

**FY 2020 NEW YORK STATE EXECUTIVE BUDGET**

**HEALTH AND MENTAL HYGEINE  
ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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## MEMORANDUM IN SUPPORT

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

AN ACT to amend the social services law, in relation to reimbursement of transportation costs, reimbursement of emergency transportation services and supplemental transportation payments; and to repeal certain provisions of such law relating thereto (Part A); to amend the social services law and the public health law, in relation to updating copayments; to amend the public health law, in relation to extending and enhancing the Medicaid drug cap and to reduce unnecessary pharmacy benefit manager costs to the Medicaid program; and to repeal certain provisions of the social services law relating thereto (Part B); to amend the social services law, in relation to extension of the National Diabetes Prevention Program and in relation to supplemental medicaid managed care payments (Part C); to amend chapter 59 of the laws of 2011 amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the medicaid global cap (Part D); to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to extending the provisions thereof; to amend chapter 56 of the laws of the laws of 2013, amending the social services law relating to eligibility conditions, in relation to extending the provisions thereof; 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 extending the provisions thereof; to amend 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 amend chapter 109 of the laws of 2010, amending the social services law relating to transportation costs, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, in relation to the effectiveness thereof; to amend chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medical expenditures, in relation to extending the provisions thereof; to amend the public health law, in relation to hospital assessments; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend 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 delay of certain administrative costs; 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 the effectiveness thereof; to amend chapter 56 of the laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to rates of payments; to amend the public health law, in relation to reimbursement rate promulgation for residential health care facilities; to amend the public health law, in relation to residential health care

facility, and certified home health agency services payments; 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 the effectiveness thereof; to amend chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and adding an alternative payment methodology requirement; to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services and adding an alternative payment methodology requirement; to amend section 2 of part H of chapter 111 of the laws of 2010, relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to transfer of funds and the effectiveness thereof; and 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 (Part E); 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 apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such

chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part F); to amend the social services law, in relation to eliminating the ability of legally responsible spouses to refuse to support non-institutionalized spouses; to create a state fiscal intermediary for the consumer directed personal assistance program; and to repeal certain provisions of such law relating thereto (Part G); to amend the public health law, in relation to waiver of certain regulations; to amend the public health law in relation to certain rates and payment methodologies; and to repeal certain provisions of such law relating thereto (Part H); to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers (Part I); to amend the insurance law and the public health law, in relation to guaranteed availability, pre-existing conditions and employee welfare funds; and to repeal certain provisions of the insurance law relating thereto (Subpart A); to amend the insurance law, in relation to actuarial value requirements and essential health benefits (Subpart B); to amend the insurance law, in relation to coverage for medically necessary abortions, and exceptions thereto (Subpart C); to amend the insurance law, in relation to prescription drug coverage (Subpart D); to amend the insurance law, in relation to discrimination based on sex and gender identity (Subpart E); and to amend the insurance law, in relation to insurance certificate delivery (Subpart F) (Part J); to amend the public health law, in relation to the medical indemnity fund; and to amend chapter 517 of the laws of 2016 amending the public health law relating to payments from the

New York state medical indemnity fund, in relation to the effectiveness thereof (Part K); to amend the insurance law, in relation to in-vitro fertilization (Part L); to amend the insurance law and the social services law, in relation to requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage (Part M); to establish a universal access commission to consider the options for achieving universal access to health care (Part N); to amend the public health law, in relation to the general public health work program (Part O); to amend the public health law, in relation to lead levels in residential rental properties (Part P); to amend the public health law, in relation to the healthcare facility transformation program state III authorizing additional awards for statewide II applications (Part Q); to amend the public health law, in relation to maternal mortality review boards and the maternal mortality and morbidity advisory council (Part R); to amend the public health law, in relation to enacting the reproductive health act and revising existing provisions of law regarding abortion; to amend the penal law, the criminal procedure law, the county law and the judiciary law, in relation to abortion; to repeal certain provisions of the public health law relating to abortion; to repeal certain provisions of the education law relating to the sale of contraceptives; and to repeal certain provisions of the penal law relating to abortion (Part S); to amend the public health law, in relation to codifying the creation of NY State of Health, the official Health Plan Marketplace within the department of health (Part T); to amend the elder law, in relation to the

