Joint Fiscal Committees of the Legislature

Mental Hygiene Budget Hearing

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Thank you, Chairpersons Krueger and Weinstein, Chairs Brouk and Gunther, Harckham and Steck, Mannion and Abinanti and other members of the Legislature. I am Andrea Smyth, the Executive Director of the NYS Coalition for Children's Behavioral Health.

The "Children's" Coalition is the leading advocacy voice for community-based, non-profit, children's mental health providers and the families they serve. We thank you for this opportunity to testify about our budget priorities for the 21-22 State Fiscal Year. We will focus on the disparity between proposed investments in adult services versus child and family services, the need for a focused COVID response to reduce the long term impact the pandemic will have on children and families, the need for socially just, economically just and racially just investments in child mental health as it related to family stress, food insecurity, housing insecurity, income insecurity and educational insecurity.

Let's Address the Impact COVID has had on Children & Families

Even before the pandemic, too many families find it impossible to get the mental health and addiction disorder services their children desperately need. In 2020, suicide was the second leading cause of death for children age 15-19, and the third leading cause of death for children ages 5-14. Over half of children in New York diagnosed with a mental/behavioral health condition do not receive the treatment they need.

And before the pandemic we knew that under-resourced children's behavioral health system results in suffering children becoming sick adults. The latest Center for Disease Control study finds that preventing and treating childhood adverse experiences could potentially prevent 1.9 million cases of coronary heart disease, 2.5 million cases of obesity, 21 million cases of depression, and keep 1.5 million students in school. Concrete steps can be taken to help children heal. It is science: untreated mental health issues in childhood become costlier adult health and mental health.

The pandemic revealed that the current system is unable to properly identify youth with mental health needs OR provide services and supports once the lucky few are identified. The pandemic, the opioid epidemic, the historic criminalization of marihuana and the suicide epidemic require targeted responses and our undivided attention. Please unify around children and families and their needs.

Capacity is Shrinking or Stagnant When Demand for Care is High

- Fewer than 20% of the 4,433 public school building have a satellite school based mental clinic and access is limited to just the children in the building;
- There are only 390 OMH certified Residential Treatment Facility (RTF) beds operating in New York after decades of stable operation of 517 beds;
- About 6,800 children are enrolled in the newly consolidated children's Home and Community Based Waiver program, when about 7,100 were enrolled it before the HCBS reform was completed in 2020. The program was supposed to grow by 190 children each year;
- About 8,900 children have received the new Medicaid State Plan Services und the Child and Family Treatment and Support Services (CFTSS) since 2019, but the state estimated that over 200,000 would be eligible.
- About 32,000 children are accessing Health Home Care Management, but the state estimated and based the rates on an actuarial estimate that 174,000 children would receive the service.

We have an aggressive investment recommendation for non-Medicaid funding that is available either via new COVID response federal Substance Abuse and Mental Health Services Administration grants

to the state or by earmarking recurring revenue through settlement funding or tax revenue generated on substances or sports betting activities. We differentiate between the one-time COVID response expenditures and ongoing investments into effective, efficient children's behavioral health services. This will ensure that children who are not eligible for Medicaid have access to necessary support and treatment.

As children and family advocates, we ask the Legislature to ensure that a fair share of one-time increases in federal COVID funds or other revenues are available for children and family services and supports. While the Medicaid roles are 39% children, only 10% of Medicaid revenue goes to children's services and right now less than 20% of federal Block Grant funds go toward children's services.

	COVID Family Care Coordination	Family and Youth Peer Outreach & Engagement	Opioid Family Care Coordination	YA Clubhouses Prevention and Flex Funds	Evidence Based Practice Training and Fees*
Community MH Svcs Block Grant (New COVID Funding)	✓	✓			
Substance Abuse Prev&Trt Block Grant (New COVID funding)	✓	✓	✓	✓	
Health Care Transformation Fund					✓
Opioid Excise Tax Revenue			✓		✓
Legalization of Adult Use					✓
Opioid Settlement Agreement			✓	✓	✓
Community MH Reinvestment and JJ Youth Reinvestment		✓			✓

*Examples of Evidence Based Practices and the target populations they can effectively and efficiently serve include:

- Functional Family Therapy – a short term therapy that helps youth and their families to overcome delinquency, substance abuse, and violence.
- Multidimensional Family Therapy – an effective family centered treatment used in mental health, substance abuse, child welfare, and juvenile justice clinical settings
- Multisystemic Family Therapy - an intensive family and community-based treatment that enriches the family by addressing youth problematic behaviors.
- Common Send Parenting and 4Rs & 2Ss – time limited parent training & family group models that focus on the parts of family life that have been empirically linked to youth conduct difficulties and strengthen family decision making

