NEW YORK
SAFETY NET
HOSPITAL
COALITION

TESTIMONY OF

New York Coalition of Essential/Safety Net Hospitals

On the Financial Condition of New York's Safety Net Hospitals

Submitted for the

Joint Legislative Budget Hearing on Health

Senate Finance Committee Chair Liz Krueger and Assembly Ways and Means Chair Helene E. Weinstein Presiding

January 23, 2024

Introduction

The Safety Net Hospital Coalition formed in 2021 in response to the urgent need for significant, structural payment reforms for community safety net hospitals in New York. As the financial condition of New York's safety net hospitals continues to deteriorate, the Coalition has expanded from nine (9) members to 19 members, all of which **predominantly care for low-income communities, with at least 36 percent of inpatient and outpatient patients served being covered by Medicaid or uninsured.** Few of our patients are commercially insured, representing less than 20 percent of the patient mix. A vast majority of the Coalition members have the payer mix that is over 50% Medicaid and less than 15% commercial. We serve historically marginalized neighborhoods which are home to more than 4.7 million New Yorkers where up to 76 percent of the residents are people of color, including Black and Latinx residents.

The Coalition's mission is to advocate for reforms to better support local communities and address long standing health disparities through advancing state and federal policy initiatives supporting sustainable reimbursement and access to capital for our institutions and communities. Through these efforts, the Coalition seeks to begin to address the failures of the current financing system and reverse decades disinvestment that have resulted in an inequitable health system of racially segregated haves and have nots, and promote investment in an equitable health care system in our communities and facilities. These investments are critical because our hospitals are more than just essential healthcare providers, we are also large economic drivers and employers in these communities, and closing our facilities and/or reducing service capacity would have devasting impacts to community well-being.

In reviewing the FY 25 Executive Budget, we find that the proposal does not provide adequate support for safety net hospitals that serve New York's marginalized and low-income communities. We strongly urge the Legislature to implement a more complete and long-term structural financing reform solution for essential safety net hospitals and the communities they serve that includes the "Health Equity Stabilization and Transformation Act", an investment of at least $1.4 billion in operating funding to support the needs of our coalition hospitals, as well as new capital funding beyond those levels appropriated in FY23 and FY24 to address critical infrastructure needs for Coalition member facilities.

Comment on the FY 25 Executive Budget

After careful review of the Executive Budget and recently approved 1115 Waiver, the Safety Net Coalition concludes that the proposed FY 25 budget is inadequate for safety net hospitals, which primarily serve diverse communities where patients are largely uninsured or rely on Medicaid. While the 1115 Waiver includes up to $2.2 billion over 3 years to support the transition of select private financially distressed hospitals to global budgets to focus on population health and health equity, improve quality of care, and stabilize safety net hospital finances, these funds are intended to support transformation activities, not provide operational funding to make up for insufficient Medicaid payment rates. New York's Medicaid program is one of the lowest reimbursing states in the nation and safety net hospitals are unable to cross-subsidize low Medicaid rates with commercial business, which

can provide reimbursement rates that are up to seven times higher than Medicaid.[1] Without sufficient support, the State will continue to perpetuate a financial crisis for our facilities.

Initially, it is important to address the common misperception that the challenge facing safety net hospitals is one of management. Safety net hospitals are not mismanaged, as evidenced by the fact that the administrative expenses and staffing ratios of Coalition hospitals are comparable or lower than those of larger health systems. Secondly, it is important to take head on the notion that some of our hospitals have somehow "left hanging" the state of New York with the state awaiting repayment of a "$1.5 billion one-time bridge loan." To be clear, monies advanced to some private financially distressed hospitals across the state to fund operations, payroll, and to avoid reduction of services were made at the suggestion of the state of New York. These funds were needed to avoid disruption of services in communities because New York's FY24 Budget was wholly inadequate to support statewide need for hospitals. These advances, to cover gaps in operating budgets known to the state, are being paid back, when possible, on agreed upon payment terms that seek to avoid disruption in access to vital services for vulnerable communities. The need to make these advances were the direct result of a failure to ensure adequate funding in last year's budget and a long-standing systemic failure to ensure adequate reimbursement for services provided to marginalized communities in our state. As a matter of health equity, it is vital that that this failure is not made again in the FY25 budget.

