Schuyler Center for Analysis and Advocacy

Testimony before the Joint Fiscal Committees
on the SFY 2013–14 Executive Budget
Health/Medicaid Budget Hearing
January 30, 2013

Presented by
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My name is Kate Breslin and I am President and CEO of the Schuyler Center for Analysis and Advocacy (SCAA). The Schuyler Center is a 141-year-old statewide, nonprofit, policy analysis and advocacy organization working to shape policies that improve health, welfare and human services in New York State.

SCAA participates in several of the State's Medicaid and health-oriented advisory bodies, including Medicaid Redesign Team workgroups, the Capital/Mid-Hudson/North Health Exchange Regional Advisory Committee, State Oral Health Advisory Committee, and the new Medicaid Evidence-Based Benefit Review Workgroup. We are also actively engaged in the Medicaid Matters New York and Health Care for All New York coalitions.

Thank you for the opportunity to testify.

Overview

Especially in this challenging fiscal environment, the essence of everything that we do with health care should aim for fundamental structural improvements in the manner in which health services are delivered to New Yorkers, whether the payer is New York State or another payer. If effectively organized and appropriately provided in a timely manner—the right setting at the right time and the right price—health care services can be more accessible, of better quality, and more cost effective for everyone. Our system must ensure that the most vulnerable people in our state are protected ***and*** that the system is sustainable over the long-term.

The State has several roles and responsibilities in this endeavor—regulator, planner, policy setter, payer, and capital investor. Our comments below reflect our understanding of the intent of certain proposals and our analysis of potential implications.

Financing and Administration

Hospital Indigent Care Pool

The Executive Budget proposes improvements the Hospital Indigent Care Pool distribution methodology with the intent of improving transparency and equity; complying with federal rules; ensuring access to care; improving compliance with the HFAL. Assembly Bill 2844 (Gottfried) would add requirements for annual reports on the impact of the new distribution on safety net providers and access to care and would speed up the transition to the new distribution methodology.

The Hospital Indigent Care Pool was designed to help hospitals cover the costs of providing care to uninsured and underinsured people. The methodology that evolved for distributing the more than $1 billion has been notoriously opaque and lacking in accountability. In 2007, a Technical Advisory Committee that included legislators, the Commissioner of Health, and hospital representatives found, among other things, that there was no clear link between the Indigent Care Pool dollars received by a hospital and the services provided to individual patients. And, because of changes to federal rules, New York is at risk of losing federal funds for this purpose if it does not improve the distribution methodology.

New York's existing Hospital Financial Assistance Law (HFAL, also known as Manny's Law) requires that hospitals establish financial assistance programs for services to uninsured and low-income patients, but compliance with and enforcement of the law has been lax.

SCAA supports the Executive Budget's proposed distribution methodology changes and urges the addition of language that would require additional transparency. SCAA supports legislation proposed by Assemblyman Gottfried (A.2844) that would add requirements for annual reports on the impact of the new distribution on safety net providers and access to care and would speed up the transition to the new distribution methodology.

Consolidation of Medicaid Administration in the Department of Health

The Executive Budget moves to consolidate Medicaid administration within the Department of Health (DOH) with the stated intent of increasing efficiency and responsiveness. This would move certain functions—rate setting, negotiation of managed care contracts, claims processing—from the Office of Mental Health, Office for People with Development Disabilities (OPWDD) and Office of Alcohol and Substance Abuse Services to the Department of Health.

Consolidation could improve coordination of care and achieve efficiencies, including helping to reduce/eliminate problems faced by safety net providers trying to get integrated, comprehensive care to patients with multiple needs.

However, these types of transfers from agency to agency can be fraught with problems from the logistical to the philosophical. The OPWDD, for example, has a robust family and consumer engagement program. It will be extremely important to ensure that the needs of individuals who are involved with/served by these disparate agencies are reflected in the rates and policies put forth by the Department of Health.

The transfer of Medicaid functions to the Department of Health requires care and attention so that the needs of individuals with special needs are met.

Access and Workforce

Medicaid Managed Care Ombudsman Program

There are at least 1.3 million New Yorkers with disabilities or chronic illnesses who are covered by Medicaid. As New York moves forward with Medicaid managed care for all enrollees, it has become clear that many individuals will require expert assistance and navigation as they adjust

to the shift to managed care. For people with disabilities and chronic illnesses, including seniors, this policy presents significant changes in how they access health and mental health care services because many have previously been exempt or excluded from mandatory enrollment.

