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MEMORANDUM

TO: All Members

FROM: Dan Heim, Vice President for Public Policy

DATE: September 12, 2008

SUBJECT: **Detailed Recap of State Budget Revisions**

ROUTE TO: Program Directors, Department Heads

ABSTRACT: Recap of mid-year state budget revisions and estimated provider impacts.

Introduction

As you know, the special legislative session called by the governor on August 19th produced an agreement between the Legislature and governor on a deficit reduction package that will cut the SFY 2008-09 budget by \$427 million. The governor had sought \$600 million in legislative cuts. Combined with the governor's \$630 million in state administrative agency cuts, the agreed-upon plan will save the state over \$1 billion in the current fiscal year and produce further out-year savings.

Governor Paterson had proposed a \$2.6 billion savings plan to the Legislature for action during the special legislative session, which would have cut state spending by \$1 billion in state fiscal year (SFY) 2008-09 and \$1.6 billion in SFY 2009-10. These amounts would have been on top of the \$630 million in state agency administrative cuts the governor is making unilaterally. Medicaid in general, and long term care in particular, would have shouldered a disproportionately large portion of these proposed cuts.

In a very short timeframe, NYAHS and its members mounted a large and successful campaign to educate legislators on the sheer magnitude of the proposed funding cuts and how these reductions would lead to employee layoffs, service cutbacks, threats to quality and provider failures. Hundreds of phone calls and other communications were directed to legislators, while NYAHS and its outside lobbyists worked hard in Albany to get the message out to the leadership and key staff in the Senate and Assembly.

NYAHSa has reviewed the legislation that was passed and received other clarifications since that time, and presents the following recap of the budget outcomes that will affect long term care providers.

Nursing Homes

The governor had proposed a series of savings options totaling \$176.9 million in state savings from nursing homes during SFY 2008-09 and \$277.7 million in SFY 2009-10. The individual proposals and their final disposition are summarized below and **NYAHSa has developed facility-specific estimates of these cuts. The listing by Operating Certificate number is attached and can be accessed by clicking on “Attachment 1” below the window that displays this memo.**

Proposed Nursing Home Budget Cuts

Measure	Proposed Cuts		Final Agreement	
	Estimated SFY 08-09 Provider Impact (\$ millions)	Estimated SFY 09-10 Provider Impact (\$ millions)	Estimated SFY 08-09 Provider Impact (\$ millions)	Estimated SFY 09-10 Provider Impact (\$ millions)
Reduce/Delay Rebasing Payments	\$171.0	\$0	\$0	\$0
Institute Across-the Board Rate Cuts	\$110.0	\$125.6	\$0	\$0
Eliminate/Modify Trend Factors	\$107.4	\$340.5	\$55.1	\$165.2
Eliminate Public Facility Grants ¹	\$35.0	\$100.0	\$25.0	\$100.0
Reduce Recruitment & Retention Funds	\$14.1	\$0	\$0	\$0
TOTAL	\$437.5	\$566.1	\$80.1	\$265.2

¹ – Does not reflect potentially offsetting IGT payments.

1. ***Reduce/Delay Rebasing Payments:*** This proposal would have: (1) cut 2008 transition payments from \$167.5 million to \$111.5 million; (2) delayed full implementation of the new system from 1/1/09 to 4/1/09; and (3) capped overall funding for the fully implemented new system at \$460 million per year beginning in 2009. **This proposal was rejected entirely.** Transition payments totaling \$137.5 million for 2007 and \$167.5 million for 2008 will be made to facilities retroactively in checks released on October 8th and prospectively for unpaid 2007 and 2008 claims.
2. ***Institute Across-the-Board Rate Cuts:*** This proposal was to make across-the-board Medicaid rate cuts of 4 percent for the period 9/1/08 though 3/31/09, and 2 percent annually thereafter. **This proposal was rejected entirely.**
3. ***Eliminate/Modify Trend Factors:*** The governor proposed to eliminate the 2008 trend factor increase of 1.495 percent effective 9/1/08 and the 2009 trend factor increase for calendar year (CY) 2009 for all nursing homes, except pediatric facilities.

