



**Department
of Health**

FY 2018 Executive Budget

Overview of Health Provisions

January 27, 2017
12:00 PM – 1:30 PM

Statewide Health Care Facility Transformation Program II

Capital Projects Appropriation Bill

Health and Mental Hygiene Article VII Bill, Part K

- Up to \$500 million (\$300 million for bondable purposes such as construction or equipment and \$200 million for non-bondable purposes such as debt retirement, start-up costs and non-bondable equipment) will be available to strengthen and protect continued access to health care services in communities.
- Up to \$50 million of that amount will be invested in the continued and expanded safety net and health care delivery transformation activities by the Montefiore Health System.
- Other grants will be awarded, based on an application process, for capital projects, debt retirement, working capital or other non-capital projects that facilitate health care transformation activities such as mergers, consolidations and acquisitions or other activities intended to create financially sustainable systems of care or preserve or expand essential health care services.
- Eligible providers are general hospitals, residential health care facilities, clinics licensed pursuant to the Public Health Law or the Mental Hygiene Law and community-based health care providers (PHL and MHL clinics, primary care providers or PHL Article 36 home care providers).
- A minimum of \$30 million will be available for awards to community-based providers.
- Priority will be given to projects not funded under the previous Statewide Health Care Facility Transformation Program (PHL 2825-d).

Life Sciences Laboratory Public Health Initiative

Capital Projects Appropriation Bill (Urban Development Corporation)

Public Protection and General Government Article VII Bill, Part W

- The Budget includes \$150 million to support a life sciences laboratory public health initiative which will develop life science research, innovation and infrastructure through a joint effort between Empire State Development and the Department of Health.
- This project will complement the Governor's Life Sciences initiative.
- The Executive Budget appropriation represents the first step in the development of a new modern public health lab facility in the Capital Region that is designed to enhance partnerships and encourage growth in the life sciences and health data sectors.
- The State will conduct market analysis and strategic planning for a thorough evaluation of life sciences opportunities, assuring maximum economic development benefit and the prudent use of state resources.
- The specific site of a new facility has yet to be determined.

Health Information Technology

Capital Projects Appropriation Bill

All Payer Database

- \$10 million in continued funding from FY 2018 – FY 2020 for All Payer Database (APD).
- The APD will allow new ways for policymakers to monitor efforts to reduce health care costs and improve the quality of health care and population health.

Statewide Health Information Network for New York

- \$30 million in continued funding from FY 2018 – FY 2020 for Statewide Health Information Network for New York (SHIN-NY).
- The SHIN-NY facilitates sharing of patient-specific health information (Health Information Exchange) among hospitals, providers, health plans and public health officials, in a secure and confidential manner, to support coordinated health care.

Health Care Resources

Aid to Localities Appropriation Bill

The Executive Budget recommends consolidating 39 public health appropriations into four program areas:

- Disease Prevention and Control
- Maternal and Child Health
- Health Workforce
- Health Outcomes and Advocacy

General Public Health Work

Local Assistance Appropriation Bill

Health and Mental Hygiene Bill, Part B

- This proposal will amend Public Health Law Article 6 to change the reimbursement formula for New York City.
- NYC will receive their base grant and 29% of the cost of eligible services above the base grant as opposed to the current rate of 36%. This proposal will result in \$11M in savings in the first year and \$22 M when fully annualized.
- All other local health departments will continue to receive their base grant and 36% reimbursement above the base grant.
- This proposal recognizes that NYC is eligible to receive other forms of direct funding for public health including grants from the Centers for Disease Control and Prevention.

Early Intervention

Local Assistance Appropriation Bill

Health and Mental Hygiene Bill, Part A

Amend Insurance Law to ensure reimbursement of covered benefits/protection of family benefits by requiring insurers to:

- Recognize primary care provider's (PCP) referral, order, recommendation, or IFSP signed by the PCP as meeting precertification, preauthorization, and/or medical necessity requirements
- Pay for covered services delivered by the Early Intervention Program (EIP) to the extent the service is a covered benefit in the child's health plan, including coverage for autism spectrum disorder services
- Prohibit denying payment based on location of service or duration of child's condition
- Notify municipalities, service coordinators, and providers if a child's plan is fully insured or the insurer is acting as a third party administrator

Amend Public Health Law (PHL) to address denial of claims and appeals process

- Require EIP providers, on request of the Department or State Fiscal Agent, to appeal a denial of payment prior to claiming municipalities, which may be based on criteria established by the Department such as medical necessity, coordination of benefits, or utilization of benefits
- Services to children cannot be delayed or discontinued during appeals process

