Submitted Testimony

Written Testimony

Submitted by:

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A NOTE FROM ANDREA SMYTH, EXECUTIVE DIRECTOR
NEW YORK STATE COALITION FOR CHILDREN'S MENTAL HEALTH SERVICES

Submitted to
The Joint Fiscal Committees of the New York State Legislature
The Honorable Herman D. Farrell and
The Honorable John DeFrancisco

February 25, 2015

"The current behavioral healthcare system for children and their families is underfunded. Per capita investment in behavioral health for adults far outweighs investment in children, which could be remedied through reinvestment of existing resources." – Children's Behavioral Health Subcommittee Report to the Medicaid Redesign Team, Oct 2011

Chairmen Farrell and DeFrancisco, Assemblywoman Gunther and Senator Ortt, thank you for this opportunity to submit testimony about the Governor's Executive Budget recommendation for 2015-16.

I am Andrea Smyth, the Executive Director of the NYS Coalition for Children's Mental Health Services, a statewide association of over 40 nonprofit children's mental health providers. We offer quality outpatient, residential, community-based, trauma-informed treatment and services for children and their families in every county in New York.

The Coalition continues to be engaged with the Children's Medicaid Redesign Team as well as the Children's Health Home Advisory Group. The progress on designing enhanced services for children and youth with severe emotional disturbances is work that our organization is proud of and we look forward to hearing that the Centers for Medicare and Medicaid Services (CMS) agrees with the recommendations so we can move forth with implementation.

The Executive Budget includes the resources to begin expanding the number of children served by Health Homes. The funding will support a "phasing in" of existing programs that offer care coordination, beginning with children's targeted case management programs authorized through the Office of Mental Health and eventually including the Office of Children and Families' foster care programs and the Department of Health's Early Intervention programs. This cross-systems approach to uniform service delivery is an exciting example of health care redesign streamlining the access point for children with complex needs and their families. **Please support the proposed Health Home funding.**

The Executive Budget recommends a transitional rate proposal for the Child Health Plus program, as it pertains to children's behavioral health visits. The CHP proposal is that **youth enrolled in Child Health Plus plans should have their behavioral health clinic visits reimbursed at the rate equivalent to the Ambulatory Patient Grouping (APG) rate.** This is a TRANSITIONAL and TIME-LIMITED proposal that is necessary to preserve clinic access by non-Medicaid eligible youth. About 40% of children that require outpatient mental health clinic services have commercial insurance or CHP. Until 2012, many youth with severe emotional disturbances were eligible for specialty behavioral health reimbursement (through Medicaid) to

support the treatment needs of non-Medicaid eligible youth. Once those supplemental payments were discontinued, clinics began to stop admitting non-Medicaid eligible youth because the insurance reimbursement was as much as 50% below the cost of treatment and clinics that admitted those youth were experiencing extreme operating deficits. The options for clinic providers were limited to no longer admitting non-Medicaid patients or closing the clinics. For this reason, we strongly support allowing a transitional rate for CHP visits, until such time that the transition of the entire exempt population is complete and the plans are better informed about the total health care costs of a population that was receiving treatment subsidized by other funding sources.

The Executive Budget continues to make available the Article 31 outpatient clinic **Vital Access Provider (VAP)** included in last year's budget, but does not propose any new VAP outpatient funding. The Office of Mental Health received 155 applications for the VAP funding available in the 2014-15 state fiscal year. They were able to award funding to 40 outpatient mental health clinics. Without additional funding, none of the remaining 115 fiscally distressed clinics can receive transitional supports and the precipitous closure of behavioral health outpatient clinics will continue. We ask that $7.5 million (state share, so $15 million total) be added to support another 20 Article 31 clinics.

The Executive Budget proposes the creation of a **$50 million Non Profit Infrastructure Capital Investment Program,** which the Coalition strongly advocated for as a worthwhile expenditure from the one-time settlement funds. However, we requested a $500 million Program and believe that using $1.4 billion of the settlement funds to invest further into hospital capital projects is not justified without sufficient capital investments into community health care providers' capital needs. We urge you to invest in community behavioral health care providers' capital needs on a level that is equivalent to the needs, including the need for residential treatment providers to do similar debt restructuring and capital reimbursement changes that hospitals and nursing homes need before transforming their service line into new, less intensive services that are more responsive to community needs. Please invest in Non Profit organizations which are human service providers first and Medicaid providers by default.

