



Testimony
of
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Submitted at the
Joint Legislative Hearing on the 2010-2011 Executive Budget Proposal for
Mental Health

The Honorable Karl Kruger, Chair, Senate Finance Committee

The Honorable Thomas P. Morahan, Chair, Senate Mental Health &
Disabilities Committee

The Honorable Herman D. Farrell, Jr., Chair, Committee on Ways and
Means

The Honorable Peter Rivera, Chair, Committee on Mental Health

The Honorable Felix Ortiz, Chair, Committee on Alcoholism and Drug
Abuse

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Introduction

Good morning Senators Kruger and Morahan, Assembly Members Farrell, Rivera, Ortiz and distinguished members present at today's hearing. Thank you for allowing me the opportunity to testify before you today on the 2010-2011 Executive Budget Proposal. My name is Jason Lippman, and I am the Senior Associate for Policy and Advocacy at The Coalition of Behavioral Health Agencies (The Coalition).

Use New Revenues to Close the Budget Gap

The 2010-11 Executive Budget Proposal is a plan to close a \$7.4 billion budget deficit that occurred as State revenue collections sharply declined due to the economic recession. As the economy worsened, income tax receipts, and revenue from sales taxes and fees, etc. all declined.

With some caveats and exceptions, The Coalition supports the Governor's budget proposal for OMH and OASAS programs.

While The Coalition is pleased that the Governor's gap-closing plan includes some proposals to offset cuts with new ways of raising revenue, we do not feel that it goes far enough. We support the \$1 per pack increase in the cigarette tax (\$218 million), and the new excise tax of approximately 1 penny per ounce on sugared beverages linked to obesity (\$465 million). We would have also supported an increase in the excise tax on alcoholic beverages. We urge the Legislature to take up this cause and pass the bill proposed by Assembly Member Ortiz (Bill# A06738) to increase the tax on alcohol and place revenues into an alcoholism and substance abuse prevention and treatment fund.

The Executive Budget also proposes a significant amount of cuts to the Medicaid program. The Coalition recommends that the State offset Medicaid cuts with the

extension of the enhanced Federal Medicaid Assistance Percentages (FMAP) proposed by President Obama.

Reauthorize Exemption for Social Worker Licensing Requirements

The Coalition strongly endorses the Governor's proposal to extend the exemption of public sector social workers and other mental health practitioners from professional licensing requirements for an additional four years through June 1, 2014.

The current exemption is scheduled to sunset on June 30, 2010. If this is allowed to happen, a significant number of workforce problems emerge, placing even more pressure on a system that is already deprived of resources. Agencies will be severely limited in their ability to employ social workers, and would not be able to afford or provide for coverage under the law's requirements for supervision. Moreover, according to a survey administered by OMH, many social workers will be retiring within a few years, leaving huge gaps in the professional workforce.

Especially pertinent today: if the exemption is allowed to lapse, agencies will be forced to cut back on services. In some cases, clinics will close completely, creating a large amount of consumer displacement and perhaps greatly reducing access to care. We ask the Legislature to support the four-year extension as proposed in the Governor's Executive Budget. This will allow The Coalition and a diverse alliance of umbrella groups and professional associations to collaborate with the State to work out the existing issues on professional licensing standards.

Limit the Scope and Objectives of the OMIG

The Coalition is deeply concerned about increasing the Medicaid fraud and abuse target for the Office of Medicaid Inspector General (OMIG) by an additional \$300 million. This target was just increased by \$150 million in the Deficit Reduction Plan

(DRP) passed by the Legislature in December 2009. In total, the State now authorizes OMIG to recoup \$1.17 billion from paid Medicaid claims.

The Coalition supports the sanction of OMIG to recover claims that rise to the level of fraud and abuse. However, we are worried that the tactics used in the field by OMIG auditors are forcing providers, who have delivered legitimate services to consumers, to pay the State back millions of dollars due to a simple omission or clerical error.

Under the State-Federal F-SHARP program, New York State is required to pay back dollars to the Federal government over a ten-year period of time, in increasingly greater amounts of money. If the OMIG fails to recoup these dollars, the State will be forced to pay the difference. Clearly, the provisions of the F-SHARP program places additional pressures on the OMIG to take back claims from providers for items not necessarily related to fraud and abuse.

Furthermore, we believe the OMIG should rely on the standards that were set by the certifying and licensing agencies and should not enforce retroactive new regulations and standards. Cases of omission or error; cases where agencies have followed expected rules; do not constitute fraud and abuse, and we urge the Legislature to closely examine the measures used by OMIG for fraud detection.

