

2011-12 NEW YORK STATE EXECUTIVE BUDGET

**HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

2011-12 NEW YORK STATE EXECUTIVE BUDGET
HEALTH AND MENTAL HYGIENE ARTICLE VII LEGISLATION

MEMORANDUM IN SUPPORT

CONTENTS

PART	DESCRIPTION	STARTING PAGE NUMBER
A	Improve public health services and achieve savings by modifying Elderly Pharmaceutical Insurance Coverage, Early Intervention, and General Public Health Work, and implementing various other changes.	6
B	Suspend implementation of a new nursing home reimbursement method and extend the reimbursement cap, authorize certain Medicaid payments and extend authorization to collect nursing home assessment revenue.	9
C	Extend the Health Care Reform Act (HCRA) for three years.	10
D	Extend various provisions of the Public Health, Social Services and Mental Hygiene laws, including continued authorization of previously enacted Medicaid savings initiatives.	12
E	Amend the Medicaid eligibility status of individuals served in Institutions for Mental Diseases (IMD).	14
F	Establish a one-year deferral of the Human Services Cost of Living Adjustment.	16
G	Ensure the efficient and cost-effective delivery of programs and services operated by the Office of Mental Health.	16

MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the elder law, in relation to Medicare part D; to amend the public health law and the insurance law, in relation to early intervention services; to amend the public health law and the elder law, in relation to creating local competitive performance grant programs for priority health initiatives and initiatives in aging; to amend the public health law, in relation to tobacco control and insurance initiatives pool distributions; to amend the public health law, in relation to clinical laboratories; to amend the public health law, in relation to distribution of HEAL NY capital grants; to amend section 32 of part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to particular provider pharmacies and prescription drug coverage, in relation to the effectiveness thereof; to amend section 4 of part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness thereof; to amend paragraph b of subdivision 1 of section 76 of chapter 731 of the laws of 1993, amending the public health law and other laws relating to reimbursement, delivery and capital costs of ambulatory health care services and inpatient hospital services, in relation to the effectiveness thereof; to amend section 4 of chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to the effectiveness thereof; to amend section 3 of chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, in relation to the effectiveness thereof; to repeal subdivisions 4 and 5 of section 2545 of the public health law, relating to IFSP; to repeal paragraph (b) of subdivision 2 of section 605 of the public health law, relating to state aid for basic services; to repeal subdivision 2, and paragraphs (c), (d) and (g) of subdivision 3 of section

242 of the elder law, relating to eligibility for comprehensive coverage for elderly pharmaceutical insurance; to repeal section 244 of the elder law, relating to the elderly pharmaceutical insurance coverage panel; to repeal subdivisions 1, 2 and 4 of section 247 of the elder law, relating to cost-sharing responsibilities of participants in the elderly pharmaceutical insurance coverage program; and to repeal section 248 of the elder law, relating to cost-sharing responsibilities of participants in the elderly catastrophic insurance program (Part A); to amend the public health law, in relation to rates of payment and medical assistance; and to amend chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities, in relation to adjustments to Medicaid ratio of payment for inpatient services (Part B); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend the public health law, in relation to health care initiative pool distributions; to amend the public authorities law, in relation to the transfer of certain funds; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services, in relation to the effectiveness of such chapter; to amend chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof, in relation to extending the effectiveness of portions thereof; to amend the public health law, in relation to extending access to community health care services in rural areas; to amend the public health

law, in relation to continuing the priority restoration adjustment; to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the applicability of certain provisions thereof; to amend the insurance law, in relation to liquidation of domestic insurers; to amend chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending the applicability of certain provisions thereof; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend the social services law and the public health law, in relation to rates of payment for personal care service providers, residential health care facilities and diagnostic and treatment centers; and to amend chapter 495 of the laws of 2004 amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness of such provisions (Part C); to amend the public health law, in relation to payments to residential health care facilities; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend the public health law, in relation to capital related inpatient expenses; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies; to amend chapter 451 of the

laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend the public health law, in relation to rates of payment for long term home health care programs; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness of certain provisions thereof; to amend chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to the effectiveness of certain provisions thereof; to amend chapter 535 of the laws of 1983, amending the social services law relating to eligibility of certain enrollees for medical assistance, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to capital related inpatient expenses; and to repeal certain provisions of chapter 41 of the laws of 1992, amending the public health law and other laws relating to health care providers relating to the effectiveness of certain provisions thereof (Part D); to amend the social services law, in relation to suspension of eligibility for medical assistance (Part E); to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs,

in relation to foregoing such adjustment during the 2011-2012 state fiscal year (Part F); and to amend the mental hygiene law, in relation to the closure and the reduction in size of certain facilities serving persons with mental illness; and to repeal certain provisions of such law relating thereto (Part G)

PURPOSE: This bill contains provisions needed to implement the Health and Mental Hygiene portions of the 2011-12 Executive Budget.

This memorandum describes Parts A through G of the bill which are described wholly within the parts listed below.

Part A – Improve public health services and achieve savings by modifying Elderly Pharmaceutical Insurance Coverage, Early Intervention, and General Public Health Work, and implementing various other changes.

Purpose:

This bill contains provisions needed to implement the 2011-12 Executive Budget through cost savings and various other changes in the Department of Health (DOH) and the State Office for the Aging (SOFA).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill generates State Financial Plan savings by modifying the Elderly Pharmaceutical Insurance Coverage (EPIC), Early Intervention (EI) and General Public Health Work (GPHW) programs, and implementing various other changes.

Section 1 of the bill amends Elder Law § 242(3) to eliminate the Part D premium assistance payment and deductible credit currently provided by EPIC.

Section 2 of the bill amends Elder Law § 241 to eliminate references to the EPIC application fee and deductible credit and define the “coverage gap period” and “Medicare Part D excluded drug classes.”

Sections 3 of the bill through 3-n amend Elder Law §§ 242, 243, 244, 247, 248, 250 and 254 to provide for EPIC coverage only while a participant is in the Medicare Part D coverage gap and to streamline the program through measures such as the elimination of transitional assistance, financial hardship exemptions, the EPIC panel, the EPIC registration fee, and catastrophic drug coverage.

Section 4 of the bill provides for a 10 percent across-the-board reduction in rates for the EI program.

Section 5 of the bill amends Public Health Law § 2559 to require providers who receive more than \$500,000 from Medicaid for EI services each year to seek reimbursement directly from Medicaid prior to seeking payment from municipalities for these services.

Sections 6 through 10 of the bill are intentionally omitted.

Section 11 of the bill amends Insurance Law § 3235-a to prohibit insurance companies from denying claims for medical services normally covered under the terms of a policy based on prior authorization requirements, the location where services are provided, the duration of the condition, the likelihood of significant improvement, or the network status of the service provider.

Section 12 of the bill amends Public Health Law § 2545 to eliminate the requirement that a child's parents and an EI official agree on the child's initial Individualized Family Service Plan (IFSP) before the EI official can authorize EI services. This change complies with Federal regulations which only require parental consent on services prior to authorization.

Section 13 of the bill amends Public Health Law § 605 to eliminate reimbursement for optional services for the GPHW program.

Section 14 of the bill adds a new Public Health Law § 212 to establish a Local Competitive Performance Grant program for priority health initiatives by authorizing the Commissioner of Health to make grants and enter into contracts (within amounts appropriated) with public, non-profit or private entities.

Section 15 of the bill adds a new Elder Law § 224 to establish a Local Competitive Performance Grant program for priority initiatives in aging by authorizing the Director of SOFA to make grants and enter into contracts (within amounts appropriated) with public, non-profit or private entities.

Section 16 of the bill makes a technical amendment to Public Health Law § 2807-v to delink the funding for the Empire State Stem Cell Fund authorized by the Health Care Reform Act (HCRA) from any potential conversion proceeds to allow for spending from current HCRA resources.

Section 17 of the bill is intentionally omitted.

Sections 18 of the bill through 21 amend Public Health Law §§ 571, 575, 576 and 577 to update and clarify the cost components of the methodology used to determine fees that support DOH's oversight system for clinical laboratories and blood banks.

