



**TESTIMONY BEFORE THE JOINT FISCAL COMMITTEES  
OF THE NEW YORK STATE LEGISLATURE  
REGARDING THE 2011-2012 EXECUTIVE BUDGET  
MENTAL HYGIENE FUNDING**

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**Submitted by:**

**NEW YORK STATE REHABILITATION ASSOCIATION**

**Presented by:**

**Jeff Wise, JD  
President / CEO  
New York State Rehabilitation Association  
155 Washington Avenue, Suite 410  
Albany, NY 12210  
518.449.2976  
[www.nyrehab.org](http://www.nyrehab.org)**

## **INTRODUCTION**

Good afternoon. We very much appreciate the opportunity to offer you our views on portions of the Executive Budget related to mental hygiene issues.

I am Jeff Wise, president and chief executive officer of the New York State Rehabilitation Association.

NYSRA is now in its 32<sup>nd</sup> year as a statewide trade association of not-for-profit providers of services to New Yorkers of differing abilities. Our providers and their direct-care staff are key components of the state's delivery system of services to people with developmental disabilities, mental health diagnoses, learning disabilities, and other conditions. Our approximately 100 provider agencies deliver myriad services to New Yorkers, including vocational rehabilitation, residential care, and many other person-centered services.

## **GENERAL THEMES**

NYSRA recognizes the difficulties being encountered by New York –and all States – in dealing with the national recession and other fiscal conditions that are straining state resources. While spending cuts are probably inevitable, those cuts must be done in such a way as to ensure that critically important services to people who need them are not eroded or eliminated.

The series of state budget cuts dating back more than two years, including 6 percent mid-year reductions in 2008, the Deficit Reduction of December 2009, and the FMAP contingency cut in September 2010 has had a cumulative impact. We strongly urge the Legislature to weight this budget proposal with that context kept in mind.

We believe that all things funded by state government are “desirable.” Yet, beyond that, some things are certainly “important.” And, beyond even those are services and programs that must be considered “essential.”

Serving people with disabilities is an essential responsibility that New York has long assigned a very high priority. However difficult the fiscal climate, however urgent the need to cut spending, this high priority cannot be abandoned.

The Governor's Budget Proposal lists an actual global Medicaid cut, from last year's funding levels, of \$982 million. This is a considerable reduction and one that, again, we ask be considered in the context of the previous cuts that have been absorbed by our programs and services.

## DEVELOPMENTAL DISABILITIES

The Executive Budget includes important support for New Yorkers whose services are delivered through the Office of Mental Retardation and Developmental Disabilities. It also, however, includes broad cuts that we believe will have adverse impacts on the populations we serve.

The Executive Budget Proposal includes a reduction of \$73 million in the coming SFY, annualizing the following year to \$98 million, in the areas described thusly by the budget documents:

- *Reform the financing of various OPWDD programs through rate, price and contract adjustments to both residential and nonresidential services to reflect efficiencies, program restructurings and other cost savings. These reforms include more aggressive reviews of providers' overall surplus/loss analysis, as well as further constraints on administrative and non personal service costs. Funding for workshop, day training and other day services will be reduced to encourage placements into other more effective community based integrated day and employment programs. In addition, funding for transportation services and residential habilitation services delivered in supervised Individualized Residential Alternative programs will be reduced to encourage efficiencies.*

We remind policymakers that these programs are very much at the heart of services for people with developmental disabilities. We also remind policymakers that this reduction will be matched by a loss of federal dollars that will bring the annual decrease in funding next year to well more than \$200 million annually.

If this reduction is not restored and must stand, we must notify policymakers that services in this area will be severely strained and that agencies in their communities may be threatened with insurmountable fiscal challenges.

In the alternative, NYSRA strongly recommends shifting of people receiving services in state-operated facilities to agencies in the voluntary, not-for-profit sector. Considerable savings can be realized by shifting people to the community settings, which are run at considerably lower costs than state facilities. This shift also works to move New Yorkers toward more integrated settings wherever possible.

NYSRA supports regulatory reform as another way of finding savings that would not threaten services and supports for people in the OPWDD system. We stand ready to work with policymakers, identifying regulations that add administrative burdens and costs to the system, doing nothing to truly impact service availability or quality. We think the Governor's Mandate Relief Redesign Team, whose report has just become available, demonstrates that there are many areas that can be investigated for relief. Our first-blush look at the report is that it includes some promising areas of reform that we would strongly support. However, we ask the Legislature and the Governor to go further and to perhaps convene a stakeholder group that would also look closely at the regulatory environment in which all sorts of state-licensed providers are being

asked to operate. The momentum we see created by the Mandate Relief Team's report should be carried through to touch on all areas, not just focus on school districts and local governments.

## **MENTAL HEALTH**

Cuts in the Office of Mental Health, similar to those at OPWDD, will cause certain strains to the system. And we encourage the Legislature to be aware that cuts to mental health services in times of fiscal crisis may be counterproductive down the line.

The Executive Budget in this area does pick up on a theme already mentioned – the shifting of people from state-operated facilities to community provider settings. We support this proposal, which is part of OMH's plan to absorb its 10 percent state operations cut, and we urge that it be considered in the developmental disabilities sector as well.

NYSRA has added our support to the many organizations and others who favor a managed care “carve-out” that would set up regional “Behavioral Health Organizations” (BHOs) that would coordinate care for people with serious mental illness. While we find much that is promising in this item as forwarded last week by the Medicaid Redesign Team, we must ensure that integrated health principles favored by the federal Affordable Care Act (ACA) are not compromised by moving to a BHO model. At this point we believe the model being proposed through the MRT will comport with the concept of “medical home” that the ACA incentivizes and, of course, any impact such a model would have on the availability of overall health care to those who enter a “medical home” through a mental health services doorway.

## **OFFICE OF MEDICAID INSPECTOR GENERAL**

The Executive Budget once again relies on revenue generated by the state Office of Medicaid Inspector General through its audits of community and other providers. NYSRA absolutely supports any and all efforts to truly uncover genuine waste, fraud and abuse within the Medicaid system. We are troubled, however, that the OMIG has become a revenue source for the state that is given targets it must reach. These targets can seem quite arbitrary and may have no relation at all to actual fraud in the field. Moreover, draconian “extrapolation” practices, whereby even honest clerical errors can be magnified into large state demands for recovery of “overpayments,” can – and have – placed unnecessary burdens on honest providers, with no evidence of fraud, regarding billings for services that were, in fact, provided to people who need them.

NYSRA supports legislation that is now in each house – A.5686 by Assemblyman Gottfried and S.3184, a “same-as” bill recently introduced by Senator Little. We urge the Legislature to closely consider this legislation, which would do much to rationalize the process by which the state, rightfully, goes after fraud and true waste, while at the same time ensuring that providers are afforded appropriate due process rights and are somewhat protected from potentially devastating rulings that can threaten their very ability to remain in existence.

## **CONTINUATION OF TAX SURCHARGE**

We also join with the myriad other organizations asking you to consider, at least temporarily, generating additional revenue by extending the personal income tax surcharge on New York's highest-income individuals. Extending that tax through the fiscal year would assist in mitigating some of the difficult cuts we are all facing by producing perhaps \$1 billion. While we understand the Governor's reluctance to look to tax increases to resolve the deficit, we believe that extension of a tax, already in place, does not impose unfair burdens, but is true to the belief that sacrifice in austere times should be wide shared.