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Federal News

Omnibus Spending Bills: On March 22nd, the Senate (65-32) and House (256-167) passed the [\\$1.3 trillion Omnibus spending bill](#) for the remainder of the federal FY 2018; President Trump signed the bill on March 23rd. As mentioned in earlier newsletters, Congress passed many short-term funding bills to keep the government operational. The latest spending bill sets the federal government’s budget through September 30, 2018.

As expected, this latest spending package did not include many of the cuts proposed by President Trump and House Republicans, but rather increased funding over previously authorized FY2017 spending levels. More specifically, it appropriates \$88.1 billion for the Department of HHS (a \$10 billion increase from FY2017)—which continues funding for CMS to administer Medicare, Medicaid, and ACA programs—as

well as allocating:

- \$2.171 billion for the Administration for Community Living (ACL), an increase of \$178 million, which funds [Older American Act \(OAA\) programs](#);¹
- \$37.1 billion for the National Institutes of Health (NIH), a 9 percent increase;
- \$8.3 billion for the Centers for Disease Control and Prevention (CDC), an increase of \$1.1 billion; and
- \$4.65 billion total across agencies (a \$3 billion increase) to help state and local governments confront the opioid epidemic.

ACA Update: Following the omission of any ACA stabilization legislation in the latest Omnibus spending bill, it became apparent that Senators Lamar Alexander (R-TN) and [Patty Murray](#) (D-WA) were unable to strike a bipartisan agreement to prevent insurance companies from increasing premiums.² The two sought to stabilize the ACA marketplace by continuing cost-sharing reduction (CSR) payments, as well as trying to address some of the Trump administration’s last-minute proposals, including:

- Allowing insurers to charge older adults premium rates of up to five times as much as younger adults (“age-rating requirements”);
- Expanding the February executive proposal to allow [short-term/limited duration](#) health insurance plans. (According to the [AARP Public Policy Institute](#), short-term health plans will lead to higher premiums for older adults aged 50 – 64 and individuals with pre-existing conditions.); and
- Expanding health savings accounts (HSAs).

¹ Many of the OAA Title III Programs received increases, including an additional \$35 million for Title IIIB HCBS services, \$59 million for Title IIIC Nutrition Services, \$30 million for Title IIIE Family Caregiver Support, and \$5 million for Title IIID Preventative Health. Despite threats of cuts, final funding for other health-related ACL programs included: \$49.1 million for State Health Insurance Assistance Programs (SHIPs) – also known as HIICAP in New York; \$13 million for the Prevention and Public Health Fund – which helps fund the Chronic Disease Self-Management Program (CDSMP) and Elder Falls Prevention; and \$23.5 million for Alzheimer’s Disease Programs.

² New York insurance plans must submit their proposals for 2019 premium rates to the state by May 2018.

Federal Legislation: Several members of Congress recently but unsuccessfully attempted to include other health-related legislation into the Omnibus spending bill. Related to long-term care, the [EMPOWER Care Act](#)³ would extend funding for the [Money Follows the Person](#) (MFP) Program through 2022, as the program officially expired in 2016.⁴ The MFP program has helped seniors and those with disabilities receive LTC in their homes and communities in 44 states since implementation in 2005; DFTA will continue to monitor any potential progress of this legislation.

Multiple bills focused on prescription drugs were also introduced, but were either not included in the recent spending bill or still have not been voted on, including the [CREATES Act](#)⁵ and the [Ensuring the Value of the 340B Program Act](#).⁶ As some Congressional committees are expected to hold hearings this spring surrounding the 340B drug discount program, DFTA will continue to monitor for impact on the older adults we serve. Another bill that would have allowed terminally-ill patients to try experimental drugs ([Right to Try Act](#)) was also omitted; however, the Food and Drug Administration (FDA) already approves 99 percent of applications to its current “[Expanded Access](#)” (or “Compassionate Use”) process, which allows use of treatments outside of clinical trials.

Future Direction of CMS: On March 6th, CMS Administrator Seema Verma announced a new initiative – [MyHealthEData](#) – to give patients more control of their healthcare data, allowing them to share with different doctors and providers, consistent with [President Trump’s executive order](#) from last year. Administrator Verma also announced the launch of [Medicare’s Blue Button 2.0](#) – a new and secure way for Medicare beneficiaries to access and share their personal health data. Additionally, CMS intends to overhaul its Electronic Health Record (EHR) Incentive Programs to refocus the programs on interoperability and to reduce the time and cost required of providers to comply with the programs’ requirements.