private pay program (Part U); to amend the social services law, in relation to compliance of managed care organizations and providers participating in the Medicaid program (Part V); to amend part D of chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part W); to amend the criminal procedure law, in relation to authorizing restorations to competency within correctional facility based residential settings; and providing for the repeal of such provisions upon expiration thereof (Part X); to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to the inclusion and development of certain cost of living adjustments (Part Y); to amend the public health law and the mental hygiene law, in relation to integrated services (Part Z); to amend the social services law, in relation to the definition of a facility or a provider agency (Part AA); and to amend the insurance law, in relation to mental health and substance use disorder health insurance parity; to amend the public health law, in relation to health maintenance organizations; and to repeal certain provisions of the insurance law relating thereto (Subpart A); to amend the public health law, in relation to general hospital policies for substance use disorder treatment (Subpart B); to repeal subparagraph (v) of paragraph (a) of subdivision 2 of section 3343-a of the public health law relating to general hospital prescription drug monitoring (Subpart C); to amend the social services law, in relation to court ordered substance use disorder treatment (Subpart D); and to amend the public health law, in relation to including fentanyl analogs as controlled substances (Subpart E)(Part BB)

**PURPOSE:**

This bill contains provisions needed to implement the Health and Mental Hygiene portions of the FY 2020 Executive Budget.

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

**Part A – Transportation-related Medicaid Redesign Team recommendations**

Purpose:

This bill makes statutory changes necessary to achieve efficiencies in transportation-related Medicaid Redesign Team recommendations.

Summary of Provisions and Statement in Support:

Section 1 of this bill amends Social Services Law §365-h subdivision 4 to carve-out the transportation benefit from the Managed Long-Term Care (not including PACE plans) benefit package. This benefit will be delivered on a fee-for-service basis through the State's Transportation Manager consistent with Mainstream Managed Care.

Section 2 of this bill repeals Social Services Law §367-s to eliminate the supplemental payment to emergency medical transportation providers. The funding associated with the repeal of this payment will be reinvested into ambulance reimbursement rates based on recommendations contained within the statutorily required Medicaid Transportation Rate Adequacy Report.

Section 3 of this bill repeals Social Services Law §365-h subdivision 5 to eliminate the supplemental payment to rural transportation networks.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the CPI as proscribed in current statute.

The Transportation proposals in this section account for \$13.4 million in savings in FY 2020 and \$19.9 million in FY 2021.

Effective Date:

This bill will take effect April 1, 2019 except that section 1 takes effect October 1, 2019.

## **Part B – Pharmaceutical related Medicaid Redesign Team recommendations**

### Purpose:

This bill would make statutory changes necessary to implement pharmaceutical-related Medicaid Redesign Team recommendations.

### Summary of Provisions and Statement in Support:

Sections 1 and 2 of this bill would amend Social Services Law §365-a and §367-a to align coverage for non-prescription drugs and over-the-counter products with other states and the Federal Medicare Part D program, and to increase the required co-payment amount for such products from \$0.50 to \$1.00.

Sections 3 and 4 of this bill would amend Public Health Law §273 and Social Services Law §364-j to reduce inappropriate prescribing by eliminating the prescriber's right of final determination in both FFS and managed care when the justification for use is not clinically supported.

Section 5 of this bill would amend Public Health Law §280 to extend the Medicaid Drug Cap through State Fiscal Year 2021.

Section 6 of this bill would amend Public Health Law §280 to enhance the existing Medicaid Drug Cap by accelerating rebate negotiations and collections through the following proposed changes:

- Use established cost effectiveness thresholds for drugs identified as piercing the cap as a basis for target rebate amounts prior to DUR Board referral;
- Remove statutory language that prohibits a high cost drug from being referred to the DUR board if there is an existing supplemental rebate contract in place; and
- Eliminate the rebate adjustment where manufacturers are given "credit" for other rebates received by the Department.

Section 7 of this bill would amend Public Health Law §280 to allow the Department of Health to negotiate supplemental rebates with drug manufacturers and provides that such rebates will be effective as of the first day of the fiscal year.

Section 8 of this bill would amend Public Health Law §280 to make technical changes associated with allowable commissioner actions related to manufacturer rebates.

