NYSRA New York State Rehabilitation Association, Inc.

TESTIMONY BEFORE THE JOINT FISCAL COMMITTEES

OF THE NEW YORK STATE LEGISLATURE

RELATING TO THE 2013-2014 EXECUTIVE BUDGET

MENTAL HYGIENE FUNDING

February 27, 2013

Submitted by:

NEW YORK STATE REHABILITATION ASSOCIATION

Presented by:

Hanns Meissner, Ph.D.
CEO, ARC of Rensselaer County

Board Member, New York State Rehabilitation Association
155 Washington Avenue, Suite 410
Albany, NY 12210

INTRODUCTION

Thank you Senator DeFrancisco, Member of Assembly Farrell and the members of the fiscal committees for offering us the opportunity to offer views on portions of the proposed Executive Budget related to mental hygiene issues.

I am Hanns Meissner, CEO of the ARC of Rensselaer County and a longtime Board Member, and former board chair, of the New York State Rehabilitation Association.

NYSRA is nearing 35 years 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 and supports to people with developmental disabilities, mental health diagnoses, learning disabilities, and other conditions. Our approximately 100 provider agencies deliver services that include vocational rehabilitation, residential care, day programs and many other person-centered services.

GENERAL RESPONSE TO THE EXECUTIVE BUDGET

On many levels, the Governor's proposed budget contains elements worthy of NYSRA support. But, as is generally the case with any budget, there are elements of the plan that raise questions and concerns.

From a fiscal perspective, we know that New York continues to confront many challenges, including a sluggish state and national economy, structural deficits that have accumulated over many years, and changes beyond New York's control. Among these would be the current climate in Washington, which is not one that fosters a sense of fiscal optimism in many ways.

However, we believe that, whatever the fiscal or policy climate, serving people with disabilities is an essential responsibility that New York has long assigned a very high priority. However difficult the climate, however urgent the need to find efficiencies, transform systems, and adjust roles of various stakeholders, this high priority must always remain.

DEVELOPMENTAL DISABILITIES FUNDING

As with mental health, the DD system in New York State is embarking on a period that will undoubtedly bring dramatic changes to a system that serves some 126,000 New Yorkers. State officials are currently in negotiation with federal staff at the Centers for Medicare and Medicaid Services (CMS) on a Medicaid managed care waiver, termed the People First Waiver that will for the first time in our history put people with developmental disabilities into a managed care environment. Managed long-term care presents special issues that are distinct from issues in the acute health care realm.

We have worked with the Administration, and will continue do so to help ensure a smooth transformation. However, we are today concerned with a very significant issue – a 30-day budget amendment that, if enacted, will seriously compromise not-for-profit providers throughout New York State.

As a product of negotiations with federal CMS officials, an agreement has been struck on Medicaid spending that will reduce funding of not-for-profit providers by 6 percent almost immediately. This reduction totals $120 million in state funding, but works a reduction of $240 million with the concomitant loss of federal matching funds.

Frankly, a nearly immediate cut of this magnitude cannot be absorbed without dramatic impacts on the people served by the not-for-profit community. Many agencies will almost assuredly have to lay off staff; there is the possibility that services and supports will have to be curtailed or even eliminated. Some agencies, actually, may not be able to survive.

At my agency, ARC of Rensselaer County, we have made our best effort to look at the impact of this cut.

The impact of the 6 percent across the board reduction in the Medicaid rates would result in loss revenue of $1,469,018. (total agency budget of $27,738,903). Agency budget by category breaks out as follows: Personal Services and Fringe – 73%, Property and Equipment – 6%, OTPS – 11%, Production raw materials (work center, non-Medicaid) – 4% and Agency Administration – 6.5%.

Given efficiencies taken over the past five years, it is difficult to find additional savings in other than personnel costs. Quite the opposite of finding more efficiencies, more than likely costs in this area will continue to rise (gas, fuel, oil, maintenance, food, materials).

Property and equipment are largely tied to contractual arrangements and already expensed depreciation, so making cuts here are difficult. Raw material costs are included and recouped in the sale of a product (a source of income).

