

The Source of information for providers of community-based services for people with differing abilities.  
A member service of NYSRA.

### STATE BUDGET: ON-TIME OR NOT?

By Jeff Wise, NYSRA President & CEO

Legislators and others may have been feeling that they had adopted an on-time budget just before the April 1 deadline. But as April move into the Passover and Easter holiday, Governor Pataki moved to make it clear that the budget battle is not over.

On April 12 the governor put his veto pen to work. Although vetoes were not unexpected, the governor's actions went beyond what was expected and he vetoed some \$2.9 billion from the spending plan the Legislature had adopted. In all, the governor issued 202 veto messages.

Among the dollars vetoed by the governor were cuts of \$650 million from the Medicaid budget, largely reinstating the Medicaid plan the governor had proposed on January 17. Limitations to the preferred drug list, taking away the right of doctors to "over-ride" the PDL in certain cases when treating patients with medications, and re-establishing new limitations on spousal eligibility rules regarding long-term care were part of the governor's action.

Also up in the air as a result of the governor's vetoes is the Office of the Medicaid Inspector General. The two houses of the Legislature have been in negotiations with each other as to how to set up that office, precisely how it is to be staffed, and who will head the effort.

The week's events underscored that, while budget disputes are a nearly annual ritual in Albany, the tone and character of these spring disputes changes often. This year the argument takes on a new dimension in that the governor believes that veto over-rides will not legitimize some of the actions the Legislature has taken with the budget.

The State Constitution, as interpreted recently by the Court of Appeals, gives the Legislature limited authority to make changes to the governor's Executive Budget. This limits the ability of lawmakers to add spending to the governor's items or to re-program the way money is proposed to be spent by the governor. Governor Pataki this year claims that many of his vetoes are based on these constitutional grounds - his argument, then, is that even over-rides will not reinstate this spending. Instead, he argues that these items are invalid in any event, since they are simply beyond the power of the Legislature.

Thus, while over-rides in both houses of the Legislature are considered highly likely, some spending may not occur anyway. The Division of the Budget may choose to withhold payments of money the governor considers unconstitutionally appropriated. Unless the governor and legislative leaders can negotiate agreements in the coming weeks, some of these matters are likely headed to court. In fact, reports this week are that, in some quarters, litigation is already being contemplated - the Greater New York Hospital Association and Local 1199, SEIU, have indicated they are investigating a lawsuit if payments to hospitals are disturbed by the governor's withholding of money.

A look at the vetoes follows.

Of total of some \$2.9 billion in vetoed items, more than \$1.2 billion is vetoed from Medicaid spending - \$650.6 million in state spending, with another \$619.6 million in federal Medicaid matching dollars. The largest shares of those cuts affect hospitals operating under Article 28 of the state Public Health Law, which the Legislature had added to fund inflationary trend factors for hospital services - a hospital COLA.

The governor has vetoed \$72 million from residential health care programs operated under Article 28 as well.

The Medicaid vetoes also include cutting \$130.6 million for the so-called Medicare Part D "wraparound." This money was added by the Legislature to ensure that dually eligible Part D beneficiaries would have prescription drugs paid for by Medicaid in the event they are not covered by Medicare Part D. This protection was to be in place until January 2007, but the governor's veto puts this aside.

What is intact, however, is the \$17 million the governor himself proposed to fund a cost-of-living-adjustment for untrended mental health and developmental disabilities programs. This COLA of 2.5 percent is still scheduled to be applied on October 1 of this year, with additional bumps of 2.5 percent on April 1, 2007 and April 1, 2008.

It is worth noting that, while the Legislature added certain qualifying language to \$17 million COLA that would direct the additional money to direct-care staff whenever the funds were used for personal service costs, the governor vetoed that additional language. As it stands, then, the COLA could be used for personal service costs or other significant increases in expenses.