The final budget agreement will reduce the “banking” adjustment to the 2008 trend factor by 1.3 percent. Under current law, the initial 2008 trend factor currently being paid is 2.3 percent for 1/1-3/31 and 1.495 percent for 4/1-12/31. Ordinarily, the initial trend factor is reconciled at the end of the year to the actual CPI increase, and rates are adjusted

accordingly (i.e., the “banking” adjustment). This provision will reduce the banking adjustment by 1.3 percent. The agreement will also reduce the initial 2009 trend factor by one percent. Pediatric facilities are unaffected by these reductions.

4. ***Eliminate Public Facility Grants:*** This proposal would have eliminated the state-funded grant program for public nursing homes originally enacted in the 2006-07 budget. The grants total \$35 million in SFY 2008-09 and \$100 million per year thereafter.

The final budget agreement reduces the grant funding from \$35 million to \$10 million in SFY 2008-09, and eliminates it thereafter. However, there is agreement that the state will seek to re-institute intergovernmental transfer (IGT) payments of up to \$150 million annually for the period 2006-08. The state has already received federal Medicaid State Plan approval to make these IGT payments, and discussions have begun with sponsoring counties relative to funding the non-federal share of these payments. NYAHSA will be working closely with the administration and others to ensure that the IGT is reinstated.

5. ***Reduce Recruitment & Retention Funds:*** This proposal would have cut in half the \$15 million of nursing home workforce recruitment and retention (R&R) funding that was added in the final 2008-09 budget. **This proposal was rejected entirely.** The state is currently pursuing federal approval to make these payments.

Home Care Agencies

The governor had proposed a series of savings options totaling \$49.5 million in state savings from home care agencies during SFY 2008-09 and \$123.2 million in SFY 2009-10. The individual proposals and their final disposition are summarized below:

Proposed Home Care Budget Cuts

Measure	Proposed Cuts		Final Agreement	
	Estimated SFY 08-09 Provider Impact (\$ millions)	Estimated SFY 09-10 Provider Impact (\$ millions)	Estimated SFY 08-09 Provider Impact (\$ millions)	Estimated SFY 09-10 Provider Impact (\$ millions)
CHHA/LTHHCP Ceilings/A&G Cost Cap	\$41.2	\$80.8	\$0	\$0
Institute Across-the Board Rate Cuts	\$15.8	\$34.6	\$0	\$0
Eliminate/Modify Trend Factors	\$34.0	\$131.0	\$18.8	\$56.3
Reduce Infrastructure Funding	\$8.0	\$0	\$1.0	\$0
TOTAL	\$99.0	\$246.4	\$19.8	\$56.3

1. ***CHHA/LTHHCP Cost Ceilings/A&G Cost Cap:*** The governor proposed to: (1) reduce the Medicaid cost ceilings applicable to Certified Home Health Agency (CHHA) and Long Term Home Health Care Program (LTHHCP) services from 110 percent to 100 percent of the applicable weighted average cost of all CHHAs and LTHHCPs, respectively, in each agency’s peer group, and (2) reduce the administrative and general (A&G) cost cap for CHHAs and LTHHCPs with more than \$20 million in total annual

reported expenses to 20 percent of each agency's total reimbursable base year costs. **This proposal was rejected entirely.**

2. ***Institute Across-the-Board Rate Cuts:*** This proposal would have implemented across-the-board 1 percent rate cuts in CHHA, LTHHCP and personal care Medicaid rates beginning 9/1/08 and annually thereafter. **This proposal was rejected entirely.**
3. ***Eliminate/Modify Trend Factors:*** The governor proposed to eliminate the 2008 trend factor increase of 1.495 percent effective 9/1/08 and the 2009 trend factor increase for CY 2009 for all CHHAs, LTHHCPs and personal care agencies.

The final budget agreement will reduce the "banking" adjustment to the 2008 trend factor by 1.3 percent. Under current law, the initial 2008 trend factor currently being paid is 2.3 percent for 1/1-3/31 and 1.495 percent for 4/1-12/31. Ordinarily, the initial trend factor is reconciled at the end of the year to the actual CPI increase, and rates are adjusted accordingly (i.e., the "banking" adjustment). This provision will reduce the banking adjustment by 1.3 percent. The agreement will also reduce the initial 2009 trend factor by one percent.