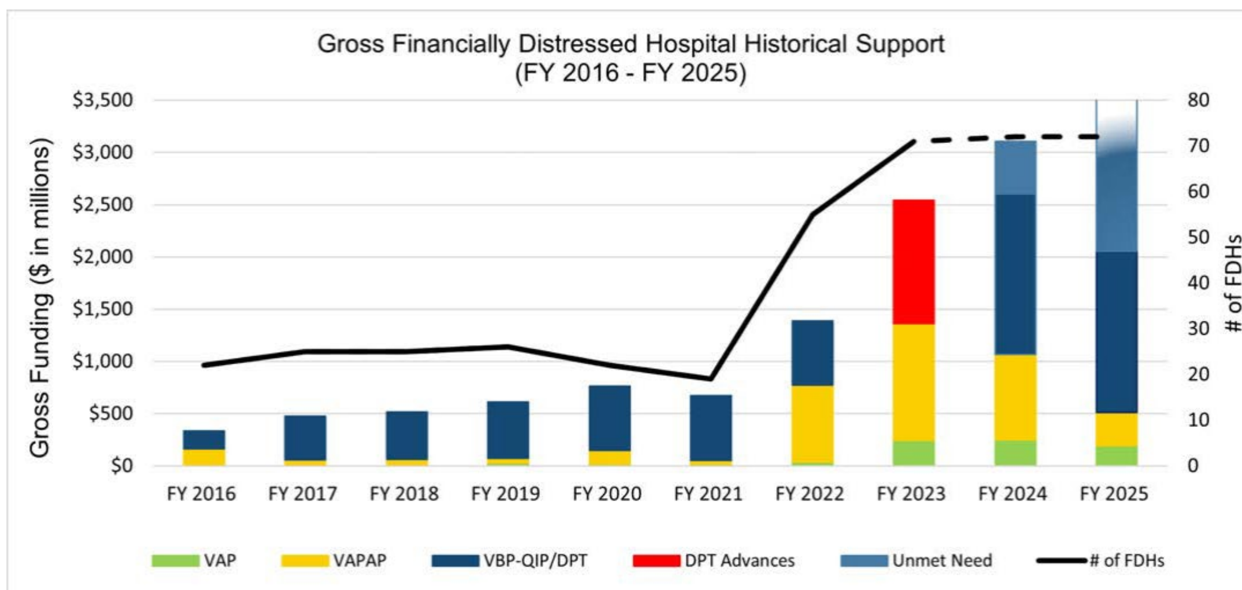
Notwithstanding the shortcomings of the FY24 budget, this year, the Governor's budget proposes to reduce private safety net hospital funding by at least $500 million dollars compared to last year's funding levels, despite acknowledging that there is a projected statewide unmet need of $1.5B for financially distressed hospitals in FY 25. The proposal fails to build on efforts in recent years to create permanent structural rate reform and decreases the amount of funding made available to our safety net hospitals. This continues to be unacceptable.

In fact, a comprehensive assessment of the financial needs of private Coalition hospitals using projected FY 25 budgets indicates that the need is $1.4B. While this analysis does not account for safety net facilities outside of the Coalition, it does reinforce that the State's $1.5B estimate of the financial gap for all safety net facilities is underestimated significantly. As a result of the State's underestimate, the Executive Budget does not provide for adequate funding for the Coalition hospitals, or any of the remaining 66 hospitals located across the state that are experiencing financial distress. The Governor's proposed budget includes flat Directed Payment Template (DPT) funding for the private hospitals that receive it and significantly less funding for financially distressed hospitals.

The FY 25 Executive Budget Briefing Book states that "Currently, 75 of 261, or 29 percent, of New York's hospitals, are financially distressed, and overall distressed hospital spending has increased by over 400 percent since FY 2017. While the 1115 Waiver will help support some of these facilities, this need has continued to grow at unsustainable levels." Further, the Executive Budget acknowledges that there is unmet need of between $1.0 and $1.5B for financially distressed hospitals. Specifically, the chart below indicates that the number of financially distressed hospitals has increased substantially and remains at elevated levels, yet the budget proposes to significantly

[1] Based on a Coalition analysis of Medicaid and commercial rate data made available by FAIR Health.

cut funding by at least $500 million over last year's funding levels. The chart also reflects that last year the State provided advances on DPT payments for some private safety net hospitals to cover operational expenses that are not covered by low Medicaid reimbursement rates. The receiving safety net hospitals must now repay these advances to the State, even though they remain chronically underfunded and struggle to support operational expenses. Without additional funding in the FY 25 budget, the financial viability of safety net hospitals and many other financially distressed hospitals will continue to be threatened and they will be unable to invest in services that are sorely needed by communities.



Source: Executive Budget Briefing Book, p. 72.