REMINDER: NEW MEDICARE CARDS COMING IN APRIL

*Between **April 2018** and **April 2019**, CMS will mail new Medicare cards to all Medicare beneficiaries in geographical waves. After receiving their new card, beneficiaries are advised to 1) destroy old Medicare cards, 2) use the new card right away, and 3) beware of scams. Visit [CMS](#) for more information.*

CMS Seeking Comments

CMS announced this month that it was [seeking written stakeholder](#) input on how to better integrate and reform its [Dual Eligible Special Needs Plans](#) (D-SNPs), which are available for those individuals who are dually eligible for Medicare and Medicaid. Comments can be submitted through April 12, 2018, to MMCOCapsmodel@cms.hhs.gov.

CMS is also seeking comments about the [development of quality measures](#) for the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act)¹ – specifically on the transfer of health and medication information and care preferences at transitions for post-acute care (PAC) settings. Comments can be submitted through May 3, 2018, to TOHPublicComments@rti.org.

³ The Ensuring Medicaid Provides Opportunities for Widespread Equity, Resources (EMPOWER) and Care Act would also reduce the required length of stay in a nursing home from 90 to 60 days before the individual would be eligible to transition.

⁴ [New York’s MFP program](#) will exhaust its funding by December 31, 2018.

⁵ The “Creating and Restoring Equal Access to Equivalent Samples ([CREATES](#)) Act” of 2017 would increase the entry of lower-cost generic prescription drugs to market.

⁶ Introduced by [Senator Grassley](#) (R-IA), the bill would require hospitals to report prices paid to prescription drug manufacturers in the 340B drug discount program, which offers discounts to entities in the Medicaid program.

State News

State Budget: On March 31st, the state legislature and Governor Cuomo agreed to a [\\$168 billion state FY 2019 budget](#), effective on April 1st. In addition to a provision to at least partially protect NY residents against the federal tax reform changes for state and local tax (SALT) deductions, the enacted budget continues the same amount of funding for a number of programs that support the state's senior population,⁷ including but not limited to:

- \$50 million for the Expanded In-Home Services for the Elderly Program (EISEP) for personal care services;
- \$31.2 million for the Community Services for the Elderly program (which supports home-delivered meals, transportation, senior centers and other important services);
- \$27 million for the Wellness in Nutrition program;
- \$27 million for Alzheimer's and other dementia programs; and
- \$2 million in Naturally Occurring Retirement Communities (NORC) and Neighborhood NORC programs.

Other reforms leave to the discretion of the DOH Commissioner as to whether to limit the number of licensed home care services agencies (LHCSAs) contracts⁸ that MLTC plans may hold, increasing 1,000 new assisted living program (ALP) beds in underserved areas, and reducing reimbursements to poor-quality nursing homes. Although suggested in the Governor's original proposed budget, the final budget deal did not make changes to Medicaid spousal refusal rules, but instead included \$7.8 million to maintain the right of spousal refusal.

Finally, the enacted budget also included other relevant health-related items:

- 1) Healthcare Shortfall Fund: allows the state to capture excessive reserve funds from any nonprofit health insurers conversion (specifically \$2 billion from the sale of Fidelis), which can then be used to fund future healthcare projects or as protection against potential federal cuts;
- 2) Additional funding to address opioid abuse, an issue that many associate with younger adults but that has increasingly impacted the older adult population⁹ (and especially Medicare beneficiaries). The budget creates the Opioid Stewardship Fund, worth \$100 million annually, which will be paid by pharmaceutical companies. In addition, \$247 million in state funding was included to help treatment and prevention services—including a new Independent Substance Use Disorder and Mental Health Ombudsman;
- 3) \$30 million for the State Health Information Network-New York (SHIN-NY), the DOH-led effort to connect the state's 8 regional health information organizations (RHIOs), as a way to better share patient health data; and

⁷ Assembly: <http://assembly.state.ny.us/Press/files/20180402c.php>

Senate: <https://www.nysenate.gov/newsroom/articles/senate-completes-passage-2018-19-state-budget-rejects-1-billion-new-taxes-protects>

⁸ The Enacted Budget states that MLTC plans operating in NYC and/or Nassau, Suffolk, and Westchester counties may enter into contracts with LHCSAs based on the following methodology: starting October 2018, one contract per 75 members per region; as of October 2019, one contract per 100 members.