The new Medicaid Managed Care Ombudsman Program contained in the Executive Budget would provide individual and systemic advocacy assistance for seniors and people with disabilities in managed care. This program will help managed care enrollees resolve disputes with managed care entities; monitor, document, and investigate systemic problems such as inadequate accommodations for people with mobility impairments; offer information, guidance, and support; and provide direct representation in grievances, fair hearings, and appeals. With the roll out of the mandatory Managed Long-Term Care Program (MLTCP) already underway, we support implementation of this program as soon as possible.

$3 million is provided as part of the appropriations for non-institutional managed long-term care (state and federal Medicaid match at $1.5 million each). The initial focus will be the MLTC population, with other populations added as further resources are provided. The Department of Health anticipates moving quickly to get these services in place and will be designing and developing the program in the coming weeks and months.

SCAA urges the Legislature to approve the $3 million for the "managed long-term care ombuds program" in the Aid to Localities budget as a down payment on the creation of a more expanded ombuds program.

Primary Care Workforce

The Medicaid Redesign Team recommended a number of changes to workforce regulations and laws in order to expand access to primary care. Some of these proposals are included in the Executive Budget.

SCAA is most familiar with the tremendous disparities across the state in access to dental services. Increasing access to primary and preventive dental care through the expanded use of dental hygienists is one approach to reducing these disparities. The collaborative model, in general, is a team model in which providers collaborate to provide safe, high-quality care. The basis of collaboration is the belief that quality patient care is achieved by the contribution of all care providers. The collaborative practice provision included in the Executive Budget would make it easier for clinics, nursing homes and other health facilities serving low-income populations to access the important preventive services provided by dental hygienists. Another section would authorize dental hygienists to sign dental health certificates. This could increase the number of children who are evaluated each year for dental problems as part of their school health checks and referred for care.

SCAA supports the Executive Budget's proposed changes that will improve access to dental care.

Coverage

Implementation of the Affordable Care Act (ACA) in New York was always going to be a daunting task. The complexity of the federal law and the multitude of regulations have required the state agencies involved to be creative, dedicated and innovative. The Executive Budget includes a range of proposals to bring State laws into compliance with the ACA and move toward an integrated continuum of affordable health insurance.

The Executive Budget restructures Medicaid eligibility to conform to new federal law creating groupings based on the Modified Adjusted Gross Income (MAGI)—the budgeting process that will be used to determine their eligibility for public benefits for pregnant women, children, caretakers and childless adults. There are also provisions that would enable the State to create online applications for benefits and allow for electronic verification of provided information. All these changes should simplify the application and determination process and result in savings.

Other proposed changes to eligibility include:

- Providing 12 month continuous coverage for adults.
- Extending the Medicaid spend down to childless adults.
- Expanding the Medicaid eligibility level for pregnant women to 200% of the FPL.

These changes will simplify administration of Medicaid and extend important coverage to these populations.

Support changes to Medicaid that implement eligibility requirements under the ACA and simplify enrollment.

Elimination of Family Health Plus

Among the provisions in the Executive Budget that are designed to implement the Affordable Care Act, is a problematic move to eliminate Family Health Plus (FHP). Justification for this move is that the current enrollees will be absorbed into either Medicaid or the Health Benefit Exchange. Based on the ACA rules, Medicaid will cover all adults up to 138% of the federal poverty level (FPL). Our concern is for very low-income parents between 138% FPL and 150% FPL who are currently eligible for FHP, but after 2014 will not be eligible for Medicaid. Their option for health insurance will be the Exchange where even the federal subsidies will not be high enough to make coverage affordable.

While the State has proposed some assistance for parents who apply for FHP before the end of 2013 in the form of assistance with cost-sharing and premiums, families who miss that deadline will receive no assistance. The ideal of the ACA is affordable health coverage for all. It is not enough for the State to indicate that this population has a place in the system if that place is unaffordable.

New York should consider creating a Basic Health Plan to provide coverage for low-income individuals below 200% of the FPL. The Basic Health Plan could offer free or very low-cost

coverage and could achieve state savings. The State should take the necessary steps to create a Basic Health Plan as it awaits federal guidance on the Basic Health Plan.

A portion of the savings derived from the implementation of the ACA should be set aside to assist these parents and the State should establish a placeholder in the budget for the creation of a Basic Health Plan as provided for in the ACA.