Agency administration is very low and is at bare bones given the tasks of budget, accounting, risk management, human resource management, information technology, compliance, incident management, change management, innovation, and agency oversight that is required to address imposed State and Federal mandated regulations and transitions to a managed care environment. This leaves personnel services and fringe to shoulder most of the agency's cuts.

Reduction Targets:

1. Value of 6% reduction on The Arc of Rensselaer County's Medicaid budget - $1,469,018.
2. Proposed reductions:
    - 38 FTE direct care positions
      Value = $1,292,000
    - 3 FTE administrative positions
      Value = $180,000

Impacts of Staffing Reductions:

1. *Impact of Direct Care Reductions (compromising the agency's ability to address increased needs and provide quality services)*
   Fire Safety – less staff to safely evacuate individuals during a fire.

   - Health and Safety – less staff to assist with feeding (preventing choking), reduced capacity to assist individuals with doctor's visit, carry out health and personal care protocols, individualize supports to meet needs of an aging population, and address health care needs in a non-medical facility. Referral to nursing home, for example, would increase costs.

   - Reduction and Closure of Services – inability to adequately staff services e.g., respite, supported employment, family supports resulting in large waiting lists, stressed families, decreased employment (family member shifting to 24/7 care giver role). Lost revenue from closed services, further impacting on the ongoing fiscal sustainability of the agency. Also a loss of 43 jobs impacting on the economy of a locality

   - Reduction in Service Quality – migration back to institutional and custodial level of care. Elimination of service choice and self-determination

   - Increased vulnerability to abuse and neglect as a result of staffing reductions and remaining staff being overworked and stressed.

2. *Impact of Administrative Reductions (compromising the agency's ability to sustain critical operational functions)*

   - Reduced capacity to perform compliance functions, resulting in potential slip in monitoring and correcting compliance related issues.

   - Reduced capacity to maintain physical locations leading to site deterioration and increase in physical injuries.

   - Reduced capacity to manage incident management tasks such as investigation, incident trend analysis, self-auditing against regulations – threat of unaddressed abuse and neglect situations.

   - Reduced capacity to manage transitions to managed care and self-determination.

   - Reduced capacity to manage: risk, budget, information technology, and billing functions.

- Reduced capacity to address human resource management functions, such as employee recruitment and selection, training and development, new initiatives such as PROMOTE and Direct Care core competencies, and labor relations.

Other Considerations:

Reducing this many positions may require a 90 day notice (see the State and Federal WARN Act). Therefore, target savings would not be achieved in this upcoming fiscal year (or more cuts and reductions of service would need to be implemented). Achieving the targeted cost savings will be compromised in the first 26 plus weeks due to unemployment payments amounting to $233,600. This would require our agency to cut something else to cover this cost.

We have looked at this situation very closely, as I think is clear. It should be noted that we believe that this scenario will be replicated in many agencies all throughout the state.

We respectfully ask the Legislature and state officials to work together to find creative ways to restore funding or find other savings. A simple, across-the-board cut to not-for-profit providers is not equitable, in our view.

OTHER AREAS OF INTEREST

<u>NYSRA strongly supports the Governor's proposal for a permanent exemption</u> for state licensed agencies regarding the social work and mental health practitioner licensing issues. The proposal would permanently exempt agencies from having to employ licensed professionals in countless job titles that have long been performed by unlicensed staff. Additionally, it would exempt agencies from having to apply for a waiver from "corporate practice" prohibitions which currently forbid certain licensed individuals from working for corporate entities. Failure to renew the exemption will lead to additional costs in the tens of millions of dollars.

<u>NYSRA is concerned about the Executive Budget proposal to consolidate all Medicaid operations</u> in DOH. Providers have concerns as to whether DOH is sufficiently familiar with special populations assisted by Medicaid and served by community not-for-profit corporations. A lack of familiarity could lead to Medicaid decisions based, for example, on a medical model with which DOH is surely familiar, but not on the more complex service and supports model in the DD system.