

MEMORANDUM

TO: HCA MEMBERS
FROM: HCA POLICY
RE: SFY 2024-25 SENATE & ASSEMBLY ONE HOUSE BUDGETS
DATE: March 14, 2024

Overview

This memorandum provides a preliminary analysis of the Senate and Assembly's proposed 2024-25 State Fiscal Year (SFY) One House Budgets, developed in response to the Governor's Executive Budget released in January. This analysis contains particular emphasis on the Medicaid and health-related provisions.

The summary draws primarily from the Senate and Assembly Health and Mental Hygiene Budget Bills (A.3007-C/S.4007-C), as well as the supporting resolutions or reports issued by both houses. It will note bill references for any provisions cited from other budget bills.

Further analysis will follow from HCA and HCA's Government Relations team at Hinman Straub as additional insights and developments become available.

HCA developed and strenuously advocated key positions in response to the Executive Budget since its release in January. It is with cautious optimism and gratitude toward the Legislature for taking home healthcare's voice into consideration in their proposals that we report the results of the one house budgets to you, and next plot our course forward.

HCA's Priority Issues & Each House's Position

- **Hospital @ Home & Hospital-Home Care-Physician Collaboration Law (PHL 2805-x) Proposals**

Governor Hochul proposed changes that would allow hospitals to provide care in the home to patients, without Article 36 licenses, outside of the existing PHL 2805-x model, and without a partnership with a licensed home care provider agency.





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HCA adamantly opposed these proposals and called on the Legislature to reject them.

- ✓ ***The Senate & Assembly both rejected these Executive proposals in their entirety.***

- **CDPAP Proposed Changes**

The Governor's Executive Budget proposed to eliminate Wage Parity for Personal Assistants under the Consumer Directed Personal Assistance Program (CDPAP), estimated to provide \$400 million in savings to the state.

The Governor also proposed changes to CDPAP including:

- removing the ability for a designated representative, including a legal guardian, to make informed choices for CDPAP consumers;
- allowing DOH to set maximum daily and weekly hours for PAs;
- replacing the FI RFO with an Authorization Process; and
- not allowing LHCSAs or MLTCs to also provide FI services.

HCA adamantly opposed these proposals and called on the Legislature to reject them.

- ✓ ***The Senate & Assembly both rejected these Executive proposals in their entirety.***

- **Managed Long Term Care Proposals**

- **Rate cut to MLTC**

The Governor's Executive Budget proposed to eliminate the 1% across the board rate increase for MLTCs, estimated to provide \$400 million in savings to the state.

HCA adamantly opposed this proposal and called on the Legislature to reject it.

- ✓ ***The Senate & Assembly both rejected this Executive proposal in its entirety.***

- **Elimination of MLTC Quality Pool**

The Governor's Executive Budget proposed to eliminate the MLTC quality incentive funding, estimated to provide \$103 million in savings to the state.

HCA adamantly opposed this proposal and called on the Legislature to reject it, restoring the MLTC quality pool.

- ✓ ***The Senate & Assembly both rejected this Executive proposal in its entirety.***

- **MLTC Procurement Process**

In her Executive Budget, Governor Hochul proposed to implement an MLTC procurement process, aimed at reducing the number of MLTC plans across the state.

HCA adamantly opposed this proposal and called on the Legislature to reject it.

- ✓ ***The Senate & Assembly both rejected this Executive proposal in its entirety.***

- **NEW: Proposed Tax on Plans**

The Senate proposed to direct DOH to submit a federal waiver to impose a per member per month tax on all managed care companies, with higher rates imposed on Medicaid Managed Care plans compared to non-Medicaid plans.

This tax is expected to yield approximately \$4 billion in additional federal financial participation per year for three years.

These funds would appear to provide enough revenue to adopt a budget and sustain many if not all of the harmful health and Medicaid cuts proposed by the Governor.

- **NEW: Move Home Care from MLTC to MFFS**

While the Assembly rejected the Executive's proposed cuts to the CDPAP program, they did instead propose that home care services be moved out of MLTC and into a Managed Fee For Service (MFFS) model administered by the Department of Health. The Assembly and Senate have a standalone bill related to this subject but this bill itself, which HCA and others have urged be tabled, was not included in either one-house budget bill.

- ***Additional Unspecified Cuts***

The Governor's Executive Budget proposed to implement a series of unspecified cuts to long term care of roughly \$200 million, and an additional \$400 million from Medicaid outside of long-term care. HCA adamantly opposed this proposal and called on the Legislature to reject it.

