



**TESTIMONY TO THE  
ASSEMBLY WAYS & MEANS AND THE SENATE FINANCE COMMITTEES  
JOINT LEGISLATIVE BUDGET HEARING  
2016-2017 EXECUTIVE BUDGET ON HEALTH/MEDICAID**

*Submitted by Lauri Cole, Executive Director  
New York State Council for Community Behavioral Healthcare  
January 25, 2016*

Good Afternoon. My name is Lauri Cole and I am the Executive Director of the NYS Council for Community Behavioral Healthcare. The NYS Council represents 100 community based organizations that provide a broad range of mental health and substance use/addiction prevention, treatment, and recovery programs and services in local communities across New York. Our members are general hospitals, counties, and freestanding agencies in your districts that provide critical safety net behavioral health services to some of New York's most vulnerable individuals.

First, let me begin by saying thank you for your ongoing support of the behavioral health community. As you know, New York State is undergoing a major reform of its health care system including both physical health and behavioral health services. The Delivery System Reform Incentive Payment (DSRIP) Programs are underway focusing on system transformation. A central focus of all of these models is the integration of care. Our behavioral health providers stand ready to accept these challenges and look forward to a system ultimately better prepared to meet the needs of the entire population. We can only do this though with your assistance.

While we are grateful that the Administration has emphasized the essential role of community based healthcare providers (including our behavioral health care members) in the State's health care delivery system and payment reform efforts, however, the resources have not followed the rhetoric. In the current State Fiscal year, as well as SFY16-17, the NYS Council is deeply concerned that not only are there insufficient funds to assist community based providers to affirmatively participate in reform efforts, but there are "hidden" cuts that are undermining the ability of our members to meet day to day operational expenses.

A majority of community healthcare providers are small, with lean budgets, and limited ability to absorb unexpected costs, such as a loss of indigent funding, unpaid claims as a result of the closure

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of Health Republic, and the increase in minimum wage. What may appear to be a small amount of increased costs or lost funding may in fact represent a large percentage of a small provider's budget and severely impact their bottom line.

There are several areas I will focus on but our three major priorities I want to bring to your attention are 1) ensuring behavioral health providers are paid for uncompensated care they provided in 2015, 2) making sure that all health care sectors, including behavioral health, have access to the \$195M funding allocated for transformation reforms, and 3) establishing a new \$88.5M funding pool, the Essential Community Healthcare Provider Fund, to be only available to community healthcare providers, including behavioral health, to have access to funding to support capital and working capital projects necessary for successful transformation.

### **UNCOMPENSATED CARE/INDIGENT CARE POOL**

As I noted above, many behavioral health providers are small agencies and any amount of lost funding can severely impact their bottom line. One issue of concern for us is that the behavioral health portion of the Uncompensated Care/Indigent Care Pool has not yet been distributed to impacted providers for 2015 services rendered. This creates an unnecessary hardship for these providers. *We ask that the State allocate funding to pay those behavioral health providers what is due to them.* And, we do not believe this funding should come from any already reserved funding earmarked for managed care readiness activities.

### **TRANSFORMATION FUNDING FOR COMMUNITY HEALTH CARE PROVIDERS**

The NYS Council is pleased that the Executive Budget proposes restructuring \$200M of the Health Care Facility Transformation Program appropriated in last year's budget and making \$195M of this available to health care providers for facility transformation. *It is critical that this funding be available to all health care sectors and that a minimum amount of 25% be allocated to community healthcare providers, including behavioral health, FQHCs, family planning, and home health providers, to support their ongoing participation in transformation efforts.*

New York's stated priority is to transform the healthcare system by providing access to high quality, coordinated care in every region of the state through the integration of primary care services with other community-based care providers. However, past State budget priorities have not reflected this rhetoric and have not provided adequate investment or resources in the community healthcare sector, thus moving further from reforming the existing inpatient-focused healthcare delivery system. Transformation of New York's healthcare delivery and payment system through DSRIP, and related initiatives including SHIP and the transition to Value Based Payment, is a massive undertaking which relies on behavioral health and other community healthcare providers to participate in a variety of intensive projects. However, downstream community partners have yet

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to receive any meaningful funding under DSRIP compared to total percentage of dollars available to PPS Leads or have access to any funding streams designed to solely support their capital and working capital needs. In fact, in last year's budget, only 4% of the nearly \$1.7 billion in new funding allocated for healthcare providers was available to non-hospital community-based healthcare providers, including behavioral health, FQHCs, family planning, and home health providers. New York State is relying on the work of the community-based healthcare provider sector to transform the State's healthcare delivery system, yet has not made any equitable investment in the sector to support this work.

