

STATE WIDE

New York StateWide Senior Action Council, Inc.
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STATE BUDGET ISSUES IMPACTING OLDER NEW YORKER AND THEIR FAMILIES State Fiscal Year (SFY) 2014-2015 - April 1, 2014 – March 31, 2015 *As proposed by Governor Cuomo (as of January 31, 2014)*

BUDGET PROPOSALS

STATEWIDE'S PROGRAMS:

Patients Rights Helpline: Calls related to health system changes, rights of dual eligibles (Medicare and Medicaid joint enrollees), the increased demographic of older New Yorkers and the growth in observation status in hospitals has created a heightened need for assistance. StateWide's Patient Rights Helpline originally state funding was \$180,000 annually. Funding was reduced during economic crises and ultimately resulted in \$31,500 annually. While the program is in the SFY14-15 budget for \$31,500, additional funding is essential to provide thorough, personalized assistance to the increasing amount of callers and to provide more community education throughout the state.

Recommendation: Increase StateWide's Patient Rights Helpline funding to a total of \$100,000 annually. (Assembly Bill 8553, Senate Bill 6353)

Managed Care Community Assistance Program (MCCAP): StateWide's ability to sustain its counseling services is threatened due to changes in state budget language. StateWide receives \$ 354,000 each year, representing a significant amount of our budget. This funding enables StateWide's Counselors to assist older New Yorkers in: choosing the Medicare coverage that best meets their needs; with billing problems; with enrollment and benefit information on other initiatives including the Elderly Pharmaceutical Insurance Coverage program (EPIC); and provides updates to the community on coverage issues.

Each year, StateWide is designated as a provider of these services in the budget bill, along with 6 other agencies that receive various levels of funding. Together, the funding for the 7 groups is \$1,767,000.

This year, the budget language keeps the total funding the same, but does not identify the programs providing services. According to the Senate's analysis, the Governor's budget *"proposed eliminating the discrete funding for each organization and provides funding to be allocated up to three MCCAP providers. There are no State savings associated with this proposal, however this proposal does not guarantee that each program would be funded."*

***Recommendation:* Ensure StateWide's counseling services continue to be funded by the state and prevent any gap in services when the current contract expires by using the SFY2013-14 budget language in the Office for Aging budget (SFY2014-15 Aid to Localities - Assembly Bill 8553, Senate Bill 6353) by specifically including the names of the 7 MCCAP providers.**

BUDGET PROPOSALS

THE ISSUES LISTED DO NOT REFLECT ALL SERVICES, THOSE LISTED BELOW REFLECT WHERE THERE HAS BEEN A CHANGE MADE FROM THE CURRENT FISCAL YEAR OR WHERE A CHANGE IS NEEDED

The NYS Office for the Aging (NYSOFA)

NYSOFA does not have any significant proposed services cuts and in fact has been granted an expansion of 5 staff positions. (It is unknown at this time what functions those jobs will have.)

While we are grateful that there are no service reductions, there is an escalating need for services due to the increasing numbers of older New Yorkers and the public policy push to encourage people to receive services in the community rather than in residential institutions. This is particularly true for EISEP (Expanded In-Home Services for the Elderly), CSE (Community Services for the Elderly) and Wellness in Nutrition (formerly called Supplemental Nutrition Assistance Program) where there may be local waiting lists. There are real dollar savings by investing in the aging services that prevent institutionalization and therefore prevent spend down into state and county supported Medicaid. Once again this year, the state has deferred to the future the promise of a cost of living adjustment for the labor components of these programs. With cost constraints due to the tax cap at the local level where Aging services are optional, local dollar investments in aging services are stagnating or facing reductions.