⁹ A [September 2016 analysis](#) showed that Medicare beneficiaries have among the highest and most rapidly growing prevalence of opioid use disorder; more than 6 out of every 1,000 Medicare patients are diagnosed with an opioid disorder, compared with 1 of every 1,000 patients covered by commercial insurance plans. Another [September 2016 study](#) also found a significant increase in the abuse of prescription drugs among older adults since 2003.

- 4) \$475 million for Phase III of the Statewide Healthcare Facility Transformation Program, which provides capital grants to healthcare providers, of which \$60 million must be awarded to community-based healthcare providers.¹⁰ This could potentially be of benefit to many of the home care agencies that serve the older adult population in NYC.

DOH Request for Input: The state Public Health and Health Planning Council is currently updating the [New York Prevention Agenda](#) for the next six years (2019-2024). The Prevention Agenda highlights those priorities the state would like to focus on in order to improve the health status of all New Yorkers; this update will focus on addressing social determinants of health and healthy aging. Proposed focus areas that may relate to the aging services community include preventing chronic diseases, reducing food insecurity, promoting physical activity, and reducing falls. The ad hoc committee—assigned to finalize the priorities, focus areas and goals, and to develop priority action plans for the updated agenda—is currently seeking feedback and recommendations, due by May 1st, with a goal of launching the updated version by the end of 2018.

Long Term Care: On March 27th, a [US District Court filing](#) showed that CenterLight Health System must pay \$10.36 million to New York State and the federal government as a result of its MLTC plan fraudulently billing Medicaid, related to 186 residents of adult homes who were no longer eligible for coverage. (This is on top of a 2016 agreement that requires \$46.8 million to resolve related allegations brought by a whistleblower.) Centerlight sold its MLTC plan to Centers Plan for Health Living MLTC plan in early 2017, but still operates its PACE program.

In addition, DOH held webinars the last week of March to highlight [changes in appeal rights](#) for members of Medicaid managed care (MMC) and MLTC plans, which are required by changes in federal Medicaid regulations. The implementation date for this change was originally March 1st but was pushed back to May 1st. Going forward, plan members must first request an internal "plan appeal" by the MMC or MLTC plan, and receive an adverse appeal decision by the plan, prior to requesting a fair hearing. If you have any questions related to the regulation changes, please contact 438reg@health.ny.gov.

DSRIP Announcements: A March announcement named Donna Frescatore as the new State Medicaid Director, a role she previously occupied in 2010, effective April 9th. She will continue to serve as Executive Director of the New York State of Health, and it is expected that she will lead a search for a new Medicaid Director in 2019. Following this announcement, state Senator Kemp Hannon—chair of the state Senate's Health Committee—introduced [legislation](#) that would make the position of state Medicaid director subject to Senate confirmation.

On March 9th, it was announced that the New York Academy of Medicine (NYAM) won a contract with DOH to conduct market research to develop a statewide consumer education campaign to help educate Medicaid and uninsured populations about the benefits of health care transformation. As part of the rules governing DSRIP, during the next year and a half, NYAM must report to DOH with their recommendations for launching a state-wide education campaign on DSRIP principles.

Local News

Health + Hospitals: On February 28th, newly appointed President and CEO of the NYC Health + Hospitals (H+H), Dr. Mitchell Katz, [presented at his first City Council hearing](#) in order to

¹⁰ Defined as those providers licensed as diagnostic and treatment centers, mental health clinics (Article 31), substance use disorder treatment clinics (Article 32), primary care providers and clinics (Article 16), home care providers (Article 36), or hospices (Article 40).

outline his strategy for addressing the system's financial challenges. Some of his identified priorities included expanding primary care, improving access to specialty care, and bringing fiscal solvency to the system. To achieve this, Dr. Katz proposed seven actions: "reduce administrative expenses; bill insurance for insured patients; code and document effectively; stop sending away paying patients; invest resources into hiring positions that are revenue generating; provide specialized services that are well reimbursed; and convert uninsured people who qualify for insurance to be insured. (In addition, the Committee on Hospitals also held a [hearing](#) on March 15th to discuss the city's [preliminary FY 2019 budget](#) for H+H as well.)