Sections 22 through 25 of the bill are intentionally omitted.

Section 25-a of the bill amends Public Health Law § 2818 to authorize the Commissioner of Health to distribute funds available under the Health Care Efficiency and Affordability Law for New Yorkers (HEAL-NY) program through grants to general hospitals and nursing homes, without a competitive bid or request for proposal process, to facilitate closures, mergers and restructuring of such facilities for the purpose of promoting access to essential health care services.

Section 26 of the bill amends Chapter 58 of the Laws of 2008 to make permanent an increase in certain maximum monetary penalties for violations of the Public Health or its associated regulations and the dedication of revenue generated from such increase to the support of the Patient Safety Center.

Section 27 of the bill amends Chapter 62 of the Laws of 2003 to extend for two years a provision allowing the use Office of Professional Medical Conduct (OPMC) funds for activities that support patient safety initiatives.

Section 28 of the bill amends Chapter 731 of the Laws of 1993 to provide a three year extension of the health occupation development and work place demonstration programs.

Section 29 of the bill amends Chapter 505 of the Laws of 1995 to make permanent the statute authorizing a streamlined process for contracts for the purchase of goods and services for State hospitals operated by DOH up to threshold amounts.

Section 30 of the bill amends Chapter 303 of the Laws of 1999 to make permanent the statute permitting the Dormitory Authority of the State of New York to bundle Primary Care Development Corporation projects and refinance them at lower cost.

Section 31 of the bill sets effective dates for these provisions and authorizes the Commissioner of Health to promulgate emergency regulations if necessary to implement the provisions of sections 18 through 21 of the bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget, which recommends State Financial Plan savings of \$75.8 million in 2011-12 and \$187.5 million in 2012-13 as follows:

- \$58.4 million in savings in 2011-12 (\$93.2 million in 2012-13) associated with reforming the EPIC program.
- \$11.6 million in savings in 2011-12 (\$50.8 million in 2012-13) associated with modifying the EI program.

- \$10.5 million in savings in 2011-12 (\$52.8 million in 2012-13) associated with eliminating optional services under the GPHW program.
- \$3.9 million in costs in 2011-12 (\$7.7 million in 2012-13) associated with establishing a Local Competitive Performance Grant Program for DOH.
- \$0.8 million in costs in 2011-12 (\$1.6 million in 2012-13) associated with establishing a Local Competitive Performance Grant Program for SOFA.

Effective Date:

This bill takes effect April 1, 2011, with the following exceptions:

- Section 1 takes effect July 1, 2011;
- Sections 2 through 3-n take effect January 1, 2012; and
- Section 13 takes effect on July 1, 2011.

Part B – Suspend implementation of a new nursing home reimbursement method and extend the reimbursement cap, authorize certain Medicaid payments and extend authorization to collect nursing home assessment revenue.

Purpose:

This bill is necessary to suspend the implementation of a new nursing home reimbursement methodology and extend the existing nursing home reimbursement cap and authorization to collect nursing home assessment revenue. In addition, this bill authorizes certain Medicaid payments to State University of New York (SUNY) hospitals, AIDS Adult Day Health Care (ADHC) providers and providers treating Huntington's disease.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Section 1 of the bill authorizes supplemental Medicaid payments for professional services provided by physicians, nurse practitioners, and physician assistants participating in practice plans affiliated with SUNY hospitals.

Section 2 of the bill amends Public Health Law § 2807-c to require hospitals to submit additional data to the Department of Health for the purpose of calculating provider-specific disproportionate share hospital caps, in accordance with Federal requirements.

Section 3 of the bill amends Public Health Law § 2808 to suspend implementation of the nursing home rebasing methodology until July 1, 2011.

Section 4 of the bill amends Chapter 58 of the Laws of 2009 to extend the \$210 million (gross) annual cap on nursing home rate increases through March 31, 2012.

Section 5 of the bill authorizes Medicaid payments for nursing homes with discrete units for treating patients with Huntington's disease.