- ✓ ***The Senate & Assembly both rejected this Executive proposal in its entirety.***

- ***Funds to Support CHHAs, Hospices, & LHCSAs***

Following chronic underfunding, no trend factor for over 15 years, federal cuts, and most recently the lack of financial support commensurate with rate increases provided to other health sectors in last year's State Budget, HCA called upon the Governor and both houses of the Legislature to add \$200 million to the State Budget proposal in support of home healthcare and hospice provider agencies. HCA requested that the Senate and Assembly include Assemblywoman Paulin's bill A.7568 in the Article VII bill, language provided by HCA and introduced by the Assemblywoman last spring, and for the \$200 million in annual funding.

- ✓ **Thus far, in response to this advocacy, the Senate has included a 3% rate increase to home care, and all Medicaid providers,** and increases of 6.5% for targeted sectors, including nursing homes, assisted living providers, and hospices, as well as a 7% increase for hospitals. It is unclear whether the 6.5% and 7% increases are inclusive of the 3%, or in addition. HCA will advocate strongly to have home health added to the list of provider types receiving the 6.5% increase, and to have these rate increases maintained in the final State Budget. **The Assembly included**



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the same across the board Medicaid rate increase, and additional increases for certain provider types; however, their proposal did not include hospice.

- × **Additionally, as a result of HCA's advocacy, the Assembly included \$30 million in funding to support CHHAs. Similar to the Senate's proposals, it is not currently clear whether the \$30 million is a state share amount that generates over \$60 million with the federal share, and is in addition to the 3% rate increase (which we believe it to be) or included in that figure. HCA will work to confirm as quickly as possible, and focus our advocacy based on our findings.**

HCA will advocate strongly to have the proposed rate increases and funds matched by both houses and maintained in the final State Budget. The Association will also work to clarify and shape the implementation mechanism for those funds.

Healthcare & Medicaid Components of Executive Budget

General Health & Medicaid Initiatives

Medicaid Global Cap

The Executive budget proposed to extend the Medicaid Global Spending Cap through March 31, 2026, allowing for continued growth at a rate of 10.9% or \$3 billion, bringing the total cap to \$31.2 billion.

The Assembly accepted this proposal, while the Senate rejected the Executive's proposed Medicaid Global Cap extension and eliminated the Global Cap.

Workforce

The budget proposals, summarized below, contain a series of initiatives to assist with health workforce needs. It is essential that the final language ensures that these initiatives include substantive support for home care and hospice workforce needs. HCA will advocate for home health and hospice in this next phase of budget development.



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Scope of Practice

The Executive Budget proposed to expand the scope of practice for physician assistants, certified medication aides, dentists and dental hygienists.

The Senate & Assembly rejected this Executive proposal.

Interstate Licensure Compacts

The Executive Budget once again proposed to enter New York into the Interstate Licensure Compact & Nurse Licensure Compact.

The Senate & Assembly rejected these Executive proposals.

A series of proposals was included in the budget bills addressing areas of need in the health workforce. These are summarized below. HCA will be working to try to ensure that home care and hospice are appropriately supported in each of them.

Nurses Across New York

The Executive Budget proposed level funding of \$3 million for the Nurses Across New York loan repayment program.

Both the Senate & Assembly retained this Executive proposal.

Financial Burden for Health Care Workers

The Executive proposed \$47 million for this program that will provide direct financial support for the education of healthcare professionals, provided they work in New York State for a specified period after obtaining their credentials. The plan will offer free tuition, cover instructional costs for high-demand health occupations, and provide stipends to make up for lost income while in school, including a \$15 million allocation for a healthcare workers scholarship.

It will also provide wraparound services such as childcare and transportation support to eliminate obstacles that make it difficult for New Yorkers to obtain training required for health care professions.

Both Senate & Assembly retained these Executive proposals.



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Caregiver Flexibility for Direct Care Workers

A third year of level funding (\$39M) has been included by **both the Senate and Assembly in their budget proposals** for Caregiver Flexibility for Direct Care Workers, an initiative that will facilitate the creation of a model for training “universal” long-term care workers who can move across caregiving roles, ensuring that long-term care providers experiencing workforce shortages can identify and deploy trained workers in a timely and efficient manner.

Both Senate & Assembly retained these Executive proposals.

Maternal and Infant Health

Doula Services

The Senate accepts the issuance of a non-patient specific standing order for doula services which would allow all pregnant, birthing, and post-partum people to access doula services without a recommendation from their healthcare provider.

The Assembly rejected this Executive proposal.

Reproductive Health

The Senate modifies the maternal health proposal to preserve the intent of the Reproductive Health Act by codifying the right of minors to obtain contraception and all forms of reproductive health care while pregnant.

The Assembly rejected this Executive proposal.

Paid Family Leave

The Executive Budget amends the Paid Family Leave (PFL) program to permit up to 40 hours of leave for eligible employees to attend prenatal appointments, without impacting the twelve weeks of PFL. Such leave for prenatal visits could be taken, and must be paid for, in hourly installments. This section would be effective on January 1, 2025.



