rehabilitation Program from the Department of Motor Vehicles to the Office of Alcoholism and Substance Abuse Services (OASAS).

### Article VII

The Legislature accepts the Executive proposal to facilitate the integration of physical and behavioral health services by enabling two or more of the Commissioners of the Department of Health, the Office of Mental Health (OMH), OASAS, and the Office for People with Developmental Disabilities to waive duplicative regulatory requirements.



The Legislature amends the Executive proposals that would:

- eliminate the Human Services Cost of Living Adjustment (COLA), by suspending the COLA for State Fiscal Year 2012-13 and extending the COLA for an additional year, through March 31, 2016; and
- create a Behavioral Health Services Advisory Council to consolidate the comprehensive planning authority of OMH and OASAS, and require reporting to the Legislature.

The Legislature denies Executive proposals that would:

- create a new system of performance related rate adjustments for human services programs; and
- include statutory language that would have established limits on administrative reimbursement and executive compensation for organizations that receive state funding.

## OFFICE OF MENTAL HEALTH

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
General Fund	800,000	796,000	796,000	0
Special Revenue-Other	2,037,172,000	2,027,030,000	2,032,030,000	5,000,000
Special Revenue-Federal	2,038,000	2,038,000	2,038,000	0
Enterprise	8,606,000	8,606,000	8,606,000	0
Internal Service Fund	2,610,000	2,597,000	2,597,000	0
<b>Total for STATE OPERATIONS</b>	<b>2,051,226,000</b>	<b>2,041,067,000</b>	<b>2,046,067,000</b>	<b>5,000,000</b>
<b>AID TO LOCALITIES</b>				
General Fund	420,982,000	420,982,000	420,982,000	0
Special Revenue-Other	826,038,000	826,038,000	828,238,000	2,200,000
Special Revenue-Federal	51,414,000	51,414,000	51,414,000	0
<b>Total for AID TO LOCALITIES</b>	<b>1,298,434,000</b>	<b>1,298,434,000</b>	<b>1,300,634,000</b>	<b>2,200,000</b>
<b>CAPITAL PROJECTS</b>				
Capital Projects Fund	37,600,000	42,750,000	42,750,000	0
Mental Hygiene Capital Improvement Fund-389	183,274,000	146,915,000	146,915,000	0
<b>Total for CAPITAL PROJECTS</b>	<b>220,874,000</b>	<b>189,665,000</b>	<b>189,665,000</b>	<b>0</b>

### LEGISLATIVE ACTION

The Legislature appropriates \$3,536,366,000 on an All Funds basis, an increase of \$7,200,000 over the Executive's budget submission.

#### **Legislative Changes**

The Legislature provides \$3,900,000 to support the rejection or modification of several proposals pertaining to the Sex Offender Management Treatment Act (SOMTA). In addition to various language changes, the Legislature provides:

- \$1,900,000 to reject a proposed increase in the criminal penalty for a civilly confined sex offender who intentionally causes physical injury;
- \$1,300,000 to amend a proposal to allow offenders who have not yet reached their maximum expiration date of sentence to be returned to prison from a secure treatment facility only upon a finding that the person has been significantly disruptive of the treatment program at a secure facility;

- \$250,000 to amend a proposal to expand teleconferencing to allow only psychiatric examiners to testify by video teleconferencing in probable cause hearings under certain circumstances;
- \$250,000 to reject a proposal to provide that a sex offender under strict and intensive supervision and treatment who violates a condition of such supervision be guilty of a class E felony if such a violation was intentional; and
- \$200,000 to reject a proposal to establish biennial reviews. Instead, the Legislature allows the time period for annual reviews to be calculated from the date on which the court last ordered or confirmed the need for continued confinement or the date on which the person waived the right to petition for discharge, whichever is later.

The Legislature provides \$1,100,000 to reject a proposal to allow incapacitated individuals awaiting trial to be referred to local correctional facilities for restoration services.

The Legislature provides \$800,000 for veteran peer-to-peer pilot programs.

The Legislature provides \$800,000 for demonstration programs for counties impacted by facility closures in State Fiscal Year (SFY) 2011-12.

The Legislature provides \$500,000 for the Veterans Mental Health Training Initiative.

The Legislature provides \$100,000 for the North Country Behavioral Healthcare Network.