Medicaid for Children and Youth in Foster Care

New York is implementing Medicaid Managed Care for children and youth in foster care. This is an issue that is not addressed in the Executive Budget but is happening administratively. These are the more than 20,000 children who are among the most vulnerable in our society. Children and youth in foster care experience higher rates of physical, mental and dental health problems than the general population as well as higher rates of developmental disability. The transition of these children and youth to Medicaid Managed Care needs to be done with extreme care with the ultimate goal of making sure that they receive better care and better outcomes.

In addition, the ACA requires that states provide Medicaid coverage for youth who age out of foster care until they reach age 26.

The implementation of both of these policies should be done with extreme care and attention to outcomes with the ultimate objective of significant improvement in access and care for these children and young people.

Early Intervention

Early Intervention (EI) provides comprehensive, coordinated services to meet the needs of infants and toddlers with disabilities and their families. To be eligible for services, children must be less than three years of age and have a confirmed disability or established developmental delay in one or more of the following areas of development: physical, cognitive, communication, social-emotional and/or adaptive. EI aims to identify and evaluate infants and toddlers whose development is compromised as early as possible and provide appropriate intervention to improve development.

The Executive Budget proposes significant changes to the EI program especially around health insurance reviews, service determinations and network participation. The proposal would require insurers to include EI service providers in their networks and require consumers to use providers in their insurance networks with limited provisions for exemptions. There are also changes to provider billing and contracting that may be an administrative challenge to some providers.

It is important that children and families who need EI's developmental services are able to get appropriate services in a timely way. In the few short years that a child is an infant or toddler with a disability, every day matters. As the Legislature considers the Governor's proposals, we urge consideration of the following:

- The EI system should be child and family-centric. The Department of Health should consider creating an ombudsman to help address families' concerns in a timely manner.
- EI providers may find it difficult to navigate the process of negotiating contracts and rates with health insurance companies.
- Cash flow may become a concern for EI providers if payments are not timely or when there are administrative obstacles, such as claim denials.

Early Intervention provides services for some of the State's most vulnerable children. While moving in the direction of better care coordination, fiscal stability and health plan accountability, New York must ensure that children and families that need EI services can get them in a timely manner.

Public Health, Outreach and Advocacy

Strengthen and expand evidence-based maternal, infant and early childhood home visiting. Maternal, infant and early childhood home visiting has emerged across the nation as a promising way to engage new and expecting parents and their children with services that support the family and lead to positive health and other outcomes—and public cost savings—in the short, medium and long term. The federal Affordable Care Act (ACA) provides funding for states to develop their home visiting infrastructure to improve outcomes for families who reside in at-risk communities and New York State has invested ACA funds in home visiting. The Medicaid Redesign Team and Department of Health are moving forward with an initiative to include evidence-based home visiting in the Medicaid program.

SCAA urges the Legislature to support home visiting programs and infrastructure. The Legislature included a dedicated $2.5 million last year in the DOH budget to help support the sustainability of Nurse-Family Partnership maternal, infant and early childhood home visiting program; the Executive Budget did not continue this funding. We request that the Legislature restore funding.

Outcome-Based Health Planning

The Executive Budget proposes to consolidate a number of public health programs into six programmatic areas: Chronic Disease Prevention and Treatment, Environmental Health and Infectious Disease, Maternal and Child Health Outcomes, HIV, AIDS, Hepatitis C and STDs, Health Quality and Outcomes and Workforce Development. Current funding for a number of individual programs will be collapsed into these categories, with a reduction of over $40 million, and would be awarded through grants and contracting on a competitive basis.

We applaud the Governor's articulation of a willingness to examine and reorganize programs and find new and better ways of improving population health. We are concerned though, that in the case of health program funding, the Executive Budget provides little explanation or rationale for the proposed consolidation and reductions at a time when families and communities are vulnerable and may not be ready to absorb the impacts. We are also concerned about the stability of safety-net providers during a time of tremendous change already in the health care system. The uncertainty of how the money will be allocated within

each category and the uncertainty of how existing contracts will be handled create big budgeting problems for many providers.

Making our system more effective will entail moving our focus significantly from institutions to communities and from intervention to prevention. It will also entail supporting programs that work—those that help ensure that children and families are physically and mentally healthy and well-cared for, that support parents' ability to work, and that keep students in school and on a path to success.