Maintain Supportive Housing Funding

We are pleased that the budget includes resources to continue the development of supportive housing under the New York/New York III agreement. Funding is in place to annualize the opening of 1,300 new units scheduled to open by the end of 2010-2011. At the same time, the Executive Budget decreases funding for SRO Support Services by 13% in comparison to last year. The Coalition is concerned that such a cut

will trigger New York City to also cut its 50% matching share. This would prevent the Office of Temporary Disability Assistance (OTDA) from opening thousands of new supportive housing units and eliminate hundreds of front desk security positions in New York City supportive housing developments. We urge the Legislature to reconsider this cut. Supportive housing has been proved to save money over the long run, and it allows consumers to live independently in the community.

Support Drug Law Reform

The Coalition supports the Executive Budget proposal to allocate \$13 million to meet the projected need for chemical dependency treatment services associated with drug law reform diversions. This funding will support 621 residential treatment beds and an additional 1,000 outpatient slots.

We ask the Legislature to continue to support the long-term funding of drug reform. The Coalition also encourages the formation of an independent, nonpartisan prison closure commission to determine where State resources are underutilized, and direct funding earmarked for prisons into OASAS community-based drug treatment programs. This idea may also be applied to the juvenile justice system.

Ensure Adequate Rates Under Clinic Reform

OMH will continue to move forward with ambulatory clinic reform and the implementation of the new Ambulatory Patient Group (APG) rate methodology to determine clinic reimbursement rates. As OMH phases out Comprehensive Outpatient Services (COPS) revenue, The Coalition seeks support from the Legislature to ensure that community-based providers are reimbursed for the full cost of services provided to consumers.

Clinic reform will mandate a complete restructuring of programs and reimbursement formulas. Behavioral Health clinics will be faced with a radically different rate methodology, more complex billing functions, and additional requirements for IT systems, record keeping and reporting.

For years, COPS payments have traditionally subsidized low reimbursement rates for Medicaid Fee for Service (MFS), Medicaid Managed Care (MMC), private insurance and indigent care. While OMH plans to increase the reimbursement rate for MFS under the new system, the rates paid by the other payment modalities will remain significantly lower; in many cases approximately one-third to one-half as much.

If the new system is implemented as planned, the effects will be local. Consumers in every district will have limited access to care, or see their clinic shut down completely without alternatives in some communities (without access to care, Federal parity laws and New York State's Timothy's Law are empty promises). Workers, many of whom are your constituents, will no longer remain employed on a full time basis with health insurance and other benefits, as they will be too costly for providers to maintain. To solve this problem, The Coalition supports SOMH and DOH in their efforts to require MMC plans to pay the same as or close to the MFS rates. We are expecting a proposal in the Governor's 21 day budget amendment and ask for your strenuous support for this concept. While The Coalition applauds the planned development of an indigent care pool to reimburse behavioral health providers, the compensation for services will also fall significantly short of the new Medicaid fee for service rate. We would like the State to make sure that reimbursement from the indigent care pool are at levels equal to Medicaid Fee for Service rates.

Supplemental Funding for Behavioral Health Infrastructure Improvements

The Coalition would like the Legislature to support the maintenance of the behavioral health system by authorizing a supplemental infrastructure investment pool of dollars that will cover increases in costs of mandated computer technology requirements and a property pass through for residential providers.

In many instances, the behavioral health system has been left behind when funding is available for infrastructure improvements. For example, when the Federal stimulus bill authorized new funding for Health Information Technology (HIT) investments, money was allocated to primary care providers, hospitals, nursing homes, etc. Unfortunately, behavioral health organizations were not eligible to access stimulus money for IT improvements, even though we are accountable to the same financial standards, as well as IT requirements, like the development of electronic health records.

I thank you for your time, and I am available to answer any questions that you may have.

About The Coalition

The Coalition is the umbrella nonprofit, (501)(c)(3), association and public policy advocacy organization of New York's behavioral health providers, representing over 100 non-profit behavioral health agencies. Taken together, these agencies serve more than 350,000 adults and children and deliver the entire continuum of behavioral health care in every neighborhood of a diverse New York City, Westchester County and surrounding areas.

Founded in 1972, the mission of the Coalition is to coordinate the efforts of government and the private sector toward efficient delivery of quality behavioral health services to children, adults and families. The Coalition promotes policies and practices that support the development and provision of community based housing, treatment, rehabilitation, and support services to all people with mental illness and addictions disorders. Our members serve a diverse group of recipients, including the fragile

elderly, people who are homeless, those who struggle with AIDS and other co-morbid health conditions, violence and other special needs. Coalition members help people with mental illness and addiction disorders to recover and lead productive lives in their communities.

The Coalition provides quality learning opportunities, technical assistance and training to staff and leadership of its member agencies and to the professional community on important issues related to rehabilitation and recovery, organizational development, best practices, quality of care, billing and regulations/contract compliance, technology and finance.