Section 9 of this bill would amend Public Health Law §280 to require the Commissioner of Health to annually report to the drug utilization review board, by July 1, on savings achieved through the drug cap in the previous fiscal year.

Section 10 of this bill would amend Public Health Law §4406-c to add a new subdivision to reduce unnecessary Pharmacy Benefit Manager (PBM) costs by narrowing the gap between the amount the Managed Care Organization (MCO) is charged by the PBM and the amount actually paid to the pharmacy, which would reduce the cost to the Medicaid program.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the CPI as proscribed in current statute.

The pharmacy proposals in this section account for \$88.0 million in net State savings in FY 2020 and \$104.8 million in net State savings in FY 2021.

Effective Date:

This bill would take effect April 1, 2019 except that sections 1 and 2 take effect July 1, 2019, and section 9 would take effect October 1, 2019.

**Part C – Managed Care related Medicaid Redesign Team recommendations**

Purpose:

This bill would make statutory changes necessary to achieve efficiencies in the Medicaid managed care programs.

Summary of Provisions and Statement in Support:

Section 1 of this bill amends Social Services Law §365-a subdivision 2 by adding a new subdivision to extend the evidence-based prevention and support services of the National Diabetes Prevention Program to existing Medicaid members in non-clinical, community-based organizations.

Section 2 of this bill amends Social Services Law §367-a subdivision 1 to align Medicaid and Medicare payments for dual-eligible members by limiting Medicaid payment of Medicare Part-B deductibles so that it does not exceed the amount that Medicaid would pay for service to a non-dual eligible Medicaid member.

Section 3 of this bill aligns Medicaid payments for Medicare Part-B coinsurance for ambulance and psychologist services so that the Medicaid payment does not exceed the amount that would otherwise be paid for a non-dual eligible member.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

The proposals in this bill account for \$18.4 million in savings in FY 2020 and \$24.5 million in FY 2021.

Effective Date:

This bill would take effect July 1, 2019.

**Part D – Extend the Medicaid Global Cap**

Purpose:

This bill would make statutory changes necessary to extend the Medicaid Global Cap.

Summary of Provisions and Statement in Support:

Section 1 would amend chapter 57 of the laws of 2018 to extend the Medicaid Global Cap budgeting construct through FY 2021.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the CPI as proscribed in current statute.

Effective Date:

This bill would take effect April 1, 2019.

**Part E – Extend various provisions of the Public Health and Social Services Laws**

Purpose:

This bill would extend various expiring laws to maintain Financial Plan savings by continuing certain previously enacted Medicaid and health savings initiatives authorized in the Public Health and Social Services Laws.

### Summary of Provisions and Statement in Support:

Section 1 of this bill would amend Chapter 57 of the laws of 2015, extending provisions related to the NYS Medical Care Facilities Financing Act, which permits flexibility in contracting for goods and services by State-operated hospitals through January 1, 2025.

Section 2 of this bill would amend Chapter 56 of the laws of 2013, extending Medicaid coverage to children who are 19 or 20 years old living with their parents who meet certain criteria through October 1, 2024.

Section 3 of this bill would amend Chapter 57 of the laws of 2017, extending the authorization of bad debt and charity care allowances for certified home health agencies through June 30, 2024.

Section 4 of this bill would amend Chapter 57 of the laws of 2015, extending authorization related to the financing of certain health care capital improvements through June 30, 2024.

Section 5 of this bill would amend Chapter 57 of the laws of 2017, extending the authority to contract with a State transportation manager or managers through June 9, 2024.

Section 6 of this bill would amend Chapter 59 of the laws of 2016, extending provisions related to the Statewide Patient Centered Medical Home program through April 1, 2024.

Section 7 of this bill would amend Chapter 59 of the laws of 2016, extending authorization for temporary operators of adult homes permanently.

Section 8 of this bill would amend Chapter 57 of the laws of 2015, extending provisions related to managed long-term care plans, including those related to increased certificates of operation, the authorization of the Commissioner of Health to submit waivers necessary to continue Medicaid managed-long term care, and guidelines for patient assessment timeframes through April 1, 2024.

Section 9 of this bill would amend Chapter 57 of the laws of 2017, extending the health care facilities providers reimbursable cash assessment program through March 31, 2024.