***Recommendation:* Increase appropriations to reduce waiting lists in vital services such as EISEP, CSE and Wellness and Nutrition programs where the value invested is significantly less than the cost of a nursing home stay.**

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The NYS Department of Health & Medicaid

Medicaid. It is important to note that individuals aged 65 and older and those with disabilities comprise 25% of the Medicaid population, but account for 66% of total expenditures. This is a factor directly related to expensive long term care needs and the failure of Medicare to cover such services. As a result, municipal budgets across the state are strained due to significant cost sharing of the Medicaid bill for local residents. In order to address the burgeoning weight of Medicaid costs on the local real property tax base, the state has taken steps to reduce the local share of Medicaid costs. The budget includes the second year of a three year phase-out of growth in local Medicaid expenditures. Along with the three percent local cap and the State's assumptions of the local share of Family Health Plus (FHP), counties will see a total savings of \$2.07 billion in SFY 2014-15.

Spousal Impoverishment – There has been a long standing public policy to protect spouses from becoming impoverished by spending down assets in order for a spouse who needs medical care to receive Medicaid benefits. In fact, this is a provision of the Affordable Care Act, which requires all home-and-community based waivers to include spousal impoverishment protections. State budget proposals have often attempted to minimize the protection that allows a spouse (or parent of a minor) to refuse to contribute income and assets towards the cost of health care; usually these attempts have been rebuffed by the Legislature. The Governor's budget proposal does continue the spousal refusal option, but only for those households where the person needing care is enrolled in Medicaid Managed Long Term Care (MMLTC). While this covers most long term care in nursing homes and the community with a threshold of services greater than 120 days, the Governor's budget eliminates the right of spousal refusal for all others. The benefit of spousal refusal will be denied to those families who are not enrolled in MMLTC and do not co-habit the same premises. Under the proposal, only if a spouse lives apart from or divorces an ill spouse will the refusal be honored and Medicaid granted.

Recommendation: Oppose repeal of the right for spousal/parental refusal.

Drug coverage – the proposed budget makes several changes that would limit early refills of prescriptions and limit off label use by requiring prior authorization. Additionally, the proposal would change the current standard where a physician could demand that a prescription for a certain drug be dispensed as written for brand name drugs, so that the prescriber's authority would not necessarily prevail.

Recommendation: Oppose elimination of the provider prevails standard.

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New Public Insurance Program

The Governor has proposed a new option available through the Affordable Care Act, known as the BASIC Health Program (BHP). This is a new, comprehensive public insurance program for adults between 133-200% of the Federal Poverty Level (FPL). Eligible enrollees have income above Medicaid, but may be too poor to afford the premiums in the Exchange. As an example, this program would be available for those with incomes from \$25,795 to \$39,060 per year for a family of three. New York State also provides Medicaid by using exclusively state funds for legally present immigrants – through the new BHP, NYS would have federal dollars to cover these state costs. The BHP would take effect January 1, 2015, and would reduce State Share Medicaid expenditures by \$300 million in SFY 2015-16.

***Recommendation:* Support the creation of the BASIC Health Program as a new public insurance option.**

Health Insurance Consumer rights to expand.

Surprise out-of-network billing. Frequently, patients are receiving “surprise” bills when they thought they were using a provider within their health insurance plan’s network, only to find out after the fact that they owed a bill for an out of network provider. Examples of this include an in-network hospital that uses out of network anesthesiology and emergency room personnel. The Governor’s budget addresses this problem by placing responsibility for resolving out-of-network medical billing disputes insurance companies and medical providers, rather than on consumers. There are additional new standards to require insurers to meet network adequacy standards for additional types of plans. The legislation would ease problems for consumers by requiring insurers to disclose key information about out-of-network coverage, so that consumers can understand: (1) which providers are in-network and which are out-of-network; (2) how much out-of-network providers expect to charge for a variety of services; and (3) how much the insurer expects to reimburse for out-of-network services. There would also be a procedure to resolve out-of-network billing disputes.

***Recommendation:* Support new health insurance consumer protections to eliminate surprise medical billing.**

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Medicaid Managed Care Ombudsman. A proposal that was developed for last year's state budget, but not yet implemented, would create an ombudsman for people with Medicaid coverage who are mandated to enroll in Medicaid Managed Long Term Care. These are adults who need more than 120 days of long term care services, whether at home or in an institutional setting. A future phase-in of the ombudsman would provide assistance for those dual eligibles (enrolled in both Medicare and Medicaid) who live in counties (NYC, Nassau, Suffolk or Westchester) where there is a mandate to join a fully integrated duals advantage (FIDA) managed care program. Funding in the proposed budget for funding to launch the ombudsman initiative is vitally important to ensure that enrollees understand their rights.