Other vetoed items include:

- Rejection of the Legislature’s additions of some \$3.4 million for community mental health programs as part of the restoration of \$7.7 million that was cut from that funding 3 years ago. This amount had originally been ticketed to total \$4.3 million, but the Legislature removed \$900,000 of that for other purposes at the last minute.
- Removal of \$850,000 to fund beds in supported housing for persons with mental illness in upstate counties.
- Removal of \$300,000 from the Office of Mental Health budget for funding children’s mental health day treatment services.
- Removal of \$530,000 that would fund an OMRDD program at the State University and City University to begin credentialing and degree programs for direct-care staff of OMRDD providers.
- Rejection of the Legislature’s funding of a “physician override” of the Preferred Drug List under Medicaid. This would have continued the practice of allowing physicians to prescribe, in certain circumstances, medication that does not appear on the PDL. The veto cuts \$36.8 million.

NYSRA continues to be in discussions, directly and through our lobbying firm, with key legislative and executive branch staff and members. We will work to see that all important dollars vetoed are restored to the greatest extent possible.

NEWS FROM STATE AGENCIES/NYSRA ADVOCACY

WORKFORCE PARITY PROPOSAL  
JOINT STATEMENT

Workforce issues have long been a priority for NYSRA, which supports additional funding from state agencies for services provided by all NYSRA members to a wide range of consumers of varying abilities.

Recently a legislative proposal, floated by organized labor, surfaced in Albany, calling for a sort of “parity” in wages and compensation paid to direct-care staff working in programs funded by OMRDD. The bill calls for compensation of these employees, many of whom are employed by NYSRA members, on a par with state employees who deliver similar services while working directly for OMRDD.

Thus far the proposal has not advanced in the Legislature. Still, the issue is an important one. And since this particular proposal has gotten some attention through union-financed advertising efforts, six trade associations have issued a joint statement in response to the proposed measure.

The joint statement was issued two weeks ago by NYSRA, NYSACRA, NYSARC, the Alliance of Long Island Agencies, CP New York State, and InterAgency Council.

All these organizations remain committed – as they have been for years – to working for better compensation for the dedicated direct-care staff who provide services to people of differing abilities through programs operated by our members.

Joint Statement on Behalf of  
Agencies Serving Persons with MRDD

For the last twenty years, achieving better wages and benefits for our employees has been our foremost legislative and policy priority. Governor Pataki has recognized this need by recommending significant trend factors in successive Executive Budget recommendations; the Legislature has acknowledged this need by approving these trend factors and OMRDD has worked tirelessly to implement these trend factors.

As individual organizations, and collectively, we have advocated continually for over twenty years to advance a decent, living wage. We will continue that commitment and advocacy on behalf of all employees who serve persons with mental retardation and developmental disabilities, in partnership with all stake holders, people with developmental disabilities, families, providers, advocates, government and the community, regardless of which state agency funds their services. We realize that our organizations have a common interest in securing the best possible and highest quality, community-based services for our most vulnerable citizens.

Recently, the “Quality of Care Act,” (Senate bill S. 6629 by Spano and Assembly A. 9822 by John), specifically for employees that provide services funded by the Office of Mental Retardation and Developmental Disabilities (OMRDD), was proposed. We believe that the “Quality of Care Act” is an important statement towards emphasizing our common interest, although it’s woefully underfunded. We recognize that the services and supports that we provide would not be possible without the outstanding contribution of tens of thousands of direct support staff throughout the voluntary system of services to persons with mental retardation and other developmental disabilities. Nothing could be more evident to the many parents, family members and people with disabilities we represent across New York State.

However, we believe that all of our staff, regardless of the state agency which is the source of funding for their salaries, have earned and deserve the same wage and benefit enhancements as are envisioned in the proposed bill.

Accordingly, we the undersigned will continue to work together to see that the spirit of the “Quality of Care Act” and the spirit of our efforts for over twenty years is fulfilled for all of our personnel.

Signed,

Margery E. Ames, Esq.  
Executive Director  
InterAgency Council

Ann M. Hardiman  
Executive Director  
NYSACRA

Marc N. Brandt  
Executive Director  
NYSARC, Inc.

Seth Stein, Esq.  
Executive Director  
Alliance of Long Island Agencies, Inc.

