



Testimony
to the
Senate Finance Committee
and
Assembly Ways and Means Committee
on the
Proposed 2020-21 Executive Budget
for
Health and Medicaid

January 29, 2020

Prepared by:
New York State United Teachers
800 Troy-Schenectady Road
Latham, NY 12110-2455
518-213-6000
www.nysut.org

Representing more than 600,000 professionals in education and health care
Affiliated with the AFT – NEA – AFL-CIO

*Testimony of
Andrew Pallotta
President
New York State United Teachers
to the
Senate Finance Committee
Liz Krueger, Chair
and
Assembly Ways and Means Committee
Helene E. Weinstein, Chair
on the
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Chairperson Krueger, Chairperson Weinstein, honorable members of the Legislature and distinguished staff, I am Andrew Pallotta, President of New York State United Teachers (NYSUT). NYSUT represents more than 600,000 education and health care workers statewide. NYSUT's Health Care Professionals Council (HCPC) consists of representatives of NYSUT's professional registered nurses and other health care professionals working in public and private health care settings statewide. Our members work in hospitals, clinics and through home health care agencies. Additionally, our members include physicians, visiting nurses, therapists, lab personnel, school psychologists and registered professional school-based nurses throughout New York State. In addition, NYSUT represents over 160,000 retirees, many of whom use the state's health care system. On behalf of the HCPC and NYSUT, thank you for the opportunity to submit testimony today on the 2020-21 New York State Executive Budget proposal.

I would like to begin by thanking you for the numerous legislative initiatives you have passed over the last several years that have aided both the public at large and our health care professionals in their workplaces. Many of these programmatic reforms clearly illustrate the empathy and appreciation this body has towards the individuals who have dedicated their lives to the health care profession. Your actions enable these health care professionals to continue to provide their patients with high-quality health care services.

Medicaid

The 2020-21 New York State Executive Budget for Medicaid (state share) continues a year-to-year cap on growth of no more than a 10-year rolling average of CPI (estimated at 3 percent) and continues to authorize the commissioner of the Department of Health to adjust the amount if spending exceeds the cap. Proposed increases in Medicaid spending under the 2020-21 global cap will total \$20.6 billion, an increase of \$573 million over 2019-20 spending. Under the executive budget proposal, any spending over the Medicaid cap will be the responsibility of the counties.

NYSUT is concerned that the effect of a perpetual cap on spending for our health care facilities will negatively impact the delivery of health care services and programs to our neediest citizens.

In addition to the Medicaid spending cap, the executive budget also reinstates the Medicaid Redesign Team (MRT II) which is tasked with carving out \$2.5 billion in Medicaid spending by the end of the state fiscal year.

While we appreciate the proposed increase of \$573 million over the 2019-20 spending cap, we are concerned that the enactment of a spending plan that involves the MRT II may not take into consideration the unpredictable medical needs of the state's population. We are also concerned that any cost-cutting measures placed on the state's health care spending will significantly compromise the delivery of health care services to all New Yorkers. As I am sure you are aware, hospitals, nursing homes and home care agencies serve a range of people, from the chronically ill to those in need of emergency care. Recently, we have witnessed a number of unforeseen crises such as: an influenza outbreak that began at the end of 2019, which caused thousands of people to be hospitalized and resulted in numerous fatalities; the recent international spread of the Wuhan coronavirus; and the devastating effects of vaping and opioid abuse by our youths. Each of these situations requires expert care from professional, trained staff who can quickly respond to the host of emergencies they face every day.

Hospitals have the responsibility of responding to medical emergencies, while also ensuring the delivery of quality health services to the patients already under their care. We cannot diminish the integrity of our health care facilities by cutting their reimbursement rates for services rendered.

Moreover, as Medicaid enrollment continues to grow, the executive budget fails to address any cost-of-living rates for hospitals and nursing homes and will not address the issue again until the 2021-22 executive budget, despite the fact that increases have not occurred since 2005. Unfortunately, this has forced these facilities to absorb all inflationary increases without any cost-of-living adjustments. This approach ignores the increased costs and the mix of services that providers offer and fails to distinguish between high and low occupancy facilities.

A large portion of the executive budget's proposed cuts to the Medicaid program carry with them a corresponding loss in matching federal funds. Given the current political climate in Washington, NYSUT is concerned that Medicaid funding will become a casualty of federal negotiations.

If enacted in its current form, the executive budget proposal would decrease reimbursements to hospitals, home care providers and nursing homes. The consequence of a continual cap on the state health care programs will impact health care professionals working in medical facilities through layoffs, the elimination of high-quality services and additional facility closings. Cutbacks of this

magnitude to the health care community are unacceptable to NYSUT and to those individuals who would be adversely affected by such alterations to these vital health care services. We are particularly concerned about the impact these proposed cuts will have on the three teaching hospitals operated by the State University of New York (SUNY).