While we support the move of the Department of Health toward evidence-based programs and outcomes measures in the implementation of programs, we have questions about how decisions will be made to determine funding for programs and how outcomes for populations served in these broad categories will be monitored.

Ensure that funding in the Outcome-Based Health Planning program does not jeopardize important public health initiatives or infrastructure while reshaping public health priorities.

General Public Health Work

The Executive Budget includes substantial changes to the General Public Health Work (GPHW) section of the Public Health Law (Article 6), that provides funding to local county departments of health. This is an important section of Public Health Law because county health departments are often the first line of defense for communicable disease and emergency preparedness and support activities that promote the health of communities and populations.

The proposal increases the base funding for counties and also adds $1 million for incentive performance standards through increases to state aid. At the same time, the proposal streamlines reporting requirements and redefines core public health services. We believe these changes will better support the efforts of county health departments but we are still assessing the impact all these changes will have on populations. It has been many years since the importance of public health has been recognized with increased funding.

Support both the funding increases for the GPHW program and the proposals to modernize reporting, services and administration.

Adult Homes

The Executive Budget includes funds for supportive housing services for Adult Home residents. For many years, SCAA has worked with other advocates for increased housing options for persons with psychiatric disabilities living in adult homes. Adult homes were originally intended for the old and the infirm but today nearly 40% of adult home residents have a psychiatric diagnosis. People may be referred to adult homes because other housing alternatives, especially those licensed and funded by the Office of Mental Health, are unavailable when they require housing or are not appropriate for their circumstances. Even when an adult home does not provide the right type of supportive environment, it is often difficult for a resident to find a more appropriate housing situation. Some residents have waited years for the opportunity to live in settings more appropriate to their needs and their

desire for increased independence. Increasing the supply of supportive housing will improve the lives of this vulnerable, and often forgotten, population.

SCAA urges the Legislature to fund the long overdue supportive housing services for adult home residents. In addition, we urge the State to increase rates for supportive housing to maintain and improve access and quality.

The Executive Budget does not include funding for lay advocacy for adult home residents with psychiatric disabilities. SCAA has been a strong advocate for the needs of adult home residents with psychiatric disabilities. This population was ignored for years by public policy and the agencies charged with protecting them. Through the efforts of organizations like the New York State Coalition for Adult Home Reform (NYSCAHR) and the efforts of legal and lay advocates, the voices of adult home residents are starting to be heard here in Albany.

The leading advocate for adult home residents is the Coalition of Institutionalized Aged and Disabled (CIAD). This small organization works day to day with residents directly in adult homes. Every day, CIAD:

- Informs residents of their rights and empowers them to use those rights.
- Strengthens resident councils and brings residents together to learn from each other.
- Mediates between adult home residents and adult home management.
- Works with adult home residents on individual concerns/complaints.

In the immediate aftermath of Super Storm Sandy, the dedicated CIAD staff of one full-time and one-part time staff along with four volunteers worked around the clock to locate displaced residents, report their needs to State agencies and provide assistance. CIAD has spent much of the past three months maintaining its efforts to track and reach out to residents to help them get housing, food, clothing, health and mental health services. CIAD staff have helped residents get emergency and regular medical and mental health appointments, monitor food at shelters that housed residents, alerted agencies when displaced residents needed medication and medical records and even helped some obtain absentee ballots so they could participate in the November election. They are now enabling residents to talk to policymakers to improve the State and city disaster preparedness.

They do all of this with a shoestring budget and really big hearts.

Because of their "boots on the ground," adult home residents displaced by Sandy had people to turn to and State agencies had eyes and ears when they needed to know how to help some of the most vulnerable affected by the storm. Every year it becomes harder and harder for CIAD to keep its doors open. They regularly provide vital services to this population that is often ignored in State policy but Super Storm Sandy proved that they are also integral to disaster preparedness and response.

In addition, the link between housing and health status has begun to enter State level discussions about health home and health care coordination in a significant way. The next few years will see great transitions and changes in the way services operate for this population and it will be necessary that adult home residents have strong advocates so they are not left out or

forgotten again. This funding should be restored to the Department of Health budget so that these very vulnerable residents can continue to have an advocate in their corner.

We urge New York State to provide $150,000 funding for the essential lay advocacy that adult home residents rely on.

Thank you. We appreciate the opportunity to testify and look forward to continuing to work with you to build a strong and healthy New York that cares for its most vulnerable residents.

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