The Coalition strongly support enactment of the legislation that will reform the juvenile justice system, including raising the age of juvenile jurisdiction and separating 16, 17 and 18-year olds from the correctional system. "**Raise the Age**" is a community movement that advocates for

juvenile responses to crimes committed by minors and which supports the expansion of age-appropriate, trauma-informed mental health and diversion services for youth. We are especially interested in having the **Family Support Center** proposal, a program established to provide community-based supportive services to children and families, with the goal of preventing a child from being adjudicated as a Person In Need of Supervision (PINS), linked with existing Office of Mental Health Family Support Centers. The ability to assess the strengths of the family unit and build skills within the family is a hallmark characteristic of the OMH Family Support Services system and we firmly believe there is much to share with families with children involved with the juvenile justice system.

Attached are one-page position statements with specific references to bills that address these priority concerns. As always, the Coalition staff and member agencies look forward to working with you to address the special needs of children with severe emotional disturbances.

Submitted by: Andrea Smyth
Date: February 25, 2015

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NEW YORK STATE COALITION FOR CHILDREN'S MENTAL HEALTH SERVICES

2015 BUDGET REQUEST – PRESERVE KIDS' ACCESS TO MENTAL HEALTH CLINIC TREATMENT

Support the Child Health Plus behavioral health visit parity proposal and add an additional $30 million for OMH-licensed, Article 31 outpatient clinic Vital Access Provider (VAP) funding. These combined proposals will constitute a "Children's Mental Health Clinic Preservation Initiative" to support access to children's mental health outpatient services during the transition to Medicaid Managed Care.

What:

The budget proposes that youth enrolled in Child Health Plus plans should have their behavioral health clinic visits reimbursed at the rate equivalent to the Ambulatory Patient Group (APG) rate. This is a transitional, time-limited support necessary to pre-serve clinic access and support transition of exempt child and youth populations into Medicaid Managed Care.

The budget does not recommend any additional Vital Access Provider (VAP) funding for outpatient clinics and OMH was only able to support 40 extremely vulnerable clinics with last year's funding. The proposal should be amended to add $290 million for hospital VAP funding to include outpatient service providers.

Why:

About 40% of children with severe emotional disturbances (SEDs) have commercial insurance. Until recently, many youth with SED were eligible for specialty behavioral health reimbursement because of their diagnosis and clinics could access those supplemental payments for non-Medicaid eligible kids' treatment costs. Now, we are transitioning into a system in which Medicaid is the payer of last resort, and non-Medicaid eligible youth are suffering the unintended consequence of having their outpatient providers discontinue contracts with Child Health Plus carriers because they are paying rates more than 50% lower than the Ambulatory Patient Group (APG) rate.

As more Article 31 outpatient clinics that specialize in treating children (like Child Health Plus carriers) discontinue contracts with insurers because their rates fail to recognize the cost of treatment, non-Medicaid eligible youth are losing access to outpatient mental health treatment. The plans and commercial insurers must recognize that they have to adjust their behavioral health payments to reflect the true cost of the whole population's behavioral health needs and that government can no longer subsidize those costs. If we are to preserve access to outpatient behavioral health treatment and avoid unnecessary out-of-home placements and emergency room visits, we must ensure that commercial payers are paying adequate rates for outpatient care. This proposal will continue to allow access to necessary outpatient services for a vulnerable population of SED children and youth.

- Child Health Plus plans offer very low rates ($67.16 on average compared with $130 for the average APG rate) for behavioral health visits.
- Children's clinic Medicaid rates (APGs) were lowered long before the child populations has transitioned. Clinic Medicaid rates have been reduced, but the commercial insurers have not taken over responsibility for the non-Medicaid eligible kids with severe emotional disturbances. Kids' clinics were not afforded appropriate payer-mix protections, which is a transitional support that is necessary. The Legislature appropriately added Vital Access Provider funding in last year's budget, and must act again to direct another $30 million in VAP to support transformation of outpatient Article 31 clinics.

Legislative Action Requested:

- Support Part C of S.2007/A.3007 to allow children and youth enrolled in Child Health Plus to have their behavioral health visits reimbursed at the rate equivalent to the Ambulatory Patient Group (APG) rate methodology until December 2017 statewide.
- Add $30 million for additional OMH-licensed, Article 31 outpatient clinics to be eligible for Vital Access Provider funding. The budget proposes an additional $290 million for designated VAP hospitals, but does not include new VAP funding to support the transformation of additional outpatient providers. Note that children's providers will stay the longest under the existing Medicaid cost containment provisions before the child and adolescent populations transition to Medicaid Managed Care and will require longer transitional supports.