Susan Constantino  
President & CEO  
CP of NYS

Jeffrey Wise, JD  
President & CEO  
NYSRA

## DEFICIT REDUCTION ACT

Courtsey The Bonadio Group

President George Bush signed the Deficit Reduction Act in March, 2006. Among its many provisions, the DRA has mandated requirements for all Medicaid service providers to enact BEFORE JANUARY 1, 2007.

The key provisions of the DRA affecting Medicaid service providers are in direct response to the Federal Government's belief that there are excessive levels of fraud and abuse in the Medicaid program.

The DRA provisions are as follows: Providers affected are all health care providers that receive \$5 million or more in Medicaid payments, although as with most legislation, the requirements should be considered by all Medicaid providers regardless of size.

### What Must be Done:

The provider must adopt policies and procedures that would apply to employees, contractors and agents regarding the following matters:

- Fraud detection and prevention, essentially a Corporate/Regulatory Compliance Program
- The False Claims Act and ensuring compliance with its provisions
- Implementing whistleblower protections in accordance with current law
- State Medicaid enforcement Laws and Regulations must be addressed

Failure to adopt the policies and procedures required under the DRA will be viewed by the Federal Government as a violation of Federal Law if not enacted by January 1, 2007. If a provider fails to comply, and is deemed to be in violation of the DRA, it will have a direct negative impact on the providers ability to submit Medicaid claims for reimbursement.

While we expect that further guidance and clarification will be forthcoming, it is imperative that each Medicaid service provider review its current policies and procedures to determine whether you are in compliance with the DRA provisions and requirements. The first step in this process must be the existence and implementation of a Regulatory/Corporate Compliance Program for your Medicaid Programs and Services.

If you have any questions regarding this notice or wish to discuss other matters related to your Medicaid service programs, please contact Jerry Archibald, Partner at 5852492780, Molly Kommer, Manager Regulatory Compliance at 5852492768 or June Crawford, Regulatory Compliance Manager at 5852492778. We will keep you informed of ongoing developments in this area. January 1, 2007 is only 195 work days away.

## MH STATEWIDE COMPREHENSIVE PLAN

The New York State Office of Mental Health (OMH) is pleased to announce the 2006 series of informational briefings and public hearings on the 2006-2010 Statewide Comprehensive Plan for Mental Health Services. Input received during the 2005 briefings and hearings had a significant impact on refining the OMH Strategic Plan Framework and Executive Budget recommendations. We encourage you to take advantage of the opportunity to provide your input in the 2006 planning cycle. The Plan can be found on the OMH website at <http://www.omh.state.ny.us/omhweb/statewideplan/2006/>. Stakeholder input received will be carefully considered and integrated into the 2007-2011 Plan.

**Informational Briefings:** Keith Simons, Deputy Commissioner and Chief Planning Officer at OMH will be presenting these briefings along with a senior official from the OMH Center for Information Technology and Evaluation Research. The briefings will be open to the public and all interested stakeholders. OMH Field Office Directors will host the events and participate.

**Strategic Plan Framework:** Last year, OMH made a commitment to seek input on the Strategic Plan Framework presented in the 2005 Statewide Comprehensive Plan. The Framework included statements of mission, vision and values, strategies including Accountability, Best Practices and Coordination of Care, and a series of goals and objectives to provide strategic direction to the agency. Extensive input was received during 2005. An overview of that input and how it was incorporated into a refined Framework will be presented. Stakeholder input on the new Framework and any further refinements that would be appropriate will be solicited.

**Strategic Priorities:** Chapter 6 of the 2006 Plan identifies 8 strategic priorities which were established based on stakeholder input and a review of environmental trends and challenges, and ultimately linked to development of Executive Budget recommendations. A review of the integration of stakeholder informed strategic priorities and Executive Budget recommendations will be presented and input on strategic priorities for the coming years solicited.

**Performance Measurement:** Last year, OMH also made a commitment to advance the next major milestone in the enhancement of our strategic planning process - the implementation of an integrated, publicly accessible performance management system. OMH will be unveiling the initial version of this performance management system on its web site during the month of March. The "Balanced Scorecard" measures and reports on the outcomes experienced by individuals served within the New York State public mental health system, results of public mental health efforts undertaken by the agency, and critical indicators of organizational performance. The balanced scorecard is aimed at improving accountability and ultimately at supporting

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recovery, wellness and the transformation of the New York State public mental health system. A presentation of the system and its content will be provided. Stakeholder input will be solicited on future priorities and refinements will be solicited.