Section 10 of this bill would amend Chapter 57 of the laws of 2017, extending the 1996-1997 trend factor projections or adjustments from nursing home and inpatient rates through March 31, 2024.

Section 11 of this bill would amend Chapter 57 of the laws of 2017, extending the .25 percent trend factor reduction for hospitals and nursing homes through March 31, 2024.

Sections 12 and 13 of this bill would amend Chapter 57 of the laws of 2017, extending a limitation on the reimbursement of certified home health agencies and long term home health care programs administrative and general costs to not exceed a Statewide average through March 31, 2024.

Section 14 of this bill would amend Chapter 57 of the Laws of 2018, extending the elimination of a trend factor for general hospital reimbursement through March 31, 2024.

Section 15 of this bill would amend Chapter 57 of the laws of 2015, extending the limit on payment of nursing home appeals to eighty million dollars annually through March 31, 2024.

Section 16 of this bill would amend Chapter 57 of the laws of 2015, extending the authorization of episodic payment per sixty day period of care for certified home health agencies through March 31, 2024.

Section 17 of this bill would amend Chapter 57 of the laws of 2017, extending the hospital capital methodology currently in use through March 31, 2024.

Sections 18 through 20 of this bill would amend Chapter 57 of the laws of 2017 and Chapter 60 of the laws of 2014, extending provisions which adjusted rates paid to Article 31 and Article 32 providers to align with the current Medicaid APG methodology through March 31, 2022.

Section 21 of this bill would amend Chapter 59 of the laws of 2016, extending the Commissioner of Mental Health's authority, in consultation with the Commissioner of Health, to certify Mental Health Special Needs Plans through March 31, 2025.

Section 22 of this bill would amend Chapter 59 of the Laws of 2016 to extend the authority of the Department to make DSH/IGT payments to hospitals outside of NYC permanently.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

Effective Date:

All sections of this bill would take effect immediately.

## **Part F – Extend the Physicians Excess Medical Malpractice Program for one year**

### Purpose:

This bill would extend the provisions of the Excess Medical Malpractice program through June 30, 2020.

### Summary of Provisions and Statement in Support:

Sections 1 through 6 amend chapter 266 of the laws of 1986 to extend the hospital excess liability pool by one year through June 30, 2020.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget in order to continue the Excess Medical Malpractice program.

### Effective Date:

This bill would take effect immediately.

## **Part G – Long-term care related Medicaid Redesign Team recommendations**

### Purpose:

This bill would make statutory changes necessary to implement long-term care-related Medicaid Redesign Team recommendations.

### Summary of Provisions and Statement in Support:

Section 1 of this bill would amend Social Services Law §366 to conform State law with Federal law with regard to spousal contributions and responsibilities for spouses residing together in the community.

Sections 2 and 3 of this bill would consolidate Fiscal Intermediaries (FIs), which provide general administrative and payroll services for the Consumer Directed Personal Assistance Program. This proposal would foster systematic efficiencies through the consolidation of such services.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

The Long Term Care proposals in this section account for \$80.9 million State share in savings in FY 2020 and FY 2021.

Effective Date:

This bill would take effect April 1, 2019 except that section 2 will take effect January 1, 2020.

**Part H – Hospital related Medicaid Redesign Team recommendations**

Purpose:

This bill would make statutory changes necessary to implement hospital-related Medicaid Redesign Team recommendations.

Summary of Provisions and Statement in Support:

Section 1 of this bill would repeal subparagraph (v) of paragraph (b) of subdivision (5-b) of §2807-k of the Public Health Law to eliminate the provisions that provide an annual State only Major Academic Centers of Excellence payment to five hospitals. These payments provided an additional layer of funding to assist with negative impacts associated with rate reforms in the FY10 budget and are no longer necessary.

Section 2 of this bill would amend Public Health Law §2807 by adding a new subsection that would extend regulatory waiver authority to allow providers who are involved in DSRIP projects, or who would like to scale and replicate the ideas coming out of the DSRIP program, to avoid duplicative requirements. This bill would allow promising DSRIP approaches to be continued.

Section 3 of this bill would amend subparagraph (i) of paragraph e-1 of subdivision 4 of §2807-c of the Public Health Law relating to the hospital inpatient psychiatric payment methodology to provide