***Recommendation:* Support funding for the Medicaid Managed Care Ombudsman and re-appropriate SFY2013-14 funding that has not been allocated due to delay in releasing the grant application.**

Health Facility Funding

There are several areas where the state budget identifies funding for facilities to adapt to changes in the health care delivery system. The majority of funding the State has requested through the federal Medicaid waiver system (\$10b over five years) will be directed to hospitals under the goals of reducing unnecessary hospitalizations, promoting alternative care models, increasing access to primary care and promoting health workforce development.

In addition, the Governor is proposing that hospitals that need an infusion of funds for capital costs related to building or retrofitting a facility would have the opportunity to seek private investors. In NYS, there is state law prohibiting the ownership of hospitals by publicly traded corporations – that means there is a prohibition on profit interests in hospitals. A demonstration of hedge fund and other type of private investors in hospital construction projects blurs the definition of non-profit hospitals.

***Recommendation:* Oppose private investment in hospitals.**

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Health Planning

For many years, there were Health Systems Agencies (HSA) in NYS that provided a local view of how health services should be delivered in a region. Currently, the Finger Lakes Health Systems Agency in the Greater Rochester region is the sole remaining HSA. The Governor has proposed the establishment of Regional Health Improvement Collaboratives (RHICs) to provide a local base for recommendations on health system development.

Recommendation: Support establishment of regional health planning and mandate that community-based organizations that are not medical providers, such as aging and disability services providers are appointed to ensure discussions of a full range of services.

Financial Assistance

HEAP – The Governor’s budget proposal reduces the Home Energy Assistance Program by \$100 million. The justification for this reduction is based on review of the amount of grants that have been distributed. There is a great need for HEAP funding, now heightened by weather extremes and high energy demands. Many New Yorkers have unmet heating and cooling needs. There should be an examination of the reasons that resulted in undistributed funds, and correction of the problems related to program management and eligibility criteria.

Recommendation: Restore funding to HEAP to SFY2013-14 appropriations, improve program administration to reduce barriers to distribution of funds, and ensure that a dedicated portion of funding is earmarked for senior services.

SSI – The Governor’s budget proposal authorizes a federal cost of living adjustment for SSI recipients that provides for an increase of \$2 to \$22 starting in 2015.

Recommendation: Enact the pass-thru of the federal COLA and increase the state supplement by 20% to address income inequality.

Housing – The Governor’s budget proposal includes several housing initiatives, including new construction and funding to address homelessness and to create affordable housing.

Recommendation: Support efforts to provide affordable and safe housing for older New Yorkers.

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Disaster Preparedness

The Governor proposes initiatives to improve the State's disaster response capabilities, including: \$15 million to establish a new weather detection system and \$100,000 to improve first responder training. There is also an initiative to train 100,000 citizens by March 31, 2015 to respond to emergencies. The proposal requires retail gasoline outlets located within a half mile of major interstates in upstate New York to have emergency back-up power capacity. Federal Sandy recovery funds and other available resources for the costs of pre-wiring transfer switches and generators are authorized. This proposal is an expansion of requirements for downstate gas stations that were enacted in 2013. The Governor also proposed \$2.2 million to support nine regional stockpiles of emergency supplies and equipment.

***Recommendation:* Include in disaster preparedness efforts the development of a registry of seniors and persons with disabilities who may need assistance in an emergency; an improved infrastructure that supports provision of electricity, food, heat, water and communications; safe and effective evacuation planning; sufficient safe and accessible shelters, ability to get emergency prescription refills and replacement durable medical equipment; and sufficient numbers of rescue and health personnel to meet emergency needs.**

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Tax Relief and Property Tax Changes

There is a connection between state revenue from taxes that is necessary to fund needed services. The Governor's budget keeps most agency spending at last year's levels in order to afford a large corporate and real property tax break for New Yorkers. Further adding stress to the tension between taxes and spending, the Governor's Real Property Tax proposals tie many of the benefits to keeping local taxing jurisdictions (property and school taxes) within a spending tax cap. Localities may feel compelled to reduce funding for services, including aging services, to stay within the spending cap.