The inclusion of the \$195M Health Care Facility Transformation Program is a positive first step, although the funding must be made available to all types of providers participating in the transformation effort, not just hospitals. *To ensure the State begins to resize their investments and make the necessary investment needed, a minimum of 25% of the \$195M, or \$48.9M, must be allocated solely to community healthcare providers, including behavioral health, FQHCs, family planning, and home health providers, to support ongoing participation in transformation efforts.* This amount mirrors the DSRIP goal of reducing unnecessary hospitalizations by 25%.

Behavioral health and other community healthcare providers are the backbone of access to care in many communities because they are heavily relied upon by the uninsured, underinsured, and publicly insured—the very population that tends to over-utilize hospitals. However, this expansion requires access to affordable capital. Capital funds available through the Health Care Facility Transformation Program will help support the development of new and expanded community-based care which will be essential to achieving true delivery system transformation.

### **ESSENTIAL COMMUNITY HEALTHCARE PROVIDER POOL**

As we mentioned above, community healthcare providers are integral to the success of NYS's healthcare transformation initiatives. Community healthcare providers, including behavioral health, tend to be much smaller than hospital systems and with leaner budgets and less access to working capital to support the many non-capital projects that facilitate health care transformation, including workforce and restructuring initiatives.

Last year's budget included a \$355M "Essential Health Care Provider Fund" to "support debt retirement and capital projects or non-capital projects that facilitate health care transformation, including mergers, consolidation, acquisition or other significant corporate restructuring activities intended to create a financially sustainable system of care that promotes a patient-centered model of health care delivery." No community healthcare providers had access to this money, despite their participation in State transformation initiatives to promote a patient-centered model of health care delivery.

*The NYS Council requests that the legislature establish a new \$88.5M funding pool, the Essential Community Healthcare Provider Fund, to be only available to community healthcare providers, including behavioral health. Earmarking \$88.5M in capital and working capital funding for community healthcare providers, an amount equal to twenty-five percent of the \$355M Essential Health Provider Fund appropriated in last year's budget, would ensure that community healthcare providers, including our member behavioral health providers, have access to funding to support capital and working capital projects necessary for successful transformation.*

### **CO-LOCATION OF PRIMARY AND BEHAVIORAL HEALTH CARE**

Delivery system transformation across the state includes a focus for integration of primary care and behavioral health care. We are seeking your clarification on a belief expressed by the Department of Health that CMS will not allow the co-location of an Article 31 mental health clinic or an Article 32 chemical dependency clinic provider within either a FQHC facility or an Article 28 extension clinic. DOH has indicated that it is CMS's position that two separately-licensed providers cannot be approved to occupy the same physical space and bill for the provision of both primary care and behavioral health services at the same time. While DOH staff claim this position is a CMS ruling, there has been no CMS rule or written policy to support this claim.

Co-location is widely acknowledged as an effective model to integrate physical and behavioral health services and is a model which it appears all PPSs have set forth in their DSRIP integration plans to meet this objective. If co-location is not considered allowable under CMS rulings, or at least under the 1115 DSRIP waiver provisions, we believe the likelihood of at least the behavioral health portion of these projects succeeding will be reduced to virtually zero. *We ask for clarification of the DOH position (however unintentional it might be) which will undermine the success of the overall effort to properly integrate physical and behavioral health services.*

### **SOCIAL WORK LICENSING EXEMPTION**

*We ask that you support the Governor's proposal to continue the exemption of our sector from Social Work Licensing Law requirements. Without this extension of our exemption, the implementation of the Law will significantly disrupt implementation and continued success of DSRIP projects upon which vulnerable New Yorkers will depend for high quality care in communities across New York.*

### **PRESERVE "PRESCRIBER PREVAILS"**

*We ask that the Legislature again oppose the Executive proposal to eliminate the provision that guarantees that the prescriber of a prescription drug has the final say as to whether a person gets what was prescribed. This would have a detrimental impact on people with disabilities, including psychiatric disabilities, as well as anyone else who relies on specific prescription drugs and drug combinations.*