Sections 6 and 7 of the bill allow prior year Medicaid payments to be made to adult day health care providers treating patients with AIDS.

Section 8 of the bill amends Public Health Law § 2807-d to permanently extend authorization to collect nursing home gross receipts assessments.

Section 9 of the bill provides that the State shall not take any administrative or statutory action that would cause the state share of Medicaid spending to grow at an annual rate that exceeds a 10-year rolling average of the medical component of the Consumer Price Index.

Sections 10, 11, 12 and 13 of the bill set forth provisions pertaining to statutory references, time frames for notice, severability and effective dates.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget by authorizing the collection of \$556 million in annual revenues and the payment of funds as assumed in the State's Financial Plan.

Effective Date:

This bill takes effect April 1, 2011.

Part C – Extend the Health Care Reform Act (HCRA) for three years.

Purpose:

This bill extends the provisions of the Health Care Reform Act (HCRA) governing the financing of health care services through March 31, 2014. Currently, HCRA is scheduled to sunset on March 31, 2011.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

In 1996, New York enacted the Health Care Reform Act (HCRA), which replaced the hospital reimbursement system in existence since 1983 with a deregulated system. This Act was designed to improve the fiscal health of hospitals and support critical

public health programs. It was subsequently extended and modified several times, most recently by Chapter 58 of the Laws of 2008, which reauthorized HCRA through March 31, 2011.

This bill extends HCRA through March 31, 2014 and amends provisions in order to maximize the use of available revenue sources, modify programs and secure the fiscal viability of HCRA through its proposed extension period. Specifically:

Sections 1 through 3 of the bill amend various provisions to extend effective dates through March 31, 2014. These provisions include the continuation of the Medicaid inpatient hospital reimbursement methodology as well as the collection and allocation of HCRA surcharges.

Section 4 of the bill provides funding for various administrative costs of the Department of Health to assist in the implementation of HCRA programs.

Sections 5, 5-a, 5-b and 6 of the bill amend Public Health Law § 2807-s to extend authorization for the collection of the Covered Lives Assessment through March 31, 2014.

Sections 7 and 8 of the bill amend Public Health Law §§ 2807-l and 2807-v to extend the Health Care Initiatives and Tobacco Control and Insurance Initiatives Pools.

Section 9 of the bill amends Public Authorities Law § 1680-j to modify and extend the authority to transfer funds from HCRA to the General Fund for purposes related to subsidizing Health Care Efficiency and Affordability Law for New Yorkers (HEAL-NY) capital grants and debt service costs.

Sections 10 through 12 of the bill extend the authorization for certain provisions historically extended with HCRA (i.e., timely hospital admission billing payments, uniform fiscal intermediary billing requirements, the Council on Health Care Financing, and the Ambulatory Care Pilot Program).

Sections 13 and 14 of the bill amend Public Health Law §§ 2952 and 2958 to extend provisions regarding funding for the Rural Health Network and Access Development Programs.

Sections 15 through 20 of the bill extend the Physician's Excess Medical Malpractice Program through June 30, 2014.

Sections 21 through 25 of the bill amend various provisions to extend the Primary Care Case Management Program, the Upstate Personal Care and Home Care Workforce Recruitment and Retention Programs, and the Entertainment Industry Worker Insurance Demonstration Program through March 31, 2014.

Section 26 and 26-a of the bill amend Public Health Law § 2807-m to extend the authorization for Area Health Education Centers (AHEC), the Empire Clinical Research Investigator Program (ECRIP) and the Doctors Across New York program, including programs such as the Physician Loan Repayment and Practice Support Programs.

Section 27 of the bill amends Public Health Law § 2807-p to extend authorization for State-only grant payments for clinic bad debt and charity care.

Sections 28 and 29 of the bill amend Public Health Law §§ 2807-k and 2807-w to extend hospital indigent care payments through December 31, 2014.

Sections 30 and 31 of the bill amend Public Health Law § 2807-j to clarify that, similar to physicians employed by a hospital, private practice physicians who bill discretely in a hospital or clinic are not required to pay HCRA surcharges.