**Public Hearings:** Formal public hearings will also be held throughout the State. Interested individuals are invited to present verbal and written testimony. OMH is particularly interested in obtaining input on the Strategic Plan Framework presented in chapter 5 and Appendix 1, the 8 strategic priorities presented in chapter 6 and the Balanced Scorecard described in chapters 7 and 8 and available on the OMH web site.

Individuals wishing to attend the hearings to listen to the verbal testimony are welcome and are not required to pre-register. The public hearing format does not include questions or comments related to testimony presented.

Individuals interested in presenting verbal testimony must pre-register with the appropriate contact person (see attached schedule for contact information) and should provide 2 printed copies their testimony at the hearing. OMH encourages you to consider presenting testimony. If preferred, only written testimony can be presented either at the hearing or by sending it directly to:

*Keith Simons, Deputy Commissioner, New York State Office of Mental Health, 44 Holland Avenue, Albany, NY 12229.*

OMH will be utilizing a one-day combined briefing and hearing format to minimize travel time and expense for individuals interested in attending both events.

OMH encourages you to attend the briefings and hearings and to provide your input into the New York State public mental health system strategic planning process.

Date	Time	Place	Coordinator
4/20	<b>Briefing</b> 10AM-1 PM <b>Hearing</b> 2PM-5PM	Genesee CC - Conable Technology Bldg Rm T102, 1College Rd. Batavia, NY	Judy Dintino Phone: (716) 885-4219 x255 E-mail: <a href="mailto:owsujxd@omh.state.ny.us">owsujxd@omh.state.ny.us</a>
4/25	<b>Briefing</b> 10AM-1 PM <b>Hearing</b> 2PM-5PM	Central New York Field Office* Library-Rm 116 545 Cedar St. Syracuse, NY	Valarie Robinson Phone: (315) 426-3930 E-mail: <a href="mailto:ocadvar@omh.state.ny.us">ocadvar@omh.state.ny.us</a>
5/5	<b>Briefing</b> 10AM-1 PM <b>Hearing</b> 2PM-5PM	Central Hudson Building 120 Rt. 28 Kingston, NY	Shirley Brown Phone: (845) 454-8229 E-mail: <a href="mailto:coctsjb@omh.state.ny.us">coctsjb@omh.state.ny.us</a>
5/11	<b>Briefing</b> 10AM-1 PM <b>Hearing</b> 2PM-5PM	NYC Field Office 9th Fl. Conf. Rm A 330 5th Ave NYC	Curletta McClanhan-Michael Phone: (212) 330-1651 E-mail: <a href="mailto:cocbcm@omh.state.ny.us">cocbcm@omh.state.ny.us</a>
5/12	<b>Briefing</b> 10AM-1 PM <b>Hearing</b> 2PM-5PM	Pilgrim Psychiatric Ctr* Rehab Ctr-Bldg. 102 998 Crooked Hill Rd West Brentwood	Marie Toussaint Phone: (631) 761-2508 E-mail: <a href="mailto:cofomlt@omh.state.ny.us">cofomlt@omh.state.ny.us</a>

\*OMH policy precludes using or carrying cellular phones in any area of OMH psychiatric centers which are accessible to patients. Should there be any special accommodations (e.g., interpreters) needed, please let the Field Office contact person (listed above) know in advance.

## PEER MENTORING AND SUPPORTS IN EMPLOYMENT

On April 1, the DDPC initiated its “Peer Mentoring & Supports in Employment” demonstration. Five organizations have been awarded grants intended to demonstrate how the provision of peer mentoring and supports in the vocational rehabilitation process can enhance the ability of people with disabilities to locate, obtain, maintain, and advance in employment.

