



New York StateWide Senior Action Council, Inc

Update on issues that impact older residents in the State Budget

April 4, 2019

NYS Office for Aging (NYSOFA):

Investment in community-based services (**EISEP waiting lists**) – the Governor proposed a \$15million investment, allowing NYSOFA to determine how to distribute the money. To ensure transparency and accountability in the distribution of the funds, the Legislature added language in the final budget to require a report after the distribution of funds by Sept 2020 to describe how unmet needs were addressed with this new funding. The funding may be used in areas other than EISEP where there is need. The budget does not address the shortage of home care workforce that has contributed to the waiting lists.

Report details: the area agencies on aging that have received these funds, the amount of funds received by each area agency on aging, the number of participants served, and the services provided.

Community Service for the Elderly (CSE) – funding allows the County Offices for Aging to determine where the need is greatest for resources, and the funds are distributed by formula, equitably based on population across the state. The budget includes the same total as was finalized in the last budget, there were no additional funds added by the Legislature.

Cost of Living Adjustment (COLA) for staff – the budget defers a scheduled COLA for another year.

StateWide's contracted services – The Governor proposed funding our Patients' Rights Helpline at \$31,500, a cut of \$100,000 from the last budget. The Legislature restored \$100,000 so that the program will be funded at the same

level as last year. Our Managed Care Consumer Assistance Program (Medicare & EPIC helpline) is funded by all parties at the same level as last budget.

New Private Pay Program – the Governor’s budget would allow counties the option to implement a private pay protocol program for older residents with incomes above 400% of the federal poverty level (approximately \$48,560 for a single person household.) The Legislature added language that was part of the final budget to limit the profit that can be made on these services to no more than 20% above unit of service price, assured that low-income recipients and those with the highest social need will remain the highest priority for service delivery, guaranteed that the revenue from private pay would not offset a county or state funding source and would be reinvested in OFA program expansion, and that a NYSOFA report to the Legislature will be submitted annually detailing the programs’ results at reducing waiting lists. The program will not be in place until 2020.

Details on report: Counties participating will need to identify unmet need, if any, for all programs and services offered, the number of participants that privately paid for each program or service for that year, the rates participants were charged for each program or service provided, and how unmet need for programs or services offered by the area agency on aging were affected by revenue from the private pay protocol

Naturally Occurring Retirement Communities – The final budget for NORC and Neighborhood NORC programs allows NYSOFA to distribute current total funds (with no new appropriation) by increasing the amount that each funded program can receive from \$200,000 to \$300,000. Additionally, \$325,000 is provided for NORC/NNORC health care management/assistance or linkages to other services.

Elderly Pharmaceutical Insurance Coverage (EPIC) – The Governor proposed a cut of about 9%, or \$11,223,000, due to anticipated cost savings under the federal law (Obamacare) that closes the Part D coverage gap. StateWide has received assurances that there would be no cut in benefits or enrollment. There was no program expansion, and at this time, it is unclear if the cut was sustained or eliminated by the Legislature.

Medicaid – Significant cuts to hospitals and nursing homes have been averted, as the Governor has withdrawn his proposal to reduce Medicaid spending due to

opposition from the public, the Legislature and in light of anticipated federal cuts that would negatively impact access to care.

The Legislature succeeded in the final budget to reject the Governor's proposal to: reduce coverage for over the counter drugs by increasing the copay from \$.50 to \$1, eliminate prescriber prevails, eliminate community spousal refusal provisions that provide protection from impoverishment for a spouse to enroll in Medicaid and receive services at home, and to cap deductible and copayment reimbursement for ambulance and psychologist services for individuals dually eligible for Medicare and Medicaid at the Medicaid rate.

The budget provides a \$16 million increase for enhanced safety net hospitals, for a total of \$66 million.

The Consumer Directed Personal Assistance Program (CDPAP) for consumers to appropriately direct their own care, is still mired in negotiations. The Legislature negotiated the Governor's reductions in administrative costs to ensure no interruption or disruption of services, creating a transition process, ensure access to cultural and linguistic competencies in fiscal intermediaries and to create a stakeholder workgroup which will develop best practices for fiscal intermediaries, inform the criteria by which contracts are selected, identify needs of subpopulations in the program, develop quality reporting requirements for fiscal intermediaries, and develop transition plans for consumers transitioning from one fiscal intermediary to another.

Transition process: If a Fiscal Intermediary (FI) is ceasing operation, it must provide 45 days written notice to consumers, personal assistants, and the managed care plans and/or LDSS with which it contracts. Upon receiving the notice, the plan and/or LDSS must acknowledge receipt within 5 days. The plan or LDSS is responsible for facilitating the transition. The consumer in the transition has the right to switch to another FI. The current FI should not attempt to coerce them to switch to personal care or home health services within that same organization. The FI or LHCSA (licensed home care services agency) may not institute any type of "Do Not Compete" clause on the PA.

Universal Health Insurance Coverage – The Legislature rejected the Governor’s proposal to create a Universal Access to Health Care Commission. NY Health, the single payer proposal supported by StateWide was not included in the budget. Senate hearings on this are being planned.

Safe Staffing – The Adopted Budget requires the Department of Health to conduct a study to examine how staffing enhancements could be used to improve patient safety and healthcare services in hospitals and nursing homes, including a determination of costs associated with these strategies. Labor representatives and patient and community health advocates will be appointed to the advisory board for the study to commence no later than May 1, 2019. The study is due by December 31, 2019.

Publicly Funded Campaigns - The Adopted Budget provides new language to establish a temporary Public Campaign Financing and Election Commission to make recommendations for implementation of a voluntary public campaign financing system for state legislative and statewide public offices

Criminal Justice Reform – The budget addressed reform of the criminal justice system, including eliminating cash bail for most misdemeanor and non-violent felony offenses, and reform of the speedy trial provisions, and requires earlier disclosure of evidence to defendants’ counsel.

Congestion Pricing - The budget requires that the Triborough Bridge and Tunnel Authority (TBTA) establish a Central Business District (CBD) tolling program for roads, bridges and tunnels from 60th Street and south in Manhattan, excluding the FDR and West Side Highways, which will provide \$15 million for the MTA capital improvements. The plan also requires the establishment of a traffic mobility review board, which will make recommendations regarding the CBD toll amount, and will be tasked with examining traffic and ensuring annual revenues.

Plastic Bags - The budget protects the environment by banning plastic carry out bags, and authorizing counties and cities to impose a five-cent fee on paper bags. If they choose to opt-in, 40 percent of the funds raised from the fee will help cities and counties purchase and distribute reusable bags, especially in low and fixed-income communities. The other 60 percent will go to the Environmental Protection Fund. The ban on plastic bags will not apply to those used to wrap

produce and fresh protein, and does not apply to restaurants, newspapers, pharmacies and some other exemptions. Takes effect March 2020.

Rest of Session - Revenue derived from possibly legalizing the sale of adult-use recreational marijuana was not included in the budget and remains on the list of off-budget (end of session) negotiations. The Legislature also will focus work on rent control laws that expire in June, with discussion on expanding the law to the entire state (not just metro NY region.)

Stay tuned - StateWide will host a conference call on April 11 at 10AM to provide a further update.