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### **OPIOID/HEROIN CRISIS**

The NYS Council supports the Executive proposal to partner with CVS/pharmacy to provide individual training and naloxone statewide to their customers without requiring a prescription. The proposal would add 1,000 pharmacies to the NYSDOH Opioid Overdose Prevention program in 2016 and the Governor plans to introduce legislation permitting any pharmacist to administer naloxone (narcan) in the event of an overdose. *We encourage the Legislature to support these proposals to continue to strengthen the state's response to the Opioid/Heroin crisis facing our state.*

In another effort to help combat the crisis, *the NYS Council recommends that there be a mandate of a minimum of four hours of training for healthcare providers regarding judicious pain management prescribing practices and appropriate use of opiates for pain management.*

### **VALUE BASED PAYMENT (VBP) METHODOLOGIES**

As part of the State agreement with CMS to invest in DSRIP programs, a long-term sustainability plan has to be implemented. The proposal includes a multi-year program for comprehensive Medicaid payment reform to providers using value based payment (VBP) methodologies. As the State VBP Workgroup continues to meet and finalize its model, *the NYS Council encourages the Legislature to ensure that the implementation model includes use of specific metrics to determine savings attributable to behavioral health services.*

*We also ask that you consider developing a data warehouse of data/metrics from the Value Based Payment pilots for children.* The data warehouse should include the services most effective in addressing the social determinants of health and reversing the impact of Adverse Childhood experiences. Benchmarking services will allow the state to provide services that best address family relationship and social engagement, educational success, and adherence to integrated community wrap around services like those offered in community school settings.

### **PRESUMPTIVE MEDICAID ELIGIBILITY**

New York State currently participates in presumptive eligibility programs for finding and enrolling uninsured children. This allows them to access Medicaid without having to wait for their application to be fully processed. *The NYS Council supports a similar eligibility program for uninsured individuals discharged from psychiatric centers, jails, and prisons.*

### **MINIMUM WAGE IMPACT**

The NYS Council supports the Governor's proposal to raise the minimum wage in New York State to \$15 per hour. However, while he proposes to do this in a phased approach, the proposed budget does not include increased reimbursement or funding for providers and other community-based organizations that will have to comply with the wage increase. This increase in costs could severely

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impact service delivery and program budgets in ways that have not yet been considered or calculated by the State. Without funding to compensate for a minimum wage increase, many providers and community-based organizations will struggle to continue their mission of providing quality services to vulnerable populations.

*We ask that the State allocate funding for community providers, which includes our behavioral health members, to allow them to continue the good work they do while also employing a competent workforce at the wage levels they deserve. Without this funding, the ability for community healthcare providers to remain viable and provide services will be in jeopardy.*

### **HIT INITIATIVES**

*The NYS Council asks that you expand the proposed \$10M for Health Information Technology (HIT) initiatives to include funding to automate children's SPOA functions and support automated quality initiatives, credentialing for children's service providers, and MAPP child system technical support and equipment.*

### **PAYMENT OF "ALTERNATIVE" OR "IN LIEU OF" SERVICES**

During this time of transformation in New York State it is important for Health Plans to have flexibility when contracting with providers for "in lieu of" or "alternative" services. CMS issued a proposed rule that included language to clarify the extent that managed care plans can agree to alternative services or services in alternative settings, in lieu of covered services or settings, if it is cost-effective and the managed care plan and the enrollee agree that such setting or service would provide medically appropriate care. *The NYS Council supports this CMS language and encourages New York State to do everything possible to make "in lieu of" payment arrangements feasible and also ensure managed care entities and providers understand the options they have.*

### **CPEP EXTENSION**

The NYS Council supports the budget proposal to extend authorization for the Comprehensive Psychiatric Emergency Program until July 1, 2020. These programs provide essential services to individuals in the community in urgent need of psychiatric services 24 hours per day, 7 days per week. *We ask that the Legislature also support this proposal.*

Thank you for your time and the opportunity to comment. And, thank you for your public service and your commitment to the behavioral health field. We look forward to working with you throughout the remainder of the legislative process.

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