4. ***Reduce Infrastructure Funding:*** This proposal would have reduced by 50 percent the \$8 million of state funding for the home care infrastructure initiative for CHHAs, LTHHCPs, AIDS home care programs and personal care/private duty nursing programs outside of New York City that was added in the final 2008-09 budget.

The final budget agreement reduces this finding by 6 percent, or \$480,000. With federal matching funds factored in, the provider impact of this action will be \$960,000 in the current fiscal year.

Adult Day Health Care Programs

As with nursing homes and other Medicaid providers, the governor had proposed to eliminate the 2008 trend factor beginning September 1, 2008, as well as the trend factor increase for CY 2009. The final agreement will reduce the "banking" adjustment to the 2008 trend factor by 1.3 percent, and reduce the initial 2009 trend factor by one percent. See the nursing home section above for a more complete description of the effect on the 2008 trend factor.

The governor had also proposed to cut SFY 2008-09 funding by 50 percent (i.e., from \$490,000 to \$245,000) for competitive grants for the "enriched social adult day services demonstration project." The project will operate from January 1, 2009 through March 31, 2011 and be jointly administered by the State Office for the Aging (SOFA) and DOH. **The final budget agreement includes this 50 percent cut, as proposed.**

Managed Long Term Care Plans

The governor's budget proposals included a one percent additional reduction to Managed Long Term Care plan premiums effective April 1, 2008, resulting in an estimated provider impact of \$11 million (\$5.5 million state savings). Like any trend factor reduction, this cut would have an ongoing impact in future years. **This was accepted by the Legislature, as proposed by the governor.**

Adult Care Facilities

The governor's proposal would have reduced funding for the Quality Incentive Payment (QUIP) program for adult care facilities (ACFs) by 50 percent from \$2.75 million to \$1.375 million in SFY 2008-09. It would have also made a 50 percent cut in the ACF enhancing abilities and life experience (EnAbLE) program for providing air conditioning in resident rooms. This EnAbLE funding was proposed to be reduced from \$1.8 million to \$900,000 in SFY 2008-09.

The final budget agreement reduces both of these appropriations by 6 percent. QUIP funding is reduced from \$2.75 million to \$2.585 million; and EnAbLE funding is cut from \$1.8 million to \$1.692 million.

Other Budget Proposals

Lawmakers acted on a few other proposals of interest to NYAHSAs members, which are summarized briefly below:

- SOFA-Administered Programs:*** The governor's budget plan would have cut funding by 50 percent for the end of life care initiative; the geriatric in-home program; caregiver support/resource centers; and the new community empowerment program. The final agreement cuts the end of life care initiative from \$200,000 to \$188,000; the geriatric in-home program from \$750,000 to \$705,000; caregiver support/resource centers from \$460,000 to \$230,000; and the community empowerment program from \$490,000 to \$245,000. The final budget also makes the following 6 percent cuts to SOFA programs: EISEP (-\$1.85 million); SNAP (-\$935,000); CSE (-\$586,000); Neighborhood NORC (-\$93,000); NORC (-\$14,000); and social adult day care (-\$13,000).
- Neighborhood Preservation Program:*** This governor's proposal would have cut funding by 50 percent from \$3.5 million to \$1.75 million for this program administered by the Division of Housing and Community Renewal. The final budget agreement cuts program funding by \$218,000.

Conclusion

NYAHSAs expresses its appreciation to those members that contacted their legislators and urged them to reject the governor's massive health care cuts. Your message was heard loudly and clearly and state legislators came to Albany prepared to reject these draconian cuts. Once again, our combined advocacy efforts made the difference.

On a less positive note, we fully expect to see health care targeted for additional cuts in the upcoming budget season. Once again, it will take all of our combined efforts to ensure that services to seniors and the disabled are protected. Thank you all for your hard work and advocacy efforts.

Contact me at dheim@nyahsa.org or (518) 449-2707 ext. 128; or Ami Schnauber at aschnauber@nyahsa.org or ext. 121 with any general questions. For questions on the nursing home impacts, please contact Darius Kirsten at ext. 104 or dkirstein@nyahsa.org.