Projects must establish effective collaborations and partnerships with the One Stop Service Delivery Centers and the appropriate vocational rehabilitation agencies, the Office of Vocational & Educational Services for Individuals with Disabilities (VESID) and/or the Commission for the Blind and Visually Handicapped (CBVH). The NYS Department of Labor (DOL) has also been instrumental in facilitating this partnership. The DDPC will fund these demonstration projects for two years and work with the State agencies to assess the impact and cost-effectiveness. The participating organizations include:

- ARISE Child & Family Services
- Access To Independence
- North Country Center for Independence
- Rockland Independent Living
- Westchester Independent Living Center

For more information on this initiative, please contact Nicholas Rose, Program Planner at 518-402-3480 or at [nrose@ddpc.state.ny.us](mailto:nrose@ddpc.state.ny.us)



## NYC SUMMER YOUTH EMPLOYMENT

Applications for New York City's 2006 Summer Youth Employment Program (SYEP) are now available. SYEP is open to youngsters who are at least 14 years old but not over 21 on July 5th. The seven-week program will begin on Wednesday July 5th and continue through August 19th. Completed applications must be submitted by May 30th.

Applications can be obtained on-line from the Department of Youth and Community Development (DYCD) website ([www.nyc.gov/dycd](http://www.nyc.gov/dycd)), at schools and libraries or at one of 50 Authorized Intake Organizations located throughout the five boroughs. Completed applications must be submitted to one of these Authorized Intake Organizations. A listing of Intake Organizations is attached to the application and is available at [www.nyc.gov/dycd](http://www.nyc.gov/dycd).

All youth under the age of 18 must submit their most current working papers. Working papers can be obtained through any New York City Public High School or Regional Office. Those not attending school, should visit their local New York City Public High School or call 311. In addition, SYEP applicants must also provide copies of their Social Security card, proof of permanent address, proof of age (birth certificate/driver's license) and, if applicable, citizenship/alien status. Applicants can check the status of their SYEP application via the DYCD website.

DYCD will conduct a lottery of complete applications to determine whether applicants are offered a job. Last year, almost 70,000 youth applied for the program and approximately 42,000 were enrolled.

The number of SYEP slots to be available this year is still unclear. In Albany, the legislature has responded to the Governor's original budget submission by proposing total funding of \$30 million, \$5 million more than last year's appropriation. Negotiations to finalize the budget are still underway.

In New York City, the Mayor's January Financial Plan failed to base-line \$6.9 million which was added to the program by the City Council last year, explains Anthony Ng, Legislative Advocate for United Neighborhood Houses and Co-Chair of the Campaign for Summer Jobs.

SYEP participants will earn the New York State minimum wage of \$6.75 an hour and may work up to 25 hours per week. SYEP consists of a combination of instructional programs and work. The actual work schedule will be developed and provided by the SYEP contractor upon enrollment into the program.

The SYEP intake organization will determine the range of placement possibilities. SYEP has traditionally offered jobs as clerical, hospital, camp, cultural and custodial aides in

government and non profit agencies. The SYEP intake organizations can offer up to 10% of its jobs in for-profit companies.

Out of City SYEP placements are limited. Three organizations offer Out-of-City employment opportunities: Council of Jewish Organizations of Flatbush, - Henry Street Settlement and National Society for Hebrew Day Schools.

## NYSRA AND RRTI CALENDAR

### April 2006

*April 26*  
Waiver Services Committee (DD Division), Albany

*April 26*  
NYSRA OPTS Conference Call, 3PM

### May 2006

*May 3*  
Development Disabilities Division, Albany

*May 4*  
Employment Options (Voc. Division), Albany

*May 11*  
Vocational Division, NYC

*May 12*  
Mental Health Division, Albany

### June 2006

*June 6-7*  
NYSRA's Executive Team Management Institute, Gideon Putnam Hotel, Saratoga Springs

*June 9*  
Partnerships for Youth in Transition Committee (Voc. Division), Albany

**5th Annual Northeastern U.S. Conference on disAbility**  
**October 18-20, 2006 - Radisson Hotel, Scranton, PA**  
*"Being, Belonging, and Becoming: Mobilizing Partnerships to Enhance the Quality of Life of Individuals with Disabilities"*  
For information on [Call for Proposals](#) contact:

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