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The Executive Budget's amendments to the Paid Family Leave (PFL) program were modified by the Senate to provide 40 hours of paid family leave for employees to use on prenatal health to change the leave provided from paid family leave to personal leave. The Senate supports the goal of this proposal but is concerned about the impact it could have on the recognition of fetal personhood.

The Assembly modified the Executive proposal to instead explicitly include leave for prenatal care within employer-provided paid sick leave.

General Public Health

Emergency Medical Services (EMS) Restructuring

Governor Hochul's Executive Budget proposed to create a statewide comprehensive and standard system for EMS response.

The Senate replaced this proposal with language (S4020-C) which declares general ambulance services essential, and that they must be available to all New Yorkers, and every municipality must ensure they are provided. It also requires additional enhanced EMS training and credentialing.

The Assembly rejected the Executive proposal.

Public Health Investment

The Governor's Budget proposed to eliminate several public health-related programs, including the "EQUAL program" for adult care facilities, the Tick-Borne Disease Institute, the empire clinical research investigation program, and more.

The Assembly rejected this Executive proposal and provided \$13 million to restore various public health programs. The Assembly also provided \$22 million to restore funding for the Hunger Prevention and Nutrition Assistance Program (HPNAP), & \$25 million for Nourish NY.



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The Senate rejected this Executive proposal and added \$20.5 million for Public Health Legislative Grants and \$14.4 million to support the restoration of Public Health Programs eliminated by the Executive, as well as \$1.2 million for the Nurse Family Partnership. The Senate also added \$65 million for the Hunger Prevention and Nutrition Assistance Program (HPNAP) and Nourish NY, providing a total of \$150 million.

Aging

Interagency Elder Justice Coordinating Council

Governor Hochul has proposed creation of an Interagency Council of Elder Justice, chaired by SOFA, to create collaboration among relevant State agencies and to develop overarching strategies, systems and programs to protect older adults from abuse and mistreatment. The Council would submit a report on its activities to the Governor and the Legislature by December 31, 2025, and annually thereafter.

The Assembly rejected this proposal.

The Senate modifies this proposal to create an interagency elder justice coordinating council by replacing it with a task force that expands stakeholder participation and requires new legislative representation.

Medicaid Reinvestment and Rate Increases

The Assembly adds a proposal (per the "Summary of the Assembly Recommended Changes to the Executive Budget") to reinvest \$3.1 billion from the Medicaid Investment Fund including \$28.5 million to alleviate SOFA waitlists.

Primary Care

Health Homes

The executive budget proposes \$196 million in funding for the health homes program. In addition, cuts \$125 million in SFY 25-26. The Assembly and Senate both reject this proposal.



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Accountable Care Organizations (“ACOs”) Extender

The executive budget extends the Commissioner of Health’s authority to certify ACOs through December 31, 2028. The Assembly and Senate accept this proposal.

Federally Qualified Health Center (“FQHC”) Rate Adequacy

The Senate adds a proposal to update the rates paid to FQHCs beginning October 1, 2025. In setting rates, the Commissioner must consider: (1) the costs in the prior five-year reporting period; (2) the scope, type, intensity, duration and amount of services provided by the facility; (3) staffing needs; and (4) physical plant and maintenance costs, infrastructure, technology costs associated with telehealth service delivery, informational technology costs and other costs deemed necessary by the Commissioner. Rates would be adjusted annually thereafter in accordance with the FQHC market-based inflator calculated pursuant to the federal Social Security Act and considering any increase or decrease in services provided by the facility.

OPWDD Care Demonstration Program

The Assembly and Senate adds a proposal to extend until March 31, 2026, the requirement for OPWDD to provide notice to the Legislature of a closure or transfer of a state-operated individualized residential alternative (A.9061/S.8183).

Advocacy Next Steps

With the release of these one-house budget proposals, we have turned a corner into the next phase of the State Budget process where the Senate and Assembly convene budget conference committees that will attempt to achieve consensus in as much of the budget as possible. Following this phase, both houses and the Governor will work full-on to finalize and adopt a new budget by April 1.

The Legislature has indicated through their proposed budgets that our advocacy has been working, but in order to ensure these proposals stay in the final enacted State Budget, we cannot relent.



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We need every HCA member to continue to weigh in on how critical the maintenance of these positions is for the sustainability of this industry and the delivery of home healthcare to patients across New York State. This means steady calls from every HCA member and member staff to your Senator and Assemblymember (beginning with your acknowledgement of their support and your thanks for supporting home care, hospice, MLTC, and CDPAP in their budget bills), letters and emails to them, and meetings in their local districts. In addition, HCA may be calling all members to Albany to rally at the Capitol.

Please stay tuned. In the coming days, HCA will be in touch with a multi-tiered plan for you to take action over the next several weeks. We need you!



Home Care
is healthcare.

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