Early Intervention

Amend PHL to make clear that a municipality can recoup its share of any disallowances identified in an audit performed by the municipality

Amend PHL to ensure documentation is available to support third party claiming:

- Require service coordinators and providers to collect uniform documentation of insurance coverage information
- Require municipalities to request from parents, and parents to provide, an order, referral, or recommendation, signed by the child's PCP, or an IFSP that contains documentation signed by the PCP, on the medical necessity of early intervention services
- Allows municipalities to obtain written consent from the parent to contact the PCP on behalf of the parent to obtain medical necessity documentation
- Require providers to submit this documentation of medical necessity to the insurer along with already-required subrogation notices

Amend EIP regulations to require providers to enroll in one or more healthcare clearinghouses on the request of the Department or the State Fiscal Agent and file claims timely

Cost of Living Adjustment

Local Assistance Appropriation Bill

Health and Mental Hygiene Bill, Part Q

Defer Cost of Living Adjustment planned increase.

- Delay for one year the planned increase in the Human Services Cost of Living Adjustment. The existing COLA funding is maintained.

Local Assistance Appropriation Bill

Discontinue Underutilized Direct Worker Cost of Living Adjustment:

- Funding was enacted in 2015 to provide a wage increase targeted to direct care workers and direct service providers. DOH providers have not adopted this COLA as anticipated, citing the complexity of identifying the targeted workers.

Expiring Statutory Provisions

Health and Mental Hygiene Article VII Bill, Part I

- **Bad Debt and Charity Care for CHHAs and DTCs:** Extends for 3 years provisions related to bad debt and charity care for Certified Home Health Agencies (CHHAs).
- **FIDA Fair Hearings:** Continues for 3 years the authorization for the Office of Temporary and Disability Assistance (OTDA) to contract fair hearings for the Fully Integrated Duals Advantage (FIDA) program.
- **Nursing Home Cash Assessment:** Continues the nursing home reimbursable cash assessment program for 3 years.
- **1996-97 Trend Factor Elimination:** Extends for 3 years the 1996-1997 trend factor projections or adjustments from nursing home and inpatient rates.
- **0.25 Trend Reductions:** Continues for 3 years the hospital and nursing home 0.25 trend reductions.
- **Administrative & General Cost Cap:** Extends for 3 years the cap on reimbursement for administrative and general costs for the Long Term Home Health Care Program.
- **Transportation Manager:** Extends the transportation manager contract for 3 years.
- **Trend Factor Elimination:** Extends the trend factor elimination for general hospital reimbursement for 3 years.

Expiring Statutory Provisions

Health and Mental Hygiene Article VII Bill, Part I

- **Child Health Plus:** Extends provisions related to the Child Health Plus income and benefit expansion for 3 years.
- **Medicaid Pharmacy:** Continues dispensing fee rate provisions for 3 years.
- **Nursing Home UPL:** Extends for 3 years the nursing home upper payment limit.
- **CHSPs:** Extends the authority for Comprehensive Health Services Plans (CHSPs) permanently.
- **OPMC Funds for Physician Profile:** Extends for 3 years the authorization for the use of funds of the Office of Professional Medical Conduct for activities of the patient health information and quality improvement act.
- **SHIN-NY/SPARCS/APD:** Extends for 3 years provisions related to the Statewide Health Information Network for New York (SHIN-NY), Statewide Planning and Research Cooperative System (SPARCS) and the All Payer Database (APD).
- **PHL Penalties/Enriched Social Adult Day:** Continues for 3 years provisions related to penalties for violations of public health law and regulations; and extends the Enriched Social Adult Day Services program for 3 additional years.

Health Care Regulation Modernization Team

Health and Mental Hygiene Article VII Bill, Part L

- DOH will convene a Health Care Regulation Modernization Team (RMT) to make recommendations to the Governor on ways to fundamentally restructure health care statutes, regulations and policies to better align with changes in the health care system.
- The Governor will appoint up to 25 voting members including state staff, legislative representatives, the chair and co-chair of the Public Health and Health Planning Council, and representatives of stakeholder groups focused on various aspects of health care.
- The RMT will consider and make recommendations on a broad range of matters, focused on identifying ways to streamline requirements related to provider licensing and operations and opportunities for flexibility to support efficiency and innovation.
- The RMT process will include opportunities for stakeholder participation and meetings will be held in various areas of the State.
- The RMT will begin its work by July 1, 2017 and submit a report to the Governor of its findings and recommendations by December 31, 2017.