COLA v Minimum Wage Investment into the Workforce

Although the Governor includes reimbursement to certain voluntary nonprofits to cover the cost of the rising minimum wage in upstate New York, the statutory Human Services COLA was deferred in last year's budget until March 21, 2022. The chart below indicates the two investments side-by-side

and indicates why for service providers who rely on clinical practitioners, social workers, counselors and peers, the Human Services COLA, even when only valued at a 1% increase could be so much more beneficial to the nonprofit workforce and operations. We recommend the workforce investment for this year be advanced as an adjustment for the minimum wage increase or the Human Services Cost of Living Adjustment tied to the Consumer Price Index, whichever is the higher.

	Minimum Wage	Human Svcs COLA
OASAS	$1.8 million	$4.3 million
OMH	$5.1 million	$15.0 million
OPWDD	$31.6 million	$26.9 million

Maintain the Moratorium on Medicaid Cuts to Children's Services

Last year, the Legislature boldly supported a moratorium on Medicaid cuts for children's mental health and addiction services. In estimating the 1% Across the Board Medicaid cuts that is proposed, the Executive proposes did not include children's services exempt from the across the board cut last year. This is a great start, protecting the Art 31 programs, CFTSS, HCBS and Health Home Serving Children's programs from the 1% reduction. However, we ask the Legislature to again protect children's mental health services from ANY planned Medicaid rate reductions and call your attention to the planned discontinuation of the recommended government rate for Health Homes Serving children that is planned to take place in June 2020 and the proposed $39 million in savings associated with the Governor's telehealth reform. Maintaining existing rates for HHSC and telemental health services for children must be part of the Moratorium on Medicaid cuts to children.

Combat Inequity with Fair Telehealth Policies

Poverty and discrimination are barriers to equal access. We have witnessed the unequal access to remote education and that same unequal access applies to children's telemental health services.

That is why we urge the Legislature to carefully negotiate the provisions of the Governor's telehealth reform proposal (Part F of the HMH Article VII A.3007/S2507) to ensure and specify that children's telemental health opportunities are not offered at reduced Medicaid rates and that they include family and youth peers' ability to serve families remotely when the family so chooses. Families have been surveyed about their telemental health experiences during the COVID epidemic. Overwhelmingly, the would like to retain the CHOICE to mix face-to-face and remote counseling for themselves and their children. This must include telephonic contact as a reimubursable service because not all households have broad band strong enough to sustain video communications and some households do not have devices for privacy compliant video communication. We urge that the telehealth reform proposal direct the Commissioner to promulgate regulations that authorize the use of telemental health delivery for licensed practitioners, family and youth peers and other staff employed by Office of Mental Health licensed, funded and designated programs.

In addition, we ask that the Legislature consider developing a Low Income Internet Access Program that would be closer to the Low Income Heating Energy Assistance Program (LIHEAP) to ensure a substantial part of the cost of stable, reliable internet access is covered for families who cannot afford this essential service.

Combat Inequity with an Expansion to CHP

Children are not all Medicaid eligible and some immigrant families cannot access Medicaid. For this reason, we urge the Legislature to repair a long-standing disparity between the children's mental health services covered under Medicaid and the few services covered under Child Health Plus.

New York Public Health Law does require Child Health Plus (CHP) to cover mental health services, but at the discretion of the NYS Department of Health and Department of Financial Services. The differences are described below:

1. While CHP provides comprehensive health, dental and vision benefits, the mental and behavioral health component is lacking, especially when compared to the robust offerings under the children's Medicaid program.

2. The authorizing CHP statute is outdated. While medical treatment is completely covered, mental health services are limited to those authorized by the Commissioners. We do not believe this is appropriate under the intent of Mental Health Parity laws, because it leaves children in CHP with unequal access to critical behavioral health supports. We need to bring our CHP plan into compliance.

The starkest disparity between children's services covered under Medicaid and those in the CHP benefit is in the coverage of behavioral health services. The array of state plan services in Medicaid includes a variety of outpatient (crisis, day treatment, clinic, children and family treatment and support) and many inpatient options (residential treatment, emergency department, crisis residential, inpatient hospital) while those covered by CHP include only hospital and clinic. This huge disparity should be addressed as soon as possible now that it is recognized and proposed to be addressed by A.303 (Gottfried)/S.2539 (Rivera) and A.343 (Gottfried)/S.2538 (Rivera).

