

# *Carreau Consulting*

## *Strategic Legislative Solutions - Compelling Results*

### *2019 Budget Summary*

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The months long budget process in Albany came to a close early Monday morning with the Senate dropping its gavel of adjournment at 3:00 am while the Assembly worked almost a full 24 hours to pass final budget bills totaling \$175 billion. While many progressive items such as changes to the cash bail system, a “mansion” tax, and the banning of plastic bags, were included, activists criticized measures around campaign finance reform as being “halfhearted,” last minute changes to the luxury home tax as “caving to pressure from the real estate industry” and the absence of legalization of marijuana as “disappointing.” But as Capitol dwellers know, there are always issues left on the cutting room floor to be revisited another day.

Despite the crowded field of voices volleying for attention, the Social Work voice was loud, clear, effective and ever present on a broad base of issues. As a result, we successfully secured funding for a new collaboration with NASW-NYS to develop ESL test preparation curriculum to assist bi-lingual MSW and LMSW’s sitting for their social work licensing exams, worked in partnership to expand mental health parity and advocated that LCSW’s be included as providers of the Workers Compensation Program.

While we continue to examine the voluminous budget bills, the highlights are as follows:

Given the deficit, overall spending growth was held at less than two percent, with the Healthcare and Education arenas seeing the biggest spending surge (3.6 and 3.8 percent respectively.)

#### **Workforce**

After years of work, efforts to include LCSW’s to the Workers Compensation Program will be realized. Effective January 1, 2020, LCSW’s will be authorized providers of mental health services in the state’s WC program. Stay tuned for details regarding the logistics, as the Board will soon be constructing an online application process and training platforms.

**ESL Training** - \$150,000 for the development and distribution of culturally sensitive and ESL test preparation to assist those who are vulnerable to or have failed the social work licensure exam.

**COLA** - Despite valiant and nonstop advocacy efforts of the mental health community, the final budget did not include a 2.9 Cost of Living Adjustment, however, it did include a 2 percent “salary enhancement” for direct care staff employed by OMH, OASAS and OPWDD (effective January 1, 2020 and again on April 1, 2020) and a **2 percent increase for clinical staff (including social workers)**, effective April 1, 2020.

## **Mental Health**

Collective efforts by NASW, The New York State Society for Clinical Social Work, the New York State Psychiatric Association, the New York State Psychological Association, Families Together in New York State and other Mental Health Advocates across the state resulted in groundbreaking “Behavioral Health Insurance Parity Reforms” (BHIPR). This is an incredible victory for the broader mental health and substance use disorder community. When coupled with the original parity mandate (Timothy’s Law), state codification of parts of the ACA and the Parity Reporting Bill we recently passed, NY can now boast of the strongest parity foundation in the country.

The BHIPR is a comprehensive overhaul of New York State’s Insurance Law which will dramatically limit health insurance/health plan practices to restrict New Yorkers, suffering from Mental Health Conditions (MHCs), Substance Use Disorders (SUDs) and Autism Spectrum Disorders (ASDs), from accessing their health insurance benefits for care and treatment. The BHIPR is applicable to all health insurance/ health benefit plans, individual and group, that are issued for delivery in New York State (NYS). The provisions take effect January 1, 2020 and apply to all policies issued, renewed, modified or altered after such date.

Among the BHIPR provisions of importance:

- Provides coverage for ALL MHCs, SUDs, and ASDs as each is defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most recent edition of another generally recognized independent standard of current medical practice such as the International Classification of Diseases (ICD).
- Prohibits preauthorization and concurrent utilization review of SUD services during the initial 28 days of treatment.
- Prohibits preauthorization and concurrent utilization review of inpatient psychiatric services for youth services during the initial 14 days of treatment;
- Prohibits prior authorization for formulary forms of prescribed medications for treatment of SUD.
- Requires that medical necessity criteria with respect to benefits for MHCs/SUDs and ASDs shall be made available to the insured, prospective insured, or in-network provider upon request.
- Clinical review criteria used by utilization review agents must be approved by the Commissioner of the OMH or designated by the Commissioner of OASAS.
- Prohibits taking any adverse action in retaliation for a provider filing a complaint, making a report, or commenting to a government body regarding policies and practice that violate this statute.
- Requires insurers and health plans to post additional information regarding their in-network providers of MH/SUD services, including whether the provider is accepting new patients as

well as the provider's affiliations with participating facilities certified or authorized by OMH or OASAS.