Emerging Contaminant Testing

Health and Mental Hygiene Article VII Bill, Part M

- There are numerous emerging contaminants that have the potential of contaminating drinking water sources.
- This proposal would require public water systems to test for emerging contaminants identified by the Commissioner of Health.
- DOH will develop a list of emerging contaminants public water systems must test for and establish notification levels for each contaminant.
- If a notification level is reached, public water systems would be required to:
 - Notify all property owners, who, if applicable, would be required to notify any tenants.
 - Take any additional action(s) determined by DOH to reduce exposure
- The proposal would allow DOH to provide financial assistance to public water systems determined to have financial hardship.

Private Water Well Testing

Health and Mental Hygiene Article VII Bill, Part N

- There are an estimated 1.1 million private wells in New York State that may serve as many as 4 million residents.
- Currently there is no statewide requirement for the testing of private wells for contaminants.
- The proposal would require testing of new or existing private wells for an identified list of contaminants.
 - Testing would be required prior to the sale of residential property served by a private well.
 - Private wells serving leased property would be required to be tested once every 5 years and tenants would have to be informed of the test prior to the signing of a lease or rental agreement, and to former tenants upon request.
 - Require well drillers to test newly constructed wells.

Lead Service Line Replacement

Transportation, Economic Development & Environmental Conservation Article VII Bill, Part II

- Lead in drinking water is introduced from plumbing.
- Homes in older communities have a higher probability of being connected to a public water system with a lead service line.
- There is no state-wide program for the replacement of lead service lines
- This proposal would authorize DOH to award grants, within available funding, to municipalities for the purpose of replacing lead service lines used to supply drinking water.
- Priority shall be given to those municipalities with low-income communities, as determined by the DOH.

Electronic Cigarettes

Revenue Article VII Bill, Part FF

E-Cigarette Burden

- E-Cigarette use by high school age youth in NYS doubled from 2014 to 2016. E-Cigarette use now outpaces combustible cigarette use by youth.
- Exposure to nicotine by youth and young adults is potentially injurious to cognitive functioning, impairs learning ability, and increases risk of addiction to all substances.
- E-Cigarette aerosol can contain ultrafine particulate matter, flavorings linked to lung disease, volatile organic compounds (VOCs), and heavy metals; all toxic to humans.
- E-Cigarettes are not approved for cessation by the FDA, are essentially unregulated in manufacturing, used mostly by youth and young adults, not adult smokers, and dual use of e-cigarettes and combustible cigarettes is common.
- E-Cigarettes have no known public health value.

Electronic Cigarettes

Revenue Article VII Bill, Part FF

Bill Provisions:

- Defines: “vapor products” and “use of a vapor product” as smoking.
- This results in inclusion of vapor products in the Clean Indoor Air Act (CIAA) and the Adolescent Tobacco Use Prevention Act (ATUPA).
- CIAA – Rules applying to where cigarettes can be smoked indoors will also apply to e-cigarettes.
- ATUPA – The sale of vapor products will be regulated similarly as other tobacco products including:
 - No distribution of free samples
 - Sales to underage purchasers will be monitored by existing monitoring mechanisms (DOH and LHDs).
- DTF proposes a 10 cent per milliliter tax on liquids and gels regardless of the presence of nicotine.
- Retailers selling vapor products will be required to register with DTF. This provides the mechanism necessary for ATUPA enforcement.
- Education – Use on school grounds is prohibited; SED Commissioner empowered to prohibit use by bus drivers.
- Child resistant packaging (already in General Business Law) now in PHL. Allows enforcement by existing mechanisms.
- Empowers DOH to incorporate vapor products into comprehensive tobacco control efforts.

Licensure of Voluntary Foster Care Agencies Providing Health Services

ELFA Article VII Part N

- Services for foster care children provided by voluntary foster care agencies approved by the Office of Children and Family Services (OCFS) are transitioning to managed care in January 2019, but managed care plans can only enter into contracts with organizations licensed to provide health-related services.
- To address this issue, PHL Article 29-I establishes a mechanism for voluntary foster care agencies approved by OCFS to become licensed by the Department of Health (DOH), in conjunction with OCFS, to provide limited health-related services as defined in DOH regulation, directly or through contract.
- This requirement does not apply if the agency is already licensed by DOH under PHL Article 28 or by the Office of Mental Health (OMH) under Mental Hygiene Law (MHL) Article 31.
- Existing agencies must become licensed according to a schedule developed by DOH and OCFS, with all agencies becoming licensed by January 1, 2019.
- To gain and maintain licensure, an agency will have to meet regulatory requirements governing matters such as equipment, personnel, and standards of care.
- The bill also establishes a process for revocation of licenses, after a hearing, in the event of non-compliance.

Questions and Answers