Our Request for the FY 25 Budget

It is critical that the investments directed to the safety net hospitals in the FY 24 Budget lead to their stability, rather than an extension of providing temporary support that has failed to address the structural failures of the current reimbursement system. **To this end, the Safety Net Hospital Coalition continues to urge the Legislature to implement a more complete and long-term structural financing reform solution for essential safety net hospitals and the communities they serve. Specifically, we request your support to include the "Health Equity Stabilization and Transformation Act" in the FY 25 Budget, an investment of at least $1.4 billion in operating funding to support the needs of our Coalition hospitals (including public hospitals), as well as new capital funding beyond those levels appropriated in FY23 and FY24 to address critical infrastructure needs for Coalition member facilities.. The proposed Act also builds on similar DPT programs in other states that CMS has approved, which provide much higher DPT payment rates to safety net hospitals and better leverage Federal funding.**

The Coalition urges the Legislature to advocate for a support structure that is reliable and provides an appropriate operating margin to allow these hospitals to meet the needs of the communities that they serve every day. This fundamental transformation is vital for community safety net hospitals to stabilize and build a sustainable future. Without adequate funding, the

Coalition hospitals are unable to reliably plan, prevent service reductions and closures, and invest in their services, programs, and transformation.

In the absence of sufficient funding to achieve such goal, **it is critical for the State to maximize investments already committed to the DPT program**. Other states have developed creative, tiered funding streams to support safety net hospitals that have resulted in much higher Medicaid payment levels to such hospitals while maximizing the level of Federal contribution to support those higher payment levels. Concepts developed by the Coalition, based on lessons from other states, include implementing a layered payment approach, which align reimbursement with state priorities and safety net hospital needs. This could include: (1) broad outpatient rate increases for all safety net hospitals to support transformation of care delivery models to outpatient setting; and (2) targeted rate increases for specific service lines and/ or geographies based on specific community needs.

Healthcare Safety Net Transformation Program

The Coalition supports the proposal to create a **Healthcare Safety Net Transformation Program** that would allow the Budget Director to give funding directly to the Commissioner to more efficiently award capital funding to safety net hospitals to support five-year transformation plans, with up to $500 million available through the repurposing of Statewide Health Care Transformation Program IV and V Funds. As safety net providers who operate without any profit margin, many private Coalition members are unable to demonstrate creditworthiness and access capital from financial markets for necessary capital expenditures. Facing aging physical plans, with deteriorating infrastructure and inadequate facilities, our members rely on State capital support as the only source of funding available to undertake critical infrastructure projects.

The Coalition greatly appreciates the actions taken by the Executive and Legislature to provide almost $2 billion in capital funding for healthcare providers in FY23 and FY24. The Coalition further supports efforts by the Department of Health in administering currently available capital funding opportunities to better target the capital funds to providers in severe financial distress that can demonstrate how the proposed use of funding will strengthen their financial sustainability and protect continued access to critical health services in their community or communities.

While the Statewide Transformation Program has provided capital funding to some safety net providers to undertake critical infrastructure projects, there continues to be a significant delay from when the capital funding is allocated and when awards under the program are announced, with an additional further delay in the capital funds being made available to providers. As a result, private Coalition hospitals have more than $3B in outstanding capital investment needs, including deferred maintenance and infrastructure projects, an amount that continues to exceed the capital funding that is available and that will only continue to increase.

The Coalition supports the creation of Healthcare Safety Net Transformation Program, and the opportunity it creates to align capital funding with capital projects that will improve the financial sustainability of safety net hospitals. However, the collective capital investment needs of the Coalition hospitals greatly exceeds the amount of funding allocated to this program. The Coalition

urges the Legislature to consider a dedicated sources of capital funding for safety net hospitals that provides regular access, rather than one time funding, to critical capital funding.

Increase Financially Distressed Provider Funding

In the absence of permanent structural rate reform, it is essential that sufficient funding be available to financially distressed hospitals and providers. The failure to provide necessary levels of funding and enter a new fiscal year with a known unmet need of over $1 billion across the state, dangerously sets the State down a path where the potential for closures and/or reductions of service are likely occur.

The Coalition urges the Legislature to, as they have in the past, ensure that sufficient funding for financially distressed hospitals is available in FY25 to avoid drastic impacts on hospitals and the communities that they serve.

Medicaid Rate Increases

The Coalition fully supports efforts to increase Medicaid rates for all providers. The Coalition is disappointed that the Executive Budget not only fails to include across-the-board Medicaid rate increases for hospitals, but also leaves open the potential for reductions to Medicaid rates by including up to $200 million in unallocated Medicaid spending reductions, directing health care industry stakeholders to identify at least $200 million in savings outside of community-based long-term care services.

The Coalition urges the Legislature to end the drastic underfunding of care for Medicaid recipients, and support the continued investment in Medicaid providers through increased Medicaid rates. However, the Medicaid rate increases alone are not sufficient to close the Medicaid reimbursement gap for safety net hospitals, and the Coalition urges that the Legislature support a reimbursement structure that is reliable and provides an appropriate operating margin to appropriately reimburse safety net hospitals for safety net hospitals and the marginalized New Yorkers we serve.