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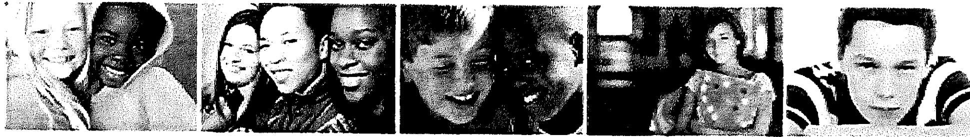

NEW YORK STATE COALITION
FOR CHILDREN'S MENTAL HEALTH SERVICES

2015 BUDGET REQUEST – SUPPORT ACCESS TO NECESSARY CAPITAL FUNDING

Support expansion of the proposed $50-million Nonprofit Infrastructure Capital Investment Program into a $500-million Nonprofit Infrastructure, Technology and Business Investment Fund to meet the needs of the human services sector.

What:

The budget proposes the creation of a $50-million Nonprofit Infrastructure Capital Investment Program, but greater investment is necessary to meet the business, technology and capital needs of the human services sector. Specifically, the investments in the community behavioral health service arena require extensive consideration if services are to be transformed to meet changing community demands and non-Medicaid Family Support Services operations undertake necessary business partnerships and technology investments to remain viable. Specifically and similar to the long-term care sector, the state's 18 residential treatment facilities need to access capital funds for debt restructuring, adjustments to capital payment methodologies, and capital improvements. These changes are necessary to transform residential services into appropriate shorter-term treatment centers that respond to managed care expectations and comply with the 2014 Affordable Care Act Mental Health Parity regulations, as related to the long-term care rehabilitation benefit.

Why:

Transformation of the behavioral health system into one with a greater emphasis on outpatient, community-based services is a priority for the NYS Coalition for Children's Mental Health Services. However, without investments similar to those being offered to the other "brick and mortar" providers, there are significant barriers to transforming certain services, such as those offered by Residential Treatment Facilities (RTFs) licensed by the state Office of Mental Health (OMH). As with hospitals and nursing homes, transformation must allow for the removal of the barriers created when the debt service and capital reimbursement are tied to bed occupancy rates. Without debt restructuring and facility modernization, RTF providers are at risk of defaulting on their loans.

For this reason, we urge the Legislature to retain the all-agency authority for $50 million of the Nonprofit Infrastructure Capital Investment Program, but also request agency-specific authorization for additional grants and payments to eligible nonprofit organizations that receive rates and payments from OMH. This additional funding would not only address the needs of providers that offer RTF services, but also allow for other community behavioral health agencies to reconfigure their business operations through mergers and partnerships, investments in outcome and performance data technology, and innovations that could result in on-going revenue supports for human service agencies.

Capital investment for technology and business model upgrades is also a priority for traditionally non-Medicaid providers, such as Family Support Services providers. In addition, short-term loans must be available to advance funds to eligible nonprofits that are experiencing payment delays as they establish relationships with Medicaid managed care organizations and claims denials create cash flow disruptions that jeopardize the agencies.

Eligible purposes of the OMH-specific funding should include: short-term loans and cash advances, debt restructuring and mortgage payment relief, facility reconfiguration in response to reduced youth and diverse populations, general capital improvements and physical modifications to respond to commercial insurers' demands and changing community needs, support for agency mergers and partnerships, and investments in outcome and performance software and other technology.

- RTFs require the same transformation investments as nursing homes and hospitals if they are to adjust their debt and facilities to accept commercial insurance, reduce the length of stay, and respond to Medicaid managed care demands.
- Traditionally non-Medicaid providers require access to capital to transform their business capacity, collect data and outcome information and weather the cash-flow changes that are anticipated when the system transitions to Medicaid managed care payments.

Legislative Action Requested:

- Support the $50-million Infrastructure Capital Investment Program as proposed on page 722 of S.2004/A.3004, but allocate additional funds in $50-$75 million agency-specific appropriations to address the capital investments necessary for transformation of the human services sector into Medicaid managed care service providers.
- *Proposed language:* For additional payments, loans and grants to eligible nonprofit human services organizations that receive rates and payments from the Office of Mental Health for debt restructuring, facility renovations, capital improvements and modifications to respond to community needs, short term loans and business re-organization activities $75,000,000. 00

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NEW YORK STATE COALITION
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2015 BUDGET REQUEST – SUPPORT HUMAN SERVICES COST OF LIVING ADJUSTMENTS

Support the proposed 2% COLA that is funded for April 1, 2015 implementation and add a January 2016 COLA to address health insurance cost increases and the cost of raising the minimum wage for nonprofit workers on December 31, 2015.