- Provides for additional funding resources for staffing at DFS and DOH to handle oversight and enforcement of parity.

**Crisis Intervention** - Provides over \$400,000 additional funding for crisis intervention teams.

**Mental Health in Schools** - \$500,000 was allocated for the Mental Health Resource and Training Center to help support the inclusion of mental health curriculum in schools. While we are very supportive of this program, we are disappointed a separate line (strongly advocated by NASW-NYC and NYS) to support and educate parents and students about the role of School Social Workers and School Psychologists was not included. However, we are working to identify dollars that were included, though not specifically lined out, that will provide additional points of access. We have already reached out to key members of the Senate and Assembly and are moving forward in this effort.

## **Health**

**ACA Codification** - The final budget codifies provisions of the Affordable Care Act into state law; ensuring the state's insurance marketplace (known as the NY State of Health), requires certain plans cover all essential health benefits and the prohibits plans from denying coverage to individuals with pre-existing conditions.

**Restoration of Prescriber Preval Authority**, allowing medical providers and their patients to have final say over medication decisions.

**Medicaid Access** - provisions allowing DOH to request (from the federal government) that soon to be released inmates be allowed to enroll in Medicaid 30 days prior to release.

## **Substance Abuse**

**Ombudsman** - \$1.5 million was appropriated to fund Community Health Access to Addiction and Mental Healthcare Project (CHAMP), a program developed in 2018 that educates individuals, families, and health care providers regarding their legal rights to coverage, assists them in accessing such treatment and services and investigates complaints regarding denial of health insurance coverage.

**Medical Assisted Treatment and Substance Use Disorder Treatment** - \$4.75 million for such services in NY jails and prisons. Details yet to be released.

**\$350,000 for loan forgiveness** and scholarship program to recruit and retain staff into the office of alcoholism and substance abuse services prevention, treatment and recovery service system. Details related to provider types have yet to be determined. We are in contact with OASAS and keeping abreast of developments.

## **Juvenile Justice/Criminal Justice**

**Raise the Age** - The FY 2020 Budget continues the support for raising the age of criminal responsibility to age 17, which became effective October 1, 2018, and to age 18, which will take effect on October 1, 2019. The FY 2020 Budget includes \$200 million in appropriation authority to support estimated second year State and local costs for comprehensive programs, including diversion, probation, and other programming services for 16- and 17-year old-youth who will be involved in the juvenile justice system. RTA Funding is not available to NYC.

**PINS Reforms** - Raise the Age Advocates were very worried that the Executive's Budget Proposal would limit access to preventive services funding, and as such worked hard to stem such cuts while at the same time, aligning with the policy goal of limiting out of home placements. The final language strikes such a delicate balance as it prohibits PINS detention in non-secure detention facilities, permits foster care for PINS youth during the case (or after disposition), limits length of placements, prohibits PINS placement where the only allegation is truancy, and continues state support for diversion services and supports.

**Bail Reform** - After contentious negotiations, the final budget includes sweeping changes to the bail system. Approximately 90 percent of people charged with a crime but not convicted will be released without bail under the legislation. Police will be limited to issuing appearance tickets only for low level crimes, though cash bail remains an option for most violent crimes (Class A, B, C, D and some E felonies). Judges will be allowed discretion and allowed to consider a defendant's record of criminal convictions, flight risk, seriousness of current charges and history. In addition, Judges will be allowed to consider "undue hardship" of defendant's ability to pay.

## **Foster Care**

**Families First Transition Fund** - The \$3 million Family First Transition Fund will leverage Federal and private foundation funds to provide counties and foster care agencies with support to expand kinship and foster care capacity, helping the State comply with upcoming changes to federal foster care requirements.

**Fostering Youth College Fund** - \$4.5 million included in the final budget (bringing the total amount to \$6 million) which will now be available to ALL foster children in NY State.