Personal Income Tax - The Governor's proposal would raise the personal income tax filing income threshold from \$4,000 to the amount of the taxpayer's standard deduction. This would be in line with federal requirements. Currently a NYS resident may be exempt from federal tax filing, but be expected to file NYS income tax.

Recommendation: Support tax simplification efforts while ensuring that seniors are aware when there may be benefit eligibility that requires the filing of taxes.

STAR relief – The proposed budget includes a change in the school tax STAR to eliminate the inflation rate that adjusts the upper income limit qualifications for the Enhanced (Senior) STAR exemption. This proposal will maintain the threshold at the 2014-15 level of \$81,900, by eliminating the COLA in the future.

Recommendation: Oppose elimination of the cost of living adjustment to the upper income limit qualifications.

Temporary Utility Assessment (18-a): The Governor proposes to reduce the Temporary State Energy and Utility Service Conservation Assessment over the next three years by eliminating the assessment on industrial utility customers and by accelerating the phase out of the assessment for all residential customers.

Recommendation: Eliminate the surcharge on residential customers who are seniors and persons with disabilities who live on fixed incomes as a priority over expediting the elimination of the tax on industrial utility customers.

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Estate tax relief – The budget proposal would eliminate the estate tax for 90% of filers. Phased in by January 2019, the state estate tax would be the same as the federal exemption of estates valued at \$5.25 million. Currently the state exemption is \$1m.

Recommendation: Oppose eliminating the tax on estates over \$1 million.

Real property tax credit – The proposed budget would assist homeowners in the state (but not in New York City) with a tax credit in the form of a check mailed to households in the Fall, reflecting a freeze in property taxes. The freeze will be in effect for two years, with the state providing an income tax credit equal to the increase in local taxes for those homeowners with income under \$500,000. This only applies to residents of localities that keep spending below the tax cap. In the second year, the benefit is available only if the local government develops a plan to share services or consolidate operations in addition to spending less than the cap. The maximum credit available will be \$1,000.

Recommendation: Oppose the real property tax credit for household incomes over \$250,000 and its requirement that only residents of jurisdictions that adhere to the property tax cap would qualify. Localities know best if services, some of which like aging services are not mandatory, are community priorities; tying the promise of needed property tax relief to the threat of reduced services is unconscionable. Furthermore, relief of property taxes is better provided through a circuit breaker model, based on reducing the percent of income that is devoted to payment of property-based taxes.

Circuit breaker real property tax relief - Once the proposed real property tax credit is phased out after two years, there is a proposed refundable tax credit for households statewide with incomes up to \$200,000. The income tax credit would kick in when property taxes exceed between 3-5% of income, depending on income level. The average credit would be \$500.

Recommendation: Support a new circuit break real property tax relief program immediately for households with income up to \$250,000, however the benefits should be decoupled from the proposed requirement that only residents of a jurisdiction that adheres to property tax caps would qualify.

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Renters tax relief – Once the proposed real property tax credit is phased out, a budget proposal will assist renters throughout the state, with household incomes under \$100,000. This refundable renter’s tax credit is proposed for married taxpayers who are filing jointly and have related dependents, heads of household or married seniors filing jointly. Single seniors with no dependents and with incomes up to \$50,000 would also qualify. As an example, the average benefit for a single, senior renter would range from \$140 to \$220.

Recommendation: Support and start immediately.

Campaign Finance Reform and Public Campaign Financing:

Included in the Governor’s budget is a proposal to create a voluntary public campaign finance system for all state legislative and statewide offices where contributions are matched, and reduces the annual limit on allowable contributions. The Executive proposal also limits the use of contributions to expenses that are directly related to elections or public duties and mandates broader disclosure of donors to independent organizations. An income tax check off is proposed to enable resident taxpayers to make a donation to a new Campaign Finance Fund.

Recommendation: Support campaign finance reforms and institute public campaign financing.