What:

The budget proposes a significant investment in nonprofit organizations by including state funding for the 2% cost of living adjustment (COLA) for direct care and clinical workers that is scheduled to go into effect on April 1, 2015. This COLA should be expanded during the 2015-16 state fiscal year to reflect the scheduled increase in the minimum wage in December 2015 and, if enacted, the proposed rise in December 2016 to $11.50 in New York City and to $10.50 in the rest of the state.

Why:

Approximately 15% of the state's workforce is employed by nonprofit agencies and 80% are women and people of color. Baseline economic stability can help families ensure better health and education outcomes for their children.

Not only do nonprofit organizations invest in building workers' skills so their employees can keep jobs; they pave the way for entry-level workers to build careers in the service sector. In this way, the nonprofit sector is an engine that drives future economic, academic and wellness outcomes by strengthening family economic security.

However, rising workforce costs are not factored into government contracts or rates and agencies. Unlike for-profit businesses, nonprofits cannot raise the prices of their services to cover salary and wage increases afforded to employees. The only option for nonprofits when expenses rise is to provide fewer services, cut employee benefits, or reduce the wages of new employees.

We urge the Legislature to support the nonprofit workforce, much in the same way that the proposed 2015-16 budget does the Summer Youth Employment Program. SYEP has a budgeted increase that is indexed to support the rise in the minimum wage to prevent a decline in the number of youth who can be employed during the summer. This is a fair approach that appropriately recognizes service providers' need for a stable, quality, trained workforce and their lack of flexibility when responding to mandated and other operating cost increases.

Legislative Action Requested:

- Support the addition of funds to provide a January 2016 COLA that recognizes both the minimum wage increase and other salary and salary-related fringe benefit increases offered to the nonprofit workforce.

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NEW YORK STATE COALITION
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2015 BUDGET REQUEST – SUPPORT 'RAISING THE AGE' OF JUVENILE JURISDICTION

Support the proposed reform of the juvenile justice system, including raising the age of juvenile jurisdiction from 16 to 18 years of age by 2018. The statutory changes are in accordance with recommendations put for the by the Commission on Youth, Public Safety and Justice. Support the proposal that 100% of the costs of detention, diversion and probation services for this population will be state expenses.

What:

The budget proposes a significant investment of state funds in reform of the juvenile justice system. Not only will the proposal remove 16-, 17-, and 18-year-olds from the correctional system, it will mandate diversion for low-risk cases, create a continuum of diversion services, provide special training for judges and create Youth Parts in Criminal Courts, and provide family engagement supports to successfully implement post-discharge plans.

Why:

New York is only one of two states in the nation that does not develop the capacity to treat 16- and 17-year-olds as juveniles.

"Raise the Age" is a community movement advocating for juvenile responses to crimes committed by minors. The proposal includes juvenile processing for all but serious crimes of violence; access to programs and services tailored to support rehabilitation for all minors under age 18; sentencing for all but the gravest crimes of violence be customized to youth rather than adult sentencing structures; opportunities to move beyond commission of one nonviolent crime as a youth; and removal of all minors from adult jails and prisons.

An initial $250-million investment is proposed to plan for an expansion of age-appropriate, trauma-informed mental health and diversion. An additional $110 million in capital funding will support the newly sentenced 16- and 17-year old youth with the Office of Children and Families (OCFS) instead of adult correctional facilities, beginning on December 1, 2015, if the authorizing legislation enacted.

The NYS Coalition for Children's Mental Health Services strongly supports the creation of Family Support Centers, a program established to provide community-based supportive services to children and families, with the goal of preventing a child from being adjudicated as a Person In Need of Supervision (PINS). The ability to assess the strengths of the family unit and build skills within the family unit is crucial for positive youth development, preventing recidivism and maintaining stable living situations for youth.

Legislative Action Requested:

- Support Part J of S.2006/A.3006 to implement juvenile responses to crimes committed by minors, developing modifications to the courts to appropriately determine placements and assess capacity for successful diversions and, most importantly, get appropriate mental health and youth development supports for youth and families.

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