Combat Inequity with School Based Mental Health Investments

According to a September 2020 United Hospital Fund report on the "COVID Ripple Effect" states, "In addition to threatening families' economic security, COVID-19 has increased sources of stress for families and disrupted normal childhood activities, such as attending school." The report goes on to state that over the lifetime of today's school children, they will experience an anticipated $8.5 billion in expected annual income during their adult years due to learning deficits from virtual/hybrid education.

In the mental health field, we anticipate that children frustrated by their learning deficits will find it harder than ever to manage their emotions, may develop anxiety and become depressed if they fall further and further behind their peers.

As you know, some districts can enhance services because of their property tax base and other cannot. That is why we ask you to focus on a number of ways to fund and expand children's behavioral health services in schools:

- Invest more in Community School Aid – the funding is proposed to be flat at $250 million, but those funds can be used to contract with community based mental health organizations to bring mental health services into the school community for the children and the families;
- Program the $10 million in unspent funding from last year that was intended to be released as grants for student mental health supports; and

- Invest in a Legislative Initiative to create a School Based Mental Health Alliance that can bring structure to the state-wide discussion about the most effective methods of expanding school based mental health services.

With regard to the unspent $10 million allocated in last year's budget, we urge that the purposes of the grants that BOCES and districts can use to purchase services from community based organizations include: positive school culture assistance, youth peer support and mentoring, restorative justice practices, trauma informed practices, skillbuilding, in-home "rise and shine" supports to get children ready to learn and out the door or in front of the computer, re-entry supports, family peer outreach and engagement, parent support and advocacy training, mental health and substance use screening and needs assessments, care coordination for access to services tied to social determinants of health, counseling, and crisis intervention

Community Mental Health Reinvestment

The Executive Budget proposes to take the $22 million generated under the Community Mental Health Reinvestment Act for state fund savings this year. It also extends the law for another 3 years, which we support.

However, the recommendation not to invest in community mental health services while closing 200 inpatient beds is a "double" hit on nonprofit mental health providers' capacity because the budget recommendation also take 5% out of local assistance grants. The majority of local assistance funding in the Office of Mental Health budget IS the previous years' Community Reinvestment funding. Community based providers are unable to respond to the growing demand for behavioral health services and we oppose both the nonwithstanding of Reinvestment and the 5% cut to Local Assistance.

Workforce Shortages in Children's Mental Health - Article 163 Practitioners

Licensed according to Article 163 of the NYS Education Law, the professions of mental health counseling, marriage and family therapy, and psychoanalysis have been fully serving clients in New York for decades.

As of July 1, 2020, the NYS Education Department reports that there are 10,647 licensed mental health practitioners working around the state. They work side by side with licensed social workers, psychiatrists and psychologists, and as allowed by law, they are permitted the "use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services."

According to Part Y of Chapter 57 of the Laws of 2018, in June 2021 any newly graduated Art 163 practitioner will not be permitted to diagnose patients in OMH, OASAS, OCFS or OPWDD settings during their clinical internships which are required to become licensed or after they graduate. The pipeline of incoming mental health practitioners will be cut off. Without these licensed practitioners, a bottleneck in diagnosing new patients and attesting to their medical necessity for Medicaid services will create a significant crisis.

We have crafted a legislative solution:

Mental health provider associations, providers and clinical practice associations have developed a solution that does not include another exemption extension, but instead addresses the discrepancy in the scope of practice descriptions in law. The legislative solution will;

1. amend education law, in relation to requirements for licensure of certain mental health practitioners, and,

2. permit those licensed mental health practitioners to render a diagnosis.

We ask that you not make the serious shortage of mental health providers worse in 2020 and that you act on our modernization solution as part of the state budget agreement.

Combining OMH and OASAS

We believe the strong prevention approach of OASAS youth services can bring new awareness to the Office of Mental Health. We also believe the new Medicaid Redesign Services can benefit children and families dealing with addiction. The Coalition supports the combining of these two "O" agencies. However, to fully provide strength and flexibility to the new agency, we urge the return of the Medical Assistance oversight of Medicaid funds for OMH/OASAS programs and services from the Department of Health to the new agency. The separation of programmatic oversight from fiscal oversight has weakened service delivery and this transition is the perfect opportunity to relieve the overwhelmed department of health of some responsibility and support the success transition this new state agency to the fullest.

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