SUNY Hospitals

I would now like to talk about the SUNY hospitals. I want to thank the Legislature for its support and advocacy for the SUNY hospitals over the years. Unfortunately, the 2020-21 executive budget once again fails to restore the state subsidy to these hospitals. Not providing this critical subsidy jeopardizes the financial well-being of these hospitals and endangers access to health care for the communities that depend on them.

Over the years, the state subsidy to these hospitals has been reduced, from \$90 million in SFY 2012-13 to \$87.9 million in SFY 2017-18. As part of the 2018-19 New York State Executive Budget, the subsidy was eliminated. Working closely with the Legislature, we were able to secure federal funding in place of the state subsidy. Unfortunately, that funding was for one-year only. We ask the Legislature to restore funding to the 2017-18 level of \$87.9 million.

The state subsidy is a vital source of funding to the hospitals and was first provided in 2001, in lieu of debt service and fringe benefits, which the state had covered many years ago. The three hospitals operated by SUNY are the state's hospitals and, as such, the state should provide support to ensure their financial stability and viability, including funding to grow and expand the services needed to keep up with the various advances in health care.

In prior years, in order to keep within the global Medicaid cap, the state has reduced the state match. As the local sponsor for the three SUNY hospitals, the state has the financial obligation to provide the state match for these hospitals so that they can access federal Disproportionate Share Hospital (DSH) Program money for services provided to Medicaid and uninsured patients. As the state looks to reduce Medicaid spending, SUNY hospitals have instead been forced to pay the state match. These facilities must identify funds they can use to cover DSH costs. These funds are often drawn from accounts that could be used to improve patient services, provide capital improvements or hire additional staff to address shortages. Therefore, by not providing the hospitals their share of the DSH, the state has compromised the financial viability and the capacity of these facilities to serve their patients and communities. We urge the governor and the Legislature to fully fund the state match for the three SUNY operated hospitals. In the absence of a state match, SUNY hospitals have and would once again be forced to cover the state match from their own operating funds.

The loss of the state subsidy is also compounded by the elimination of the Enhanced Safety Net Hospital Payments program. The Enhanced Safety Net program provided the SUNY hospitals with additional funding in recognition of their role in providing vital health care to the uninsured and under-insured. To cut off a lifeline to this population is an actual difference between life and death.

NYSUT is also thankful for the inclusion of \$150 million in the executive budget for capital funding to SUNY Upstate, SUNY Downstate and SUNY Stony Brook to be used for alterations and improvements.

Income-Related Monthly Adjustment Amount (IRMAA) – Medicare Part B

The 2020-21 New York State Executive Budget significantly alters the reimbursement of Medicare Part B premiums for retirees covered by the New York State Health Insurance Program (NYSHIP). Specifically, this proposal would amend the civil service law by freezing the reimbursement of Medicare Part B premiums at \$144.60 for all NYSHIP retirees with Medicare primary insurance, regardless of their income. Additionally, it eliminates the reimbursement of the Income Related Monthly Adjustment Amount (IRMAA) for certain retirees. IRMAA has been reimbursed for the last nine years, while other retirees pay a standard premium, which is also reimbursed. This means that as the cost of Medicare Part B increases each year, retirees who are living on a fixed income will have additional out-of-pocket health care costs which, NYSUT believes, constitutes a diminishment of their established health care benefits.

This change not only affects state retirees for whom Medicare is their primary insurance, but also retirees from school districts and local governments who participate in the NYSHIP Empire Plan.

These proposals were submitted as part of the executive budget in previous years but were ultimately rejected by the Legislature. Accordingly, we once again call upon the Legislature to reject these provisions in the enacted budget.

Sliding Scale Reimbursement Payments for Future New York State Health Insurance Plan (NYSHIP) Retirees

On the issue of retiree health care, NYSUT urges the Legislature to reject the executive budget proposal to amend NYSHIP retiree premiums for state employees who will retire after October 1, 2020. The premium payment cost for future retirees would be based on the years of service and those with fewer years would pay more. An individual with a minimum of 10 years of service would pay the highest premium rate and then, progressively, pay less of a premium with each additional year of service until they reach 30 years. This proposal would have an unanticipated negative financial impact on state employees with less than 30 years of service seeking retirement in 2020.