Sections 32 through 35 of the bill pertain to waiver authority, time frames for notice, severability and effective dates.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget and the State's multi-year Financial Plan, which reflects the continuation of HCRA funding for a number of important health programs and revenue sources.

Effective Date:

This bill takes effect April 1, 2011.

Part D – Extend various provisions of the Public Health, Social Services and Mental Hygiene laws, including continued authorization of previously enacted Medicaid savings initiatives.

Purpose:

This bill is necessary to maintain Financial Plan savings by continuing various previously enacted Medicaid cost containment actions authorized in the Public Health, Social Services and Mental Hygiene Laws.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Section 1 of the bill permanently extends authorization for up to \$300 million annually for nursing home “upper payment limit” (UPL) payments for non-state operated public nursing homes.

Section 2 of the bill permanently extends unconsolidated law authorizing “intergovernmental transfer” (IGT) payments to non-New York City “disproportionate share hospitals” (DSH).

Section 3 of the bill extends authorization for bad debt and charity care allowances for certified home health agencies through 2013.

Sections 4 through 8 of the bill permanently extend provisions relating to Medicaid capital cost reimbursement and remove references to Medicare that are no longer relevant.

Section 9 of the bill permanently continues the exclusion of the 1996-97 trend factor from nursing home and inpatient rates.

Section 10 of the bill permanently continues the 0.25 percent trend factor reduction for hospitals and nursing homes.

Sections 11 through 14 and 14-a of the bill extend the requirement that nursing homes, hospitals, certified home health care and long term home health care providers maximize Medicare revenues through February 1, 2013.

Sections 15 and 16 of the bill remove a \$1.5 million reconciliation limit for the certified home health care agency administrative and general cap.

Section 17 of the bill extends the requirement that parties to a contract between a hospital and a managed care organization (MCO) continue to abide by the terms of the contract for two months from the effective date of contract termination or non-renewal, unless certain circumstances are met, through June 30, 2013.

Section 18 of the bill permanently extends a limitation on the reimbursement of the long term home health care program administrative and general costs to a statewide average.

Section 19 of the bill permanently extends certain income and benefit expansions relating to Child Health Plus and facilitated enrollment.

Section 20 of the bill permanently extends authorization for partially capitated managed care plans to provide primary care and preventive services to Medicaid recipients as well as HIV special needs plans.

Section 21 of the bill extends authorization for the Commissioner of Health to establish utilization thresholds for Medicaid services through July 1, 2014.

Section 22 of the bill permanently extends authorization for the Medicaid program, subject to the availability of Federal financial participation, to cover Medicaid Managed

Care (MMC) premiums for the six-month period beginning with enrollment in a MMC plan, even if the enrollee loses eligibility for Medicaid before the end of such period.

Section 23 of the bill continues the statutory requirement that establishes limited licensed home care service agencies in adult homes or enriched housing programs as providers of personal care and limited medical services.

Section 24 of the bill extends the managed care pharmacy carve-out through March 31, 2014.

Section 25 of the bill permanently extends the Medicaid managed care program.

Sections 26 and 26-a of the bill permanently extend Medicaid co-payments.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget because it ensures the continuation of previously enacted State Financial Plan savings totaling \$221.6 million annually.

Effective Date:

This bill takes effect April 1, 2011.

Part E – Amend the Medicaid eligibility status of individuals served in Institutions for Mental Diseases (IMD).

Purpose: This bill is designed to allow the Office of Mental Health (OMH) to suspend, rather than terminate, Medicaid (MA) eligibility for individuals who are served in Institutions for Mental Disease (IMD), thereby preventing a delay in their receipt of needed services after discharge from the institution, and also preventing significant loss of Federal MA funding to the State.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Currently, the State terminates MA eligibility for individuals between the ages of 22 and 64 when they are admitted to a psychiatric hospital, or other facility classified by the Federal government as an IMD, since services provided to such individuals in such facilities are not eligible for Federal Financial Participation (FFP) under MA law and regulations. However, upon discharge from an IMD facility such individuals are required to re-enroll in MA in order to receive reimbursable services. Although technically eligible for MA upon discharge, there is usually a lag until eligibility is re-established.