## **Article VII**

The Legislature amends the Executive proposal to close, merge and consolidate mental health facilities. Specifically, the Legislature:

- rejects the proposal to permanently repeal the requirement that the Office of Mental Health (OMH) provide notification 12-months prior to any closure, consolidation or service reduction at facilities and programs operated by OMH. Instead, the Legislature authorizes a suspension of the 12-month notification requirement for SFY 2012-13 only;
- requires OMH to provide 45 days notification prior to facility restructuring or downsizing and 75 days notification prior to facility closures;
- limits consolidations and service reductions to a total of 400 beds in SFY 2012-13;
- rejects the proposal to remove Kingsboro Psychiatric Center from the statutory list of OMH hospitals; and
- amends the proposal related to the consolidation of Bronx, Queens and Brooklyn Children's Psychiatric Centers to ensure the continuation of services as each site.

The Legislature amends the Executive proposal to modify the Sex Offender Management Treatment Act (SOMTA). Specifically, the Legislature:

- rejects the proposal to allow OMH to contract with non-agency personnel for the care, treatment and provision of appropriate security services of persons civilly confined under SOMTA;
- amends the proposal to allow offenders who have not yet reached their maximum expiration date of sentence to remain in prison despite their lawful release, but pending outcome of the civil commitment proceeding, to

instead allow such offenders to be returned to prison from a secure treatment facility for up to six months upon a finding that the person has been significantly disruptive of the treatment program at a secure facility;

- amends the proposal to allow all witnesses to testify by video teleconferencing in all SOMTA proceedings except trials to instead only allow psychiatric examiners to testify by video teleconferencing in probable cause hearings under certain circumstances;
- rejects the proposal to provide that a sex offender under strict and intensive supervision and treatment who violates a condition of such supervision would be guilty of a class E felony if such a violation was intentional;
- rejects the proposal to increase the criminal penalty for a civilly confined sex offender who intentionally causes physical injury to any other person by defining such behavior as assault in the second degree rather than assault in the third degree as in existing law; and
- amends a proposal to perform biennial reviews of civilly confined individuals to instead calculate annual reviews from the date on which the court last ordered or confirmed the need for continued confinement or the date on which the person waived the right to petition for discharge, whichever is later.

The Legislature amends the Executive proposal related to restoration services for individuals who are deemed not competent to stand trial. Specifically, the Legislature:

- accepts the proposal to allow for restoration services to be provided on an outpatient basis;
- amends the proposal to allow for restoration services to be provided by an OMH licensed hospital to specify that a hospital's participation in this program is voluntary; and
- rejects the proposal to allow such restoration services to occur at local correctional facilities.

The Legislature accepts the Executive proposals that would:

- facilitate the integration of physical and behavioral health services by enabling two or more of the Commissioners of the Department of Health, the OMH, the Office of Alcoholism and Substance Abuse Services, or the Office for People With Developmental Disabilities to waive duplicative regulatory requirements;
- provide a four-year extension of the Comprehensive Psychiatric Emergency Program (CPEP); and
- extend the time period that OMH can recover exempt income with performance and audit activities.

The Legislature amends the Executive proposals to:

- eliminate the Human Services Cost of Living Adjustment (COLA), by suspending the COLA for SFY 2012-13 and extending the COLA for an additional year, through March 31, 2016;
- create a Behavioral Health Services Advisory Council to consolidate the comprehensive planning authority of OMH and the Office for Alcoholism and Substance Abuse Services, and require reporting to the Legislature; and
- authorize school districts and Board of Cooperative Educational Services (BOCES) to enter into contracts for the provision of certain educational services to children in OMH-operated psychiatric centers. The enacted language ensures that no additional costs are passed on to local school districts or BOCES, and ensures that school district and BOCES participation is optional. The Commissioner of OMH, in consultation with the Commissioner of the State Education Department, is required to report on these contracts, including the

number of children receiving educational services, the type of services provided, the costs associated with such services and any additional actions that may be necessary to comply with federal or state law.

The Legislature denies Executive proposals to:

- create a new system of performance related rate adjustments for human services programs; and
- include statutory language that would have established limits on administrative reimbursement and executive compensation for organizations that receive state funding.

