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## ***State Budget: AIDS Nursing Homes Take Dramatic, Unexpected Funding Hit***

**T**he state budget deal hammered out by the “three men in a room” – Governor Paterson, Assembly Speaker Silver and Senate Majority Leader Smith – has a stunning, unexpected and untoward cutback for nursing homes that treat persons living with AIDS.

This cutback to a small group of providers with a difficult-to-serve population forces AIDS skilled nursing facilities to shoulder a disproportionate share of overall budget cuts. This extremely targeted cut comes atop an overall nursing home cut in the budget that will already challenge the ability of these facilities to provide quality care. This action is especially burdensome on providers who worked tirelessly with the state during the height of the AIDS crisis to make sure that individuals had care that addressed their many needs.

These nursing homes, already facing across-the-board nursing home cuts (see item below), are set to take

a double hit from the impact of an item that’s been added to the state budget. Specifically, the budget eliminates the occupancy factor for the Medicaid rate for AIDS nursing homes, which traditionally has been applied to these facilities to address the complicated needs of AIDS patients. This cutback will cause considerable disruption to services at these facilities, while saving New York only some \$5 million in state Medicaid spending.

These patients are among the poorest and most frail of persons with AIDS and many, such as those at one of the facilities – Rivington House – are some of the most difficult to serve, with the most complex of health, mental health and substance abuse problems complicating their already demanding AIDS treatment and care. Rivington House, which faces \$1.4 million in cuts by other actions in the budget, will lose another \$1.7 million because of the targeted cutback.

This past Friday, the providers operating AIDS skilled nursing facilities and specialty units, which are also impacted by the elimination of the enhanced rate, in the metropolitan area delivered a letter to the governor protesting this “double whammy” impacting these important facilities.

In the letter, the providers said that the nine AIDS facilities, which serve about 1,000 of the state’s neediest AIDS patients, would lose nearly \$8 million from the impact of the budget’s action. Adding the impact on specialty units boosts the cutback to \$10 million.

“We are concerned about the effect that these cuts will have on our ability to maintain patient care, to retain our work force, and to continue to meet our debt obligations,” the providers said.

The action of compounding the cutbacks on AIDS nursing homes could prove extremely damaging to services provided to a vulnerable and



Village Care of New York is a non-profit organization that offers comprehensive care for persons living with HIV/AIDS and for older adults with chronic and continuing care needs.

fragile group of persons living with AIDS.

The providers pointed to this action as a reversal of a sound Department of Health policy that was designed by the state to recognize the need to provide enhanced reimbursement in recognition of the fact that AIDS/HIV facilities serve a more difficult population than most other facilities and that services provided in these facilities are necessary to improve the health status of the patient population.

“Our residents are among the neediest New Yorkers with very few options and our facilities are the safety net for these individuals,” they wrote in the letter to the Governor.

Here are other significant state budget impacts:

### **Nursing Home/Home Care Cuts**

**Nursing Homes.** The legislature agreed to the Governor’s proposal to replace the methodology of determining nursing home rates by specific facility to a regional pricing system. However, the Governor did not get everything he wanted; his original proposal was to create regional rates based on 2005 data; the legislature dictated that DOH use 2007 cost data and move the implementation date to April 1, 2010. In addition, a reimbursement work group will develop implementation of a new methodology, with an interim report due this December. There were a number of additional cuts to nursing homes, including using a Medicaid-only case mix to determine rates and reducing payments for lower acuity patients.

There is to be a planned phasing out of 6,000 nursing home beds over five years, to be replaced with an equal number of Medicaid Assisted Living Program beds. The Medicaid trend factor (inflation increase) for 2009 was eliminated.

**Home Care.** The budget agreement includes, as expected, the elimination of the trend factor on Medicaid rates for 2009. The Governor’s proposal for 0.7 percent assessment on home care revenues was adjusted down to a 0.35 percent assessment. The budget also creates long-term care assessment centers in three counties and a home health aide registry. The across-the-board rate reductions proposed by the Governor were rejected, as was an AIDS home care cap.

### **NYS Department of Health AIDS Institute**

The legislature added \$4 million to the Governor’s Executive Budget proposal, including legislative adds for legal services, CSPs and MSAs, harm reduction and the New York/New York III supportive housing agreement.

### **Other Aspects of Budget**

In the Executive Budget, the governor proposed that the basic public assistance benefit increase by 10 percent a year over a three-year period, starting in January 2010. This was welcome news and was widely praised by advocates for the poor, although many had wished the increase would start earlier. The final agreement between the Governor and the legislature actually moved up the start date of the increase

in benefits from January 2010, to July 1, 2009. The basic monthly welcome grant will increase from \$238 for a family of three to \$268 in July.

One of the more troubling components of the Governor’s Executive Budget had been a proposal to cut the state’s contribution to SSI recipients. The Governor’s plan would have essentially canceled out the cost of living increase that the federal government was providing to SSI recipients by cutting the small contribution that the state provides to benefits. The legislature rejected this proposal and restored the full \$84 million in proposed cuts to SSI benefits.

### **Medicaid Reform**

The new budget continues efforts to shift Medicaid funding toward primary and preventive care. This includes \$68 million in fees redirected to doctors and nurse practitioners, \$91 million in primary care enhancements, including for doctors and clinics that meet national medical home standards for continuity and coordination of care and \$37.5 million for community health centers. There is also additional money for hospitals and community health centers to cover the costs of uninsured patients.

The budget agreement includes a pharmacy step therapy proposal, otherwise known as “first fail.” The government will now be able to determine when cheaper drugs are available to treat a condition and dictate that Medicaid beneficiaries take those medications first before being allowed to use more expen-

sive options. The language does include a prescriber prevail language, but this will mean more hoops for doctors and patients to get the drugs they need. There is also no language to protect certain types of drugs, such as HIV, anti-psychotics, anti-depressants or anti-rejection drugs. The New York HIV Health and Human Services Planning Council had signed on to a letter opposing the enactment of this provision.

### **Rockefeller Drug Law Changes**

As part of budget negotiations, the Governor and legislature agreed to modify the Rockefeller drug laws. In lieu of mandatory sentencing, judges will now have the authority (in low-level drug possession cases) to place offenders into drug treatment and will allow approximately 1,500 individuals in jail for low-level non-violent drug possession offenses to apply for re-sentencing.

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