New York State Health Care Services

Funding for our state's health care system must be increased to meet the needs of all New Yorkers and the health care professionals who care for them. To this end, I ask that you join NYSUT in advocating for the enactment of provisions in this year's budget to improve the safety and well-being of both patients and workers. Specifically, NYSUT calls for the enactment of the following:

Anti-Mandatory Overtime Protections for Homecare Nurses

The enactment of Chapter 495 of the Laws of 2008, provided protections to most nurses in New York State from being required by their employer to work overtime. The law states that a nurse cannot be required to work beyond their regularly scheduled work hours except in the case of an emergency. However, this law did not restrict the number of consecutive hours a home care nurse may be required to work. This means that nurses who make home care visits or work in a home

care setting can be forced by their employer to work beyond their regularly scheduled hours with little or no warning and as frequently as the employer sees fit.

Due to nursing staff shortages throughout our state, nurses are often subjected to mandatory overtime. Working long hours in such a high-stress environment can take its toll on the physical and emotional well-being of these nurses, which can lead to negative consequences for their patients.

No nurse should be forced to work hours that they are not regularly scheduled to work and/or did not initially agree to work as a result of poor staffing decisions by their employer. As a matter of parity, an employer in the home care industry should not be able to force its nursing staff to work extra hours under non-emergency conditions.

NYSUT urges the Legislature to include, as part of the 2020-21 enacted budget, the provisions contained in S.5678 (Savino)/A.3756 (Gunther) and limit the number of consecutive hours a home care nurse is required to work without limiting voluntary overtime assignments.

Safe Staffing Ratios

There is a clear connection between the amount of nurse staffing hours and the quality of care that patients receive. A growing body of evidence has shown that the rate of mortality in acute care settings decreases as the number of registered nurses-to-patients increases. Further, the rate of injury and infection decreases as the number of licensed nursing staff increases. Research shows that appropriate nursing interventions can reduce the length of stay in acute care settings and improve the quality of life in long-term care settings.

The enactment of these provisions is necessary to protect patient safety, ensure the delivery of quality health care and to improve the working conditions of health care professionals. Licensed nurses constitute the highest percentage of direct health care staff in acute care facilities and have a central role in the delivery of health care. Inadequate and poorly monitored nurse staffing practices jeopardize the delivery of quality health care services and adversely impact the health of patients who enter acute care facilities, resulting in dangerous medical errors and patient infections.

The 2019-20 New York State Enacted Budget required the Department of Health (DOH) to conduct a study to examine how staffing enhancements and other initiatives could be used to improve patient safety and the quality of health care service delivery in hospitals and nursing homes by the end of 2019. The study was to have considered minimum staffing levels, initiatives for registered nurses, licensed practical nurses and certified nurse aids. DOH held hearings on this issue and NYSUT testified, however, as of today, the report has not been released. We find this troubling. For too long, our nurses have been overwhelmed with working in conditions that place their patients' health at risk.

I urge the Legislature to establish safe staffing standards for licensed nurses in acute care facilities and nursing homes similar to those contained in S.1032 (Rivera)/A.2954 (Gunther). By including these provisions in the enacted budget, the Legislature will ensure that these facilities operate in a manner that guarantees the safe delivery of quality health care services for patients throughout the state.

Additional Health and Mental Health Professionals in the School Setting

School-age children are forced to deal with an ever-increasing number of issues: anxiety, depression, suicide, peer pressure, sexual identity and abuse, bullying, academic problems, home life, learning disabilities, alcohol and substance abuse (e.g., opioid addiction) and, recently, the threat of school shootings. These are statewide issues that transcend race and economic background and must be addressed in each school building by properly trained professional staff.

Students spend a fair amount of time in school, which offer mental health professionals the opportunity to observe, connect with and relate to each member of the student body. When these professionals are in our schools, they are more accessible to students who require or seek their assistance. Students are more likely to access mental health services if they are readily available to them.

School-employed counseling, health and mental health professionals are specifically trained to evaluate and diagnose the health and mental health needs of a student and offer the proper individualized supports and services needed for each student. Collaborative counseling, health and mental health services help facilitate even greater results in ensuring the wellness of each student. If left unaddressed, a student's mental health needs can have dire consequences, not only for the individual student but for the school community as well. A student's success in school and afterwards may depend on the support they receive in their school by the appropriate professionals.

Conclusion

NYSUT's Health Care Professional Council is supportive of the various health care reforms proposed in the executive budget. However, we oppose any cuts that adversely affect the professional health care workforce or the facilities and environments in which they work, including the SUNY hospitals. Such cuts would restrict the ability of the state's health care system to provide direct, high-quality care to New York State residents.

We believe that you fully understand the important role that health care professionals play in each community across our state and nation, and through your actions, it is apparent to us that you appreciate the complex and often difficult environment in which our health care professionals must work. NYSUT looks forward to working with the Legislature and the executive to ensure that all New Yorkers have access to the highest quality of health care possible.

Thank you for your consideration and the opportunity to testify before you today.

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