Hospital Capital Rate Add-On Cut

The Coalition opposes the proposal to cut the hospital inpatient capital rate add-on by an additional 10% (for a total of 20%) for rates effective on and after October 1, 2024. This proposal would generate a projected savings of $42M over a full fiscal year across all hospitals, but will have a more significant impact on safety net hospitals.

A reduction to the capital rate add on negatively impacts existing Medicaid rates in an environment where safety net hospitals are already compensated by Medicaid below cost. The capital add-on component generally makes up between 2-10% of the overall pre-DPT Medicaid rate for safety net hospitals. The capital add-on is based on the hospitals' annual capital budget, which for the safety net hospitals already reflects only select critical investments given the lack of funds. Capital expenditures as a % of operating expenses at safety nets is 5.5%, approximately two percentage points lower than at larger systems (7.4%), signaling underinvestment on an annual basis on top

of already outdated infrastructure. This proposal will only exacerbate the aging physical plants, with deteriorating infrastructure and inadequate facilities, of our safety net hospitals, and make undertaking critical infrastructure projects (e.g., HVAC, equipment, elevators) to provide equitable quality care and patient experience more difficult.

The Coalition urges the Legislature to reject this proposal.

FY 25 Budget is Critical to Address Structural Needs of Safety Net Hospitals

The COVID-19 pandemic and recent inflationary pressures have laid bare significant inequalities that persist across communities of color and low-income neighborhoods and exacerbated the financial challenges faced by safety net hospitals, which are an extension of decades of redlining and historical community disinvestment. For example, in New York City where many safety net hospitals operate, neighborhoods that have a safety net hospital have experienced significantly higher rates of COVID both hospitalizations and deaths. In these neighborhoods:

- The proportion of Black residents is more than nine times higher compared to wealthier neighborhoods (these neighbors also include Latinx and other communities of color),
- Poverty rates are more than three times higher, with approximately 23 percent of residents living below the poverty line; and,
- Rates of uninsurance and poor health outcomes (e.g., obesity) are significantly higher.

The underlying problem faced by safety net institutions is readily apparent. As cogently summarized in a Washington Post op-ed piece by David Asch and Rachel Werner at the University of Pennsylvania:

> *"Poor neighborhoods have proportionately more people who are uninsured or insured by Medicaid, which has payment rates that are often too low to cover the costs of care. People tend to seek health care near home. As a result, hospitals that are located in poorer neighborhoods have less to work with, and often lack the resources needed to provide optimal health care. In effect, doctors and hospitals in the United States are paid less to take care of Black patients than they are paid to take care of White patients. When we talk about structural racism in health care, this is part of what we mean. But more is needed. Medicaid, upon which a lot of the ACA is built, underpays hospitals compared with Medicare and commercial insurance. Hospitals that see a disproportionate number of Black patients also rely heavily on Medicaid, leaving them strapped for cash with little to invest in quality, patient care and social needs."*[2]

As a result of these crises and the structural failures of the current financing system, many Coalition members must rely on significant State support to simply remain open to care for their communities, and to keep their healthcare staff employed. It has become clear, however, that these State supports have been a band aid and have not provided adequate investment to address the structure failures in the current system, stabilize these hospitals, and enable them to transform. As a result, essential safety net hospitals are chronically underfunded, often struggle to

[2] https://www.washingtonpost.com/opinions/2021/06/18/segregated-hospitals-are-killing-black-people-data-pandemic-proves-it/

make payroll and are unable to invest in vital infrastructure and new services to better serve their communities. Many facilities are routinely forced to balance the prospects of either reducing services to their communities or closing their doors entirely, either of which would exacerbate disparities and further reduce the availability of quality of care in the very communities where access to care is already strained. The imperative for investment in our hospitals is critical not only for the delivery of healthcare services in communities of color and low-income neighborhoods, but also to the role of these hospitals as anchor institutions that fuel our communities and support economic development.

The problem with our current reimbursement system is structural and has resulted in a two-tier health care system that disinvests in low-income neighborhoods and communities of color. This structural problem requires a bold solution that moves beyond incremental near-term fixes that have failed resolve the root causes. Providing the resources and support for our Coalition members is critical to all for equitable care to be provided to all New Yorker's, including the most underserved, and to begin to reverse the current racial and social inequality in the distribution and availability of health care services in the communities served by these hospitals. Many of New York's most vulnerable residents rely on safety net hospitals for their healthcare, and it is now critical that the State's healthcare resources be directed to the community safety net hospitals that serve low-income, immigrants, communities of color, other historically marginalized people.

We urge the Legislature and Executive to use the FY25 budget process to establish a more complete and long-term structural financing reform solution for safety net hospitals and the communities they serve. We understand the profundity of our roles as healthcare providers for our collective patients, and need the Legislature and Executive to fully support high quality and compassionate healthcare delivery in our deserved communities.