This delay in eligibility can negatively impact post-discharge continuity of care, because individuals are unable to timely access needed care, which in turn leads to increases in relapse rates, emergency care reliance and otherwise avoidable hospitalizations. Service providers and State and local governments are also more likely to bear the full cost of their care, without the Federal assistance such services would generate under MA. If eligibility is suspended rather than terminated upon admission to an IMD facility, individuals will be better served upon discharge, with immediate access to health and mental health services that provide continuity of care and ongoing support that can reduce recidivism and avoid more costly services.

Furthermore, the Federal Centers for Medicare and MA Services (CMS) has recommended that States suspend rather than terminate eligibility for such individuals. In 2010 CMS also issued guidance indicating that the costs of providing inpatient services for individuals in IMDs whose MA has been terminated will no longer be counted in calculating an IMD's MA "disproportionate share" (DSH) payments, whereas the costs of such patients with suspended eligibility will be countable. Additionally, many OMH inpatients between 22 and 64 years of age are dually eligible for Medicare and MA when admitted. However, because current State policy results in removal of these individuals from the MA rolls, CMS views them as receiving Medicare only, which is considered third party coverage and therefore ineligible for DSH payments. By suspending instead of terminating eligibility, such individuals would still be on the MA roll, thereby making their uncompensated costs DSH eligible.

Chapter 355 of the Laws of 2007 similarly amended Social Services Law § 366 to authorize State and local correctional facilities to suspend rather than terminate MA eligibility for inmates during an individual's incarceration. As a result of this bill, if such an inmate is released from a correctional facility and immediately admitted to an IMD facility, the former inmate's MA eligibility would continue to be suspended until his or her discharge to the community.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget because it would preserve roughly \$200 million in annual DSH revenues that would otherwise be subject to Federal disallowances.

Effective Date:

This bill takes effect April 1, 2011.

Part F – Establish a one-year deferral of the Human Services Cost of Living Adjustment.

Purpose:

This bill defers the Human Services Cost-of-Living Adjustment (COLA) for 2011-12 and extends the adjustment for an additional year, through March 31, 2015.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill defers the 2011-12 COLA for designated Human Services programs under the auspices of several State agencies, including the Office for People with Developmental Disabilities, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Department of Health, State Office for the Aging, and Office of Children and Family Services.

Additionally, this bill seeks to honor the State's commitment to support the COLA for three years by continuing the adjustment for one additional year, through SFY 2014-15.

Budget Implications:

Eliminating the formula for the 2011-12 Human Services COLA will result in a savings of \$49 million annually to the State.

Effective Date:

This bill takes effect immediately.

Part G – Ensure the efficient and cost-effective delivery of programs and services operated by the Office of Mental Health.

Purpose:

This bill ensures that reforms intended to facilitate the cost effective and efficient operation of hospitals, facilities and programs run by the Office of Mental Health (OMH) can be effectuated by the Commissioner. Currently, such reforms are subject to a one-year period of delay before they can be implemented.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill provides the OMH Commissioner with the flexibility to determine the most appropriate and effective way to deliver State-operated services, including which facilities and programs should be closed, consolidated, downsized, redesigned or

transferred based on a variety of factors, including fiscal and programmatic needs, clinical assessments, and current census figures.

The bill permanently repeals Mental Hygiene Law § 7.17(e), which currently requires a one-year notice for significant service reductions, and notwithstanding subdivision (b) that delineates individual State Psychiatric Centers. For 2011-12, the bill also allows the OMH Commissioner to the flexibility to consolidate, reduce, transfer, close or redesign facilities and services notwithstanding MHL Section 41.55, which requires that all savings realized from the closure of hospitals or beds be reinvested into community services.

The approach facilitated by this bill is part of a longstanding effort to have individuals served in the community rather than in institutions, which can be a more appropriate and less costly setting for many individuals.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget and generate savings associated with a ten percent cut in State operational costs.

Effective Date:

This bill takes effect April 1, 2011.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.