## Legislative Additions

The Legislature provides funding for the following:

<b>PROGRAM</b>	<b>APPROPRIATION</b>
SEX OFFENDER MANAGEMENT AND TREATMENT ACT (SOMTA) PROPOSALS	\$3,900,000
APPROPRIATE INSTITUTIONS FOR INCAPACITATED PERSONS	\$1,100,000
VETERAN PEER-TO-PEER PILOT PROGRAMS	\$800,000
PILOT PROGRAMS FOR COUNTIES IMPACTED BY FACILITY CLOSURES	\$800,000
VETERANS' MENTAL HEALTH TRAINING INITIATIVE	\$500,000
NORTH COUNTRY BEHAVIORAL HEALTH NETWORK	\$100,000

# OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
Special Revenue-Other	2,147,051,700	2,136,962,000	2,136,962,000	0
Special Revenue-Federal	751,000	751,000	751,000	0
Enterprise	2,668,000	2,657,000	2,657,000	0
Internal Service Fund	350,000	348,000	348,000	0
<b>Total for STATE OPERATIONS</b>	<b>2,150,820,700</b>	<b>2,140,718,000</b>	<b>2,140,718,000</b>	<b>0</b>
<b>AID TO LOCALITIES</b>				
General Fund	1,430,607,700	1,662,830,000	1,662,830,000	0
Special Revenue-Other	866,293,800	816,011,000	816,311,000	300,000
<b>Total for AID TO LOCALITIES</b>	<b>2,296,901,500</b>	<b>2,478,841,000</b>	<b>2,479,141,000</b>	<b>300,000</b>
<b>CAPITAL PROJECTS</b>				
Capital Projects Fund	62,140,000	63,930,000	63,930,000	0
Mental Hygiene Capital Improvement Fund-389	89,855,000	99,610,000	99,610,000	0
<b>Total for CAPITAL PROJECTS</b>	<b>151,995,000</b>	<b>163,540,000</b>	<b>163,540,000</b>	<b>0</b>

## LEGISLATIVE ACTION

The Legislature appropriates \$4,783,399,000 on an All Funds basis, an increase of \$300,000 over the Executive's budget submission.

### Legislative Changes

The Legislature provides \$250,000 for Statewide Regional Centers for Autism Spectrum Disorders.

The Legislature provides \$50,000 for the Epilepsy Foundation of Northeastern New York.

### Article VII

The Legislature accepts the Executive proposal to facilitate the integration of physical and behavioral health services by enabling two or more of the Commissioners of the Department of Health, the Office of Mental Health, the Office of Alcoholism and Substance Abuse Services, and the Office for People With Developmental Disabilities (OPWDD) to waive duplicative regulatory requirements.

The Legislature amends the Executive proposals that would:

- eliminate the Human Services Cost of Living Adjustment (COLA), by suspending the COLA for State Fiscal Year (SFY) 2012-13 and extending the COLA for an additional year, through March 31, 2016; and
- restructure OPWDD, to ensure the continuation of Developmental Disabilities Services Offices and to provide for improved transparency and reporting.

The Legislature denies Executive proposals that would:

- create a new system of performance related rate adjustments for human services programs;
- allow OPWDD to establish Medicaid waiver pilot programs without a competitive process; and
- include statutory language that would have established limits on administrative reimbursement and executive compensation for organizations that receive state funding.

The Legislature provides language to require the Commissioner of OPWDD to provide 60 days of notice to the Legislature before the closure or reduction in capacity of 20 or more beds at a developmental center or other institutional setting.

## **Legislative Additions**

The Legislature provides funding for the following:

<b>PROGRAM</b>	<b>APPROPRIATION</b>
STATEWIDE REGIONAL CENTERS FOR AUTISM SPECTRUM DISORDERS	\$250,000
EPILEPSY FOUNDATION OF NORTHEASTERN NEW YORK	\$50,000

# COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISABILITIES

	Adjusted Appropriation 2011-12	Executive Request 2012-13	Legislative Appropriation 2012-13	Change
<b>STATE OPERATIONS</b>				
General Fund	4,922,000	6,366,000	6,366,000	0
Special Revenue-Other	4,185,000	4,185,000	4,185,000	0
Special Revenue-Federal	8,345,000	8,345,000	8,345,000	0
Enterprise	45,000	45,000	45,000	0
<b>Total for STATE OPERATIONS</b>	<b>17,497,000</b>	<b>18,941,000</b>	<b>18,941,000</b>	<b>0</b>
<b>AID TO LOCALITIES</b>				
General Fund	170,000	170,000	170,000	0
Special Revenue-Other	478,000	478,000	478,000	0
<b>Total for AID TO LOCALITIES</b>	<b>648,000</b>	<b>648,000</b>	<b>648,000</b>	<b>0</b>

## LEGISLATIVE ACTION

The Legislature concurs with the Executive's recommendation.