Opioid Epidemic: On March 19th, Mayor de Blasio [announced](#) an additional \$22 million investment in FY 2019 to the city's plan to combat the opioid epidemic, HealingNYC; this would increase total funding to \$60 million annually. Among other strategies, the initiative would create peer intervention programs in all 11 of H+H's emergency departments and expand inpatient treatment programs.

Did you know...

... March is both [National Nutrition Month](#) and [Colon Cancer Awareness Month](#)?

... March 23rd marks the 8th anniversary of the passage of the Affordable Care Act (ACA)?

... Nearly 40 percent of American adults were diagnosed as obese, and almost 8 percent were severely obese, in 2015 and 2016? These [data](#) represent a sharp increase—prevalent in both women and adults aged 40 to 59 years—from ten years ago, when adults were 6 percent severely obese and 34 percent obese.

... Beginning in 2030, all baby boomers will be older than 65, and by 2035, older adults are projected to outnumber children for the first time in U.S. history? A [March 2018 report](#) from the US Census Bureau details population projections and also explores broader changes in the age, race, and ethnic composition of the population from 2020 to 2060.

Suggested Reading

[Investing in Social Services as a Core Strategy for Healthcare Organizations: Developing the Business Case](#): Using their research on current social service investment in the US, a March 2018 KPMG/Commonwealth Fund guidebook offers healthcare providers and payers advice on targeting social determinants of health and incorporating social services into business operations.

[Medical Costs of Fatal and Nonfatal Falls in Older Adults](#): A March 2018 article in the Journal of the American Geriatric Society, funded by the Centers for Disease Control and Prevention (CDC), calculates the annual medical expenditures attributable to older adult falls paid by Medicare, Medicaid, and private insurance/out of pocket payers. In 2015, total medical costs exceeded \$50 billion, of which an estimated \$750 million was for fatal falls. For nonfatal falls, Medicare and Medicaid shouldered 75 percent of the financial burden, totaling about \$38 billion for the two programs.

[2018 Alzheimer's Disease Facts and Figures](#): This annual report from the Alzheimer's Association addresses prevalence, mortality and morbidity, caregiving, and use and costs of healthcare and services related to Alzheimer's and other dementias. The report also includes a Special Report that discusses the financial and personal benefits of early diagnosis.

Ask us anything! Please let us know if there is anything more you'd like to know about healthcare reform. Email Meghan, DFTA Division of Planning and Technology, at MShineman@aging.nyc.gov.

NOTEWORTHY ACRONYMS & DEFINITIONS

ACA = Affordable Care Act (also known as Obamacare)

CMS = Centers for Medicare & Medicaid Services

Cost Sharing Reduction (CSR): A discount that lowers the amount a consumer is required to pay out-of-pocket (for deductibles, copayments, and coinsurance) for those making between 100–250% of FPL in household income.

DSRIP = Delivery System Reform Incentive Payment (DSRIP) program

HHS = U.S. Department of Health and Human Services

LTC/LTSS = Long-term care OR long-term services and supports

NYS DOH = New York State Department of Health

Value-based payment (VBP): payment based on quality of healthcare, rewarding value rather than volume.



HEALTH PROGRAMS OLDER PEOPLE NEED. COMMUNITY PROVIDERS YOU CAN TRUST.

CommunityCare Link (CCL) is an exciting new network, housed under the Aging in New York Fund (ANYF) with initial funding from the NYC Department for the Aging (DFTA). CCL connects health plans' (and other payers') older adult members with the high quality, evidence-based health promotion services they need to remain healthy and active in their communities.

The network works with healthcare organizations, physicians, and community-based organizations to seamlessly and efficiently deliver these services in an accessible, culturally appropriate, and cost-effective



manner. When healthcare organizations buy these specific services, they get not only efficient delivery of evidence-based programs, but the benefits of wrap-around care and positive reputation in our communities. Find out how you can be part of CommunityCare Link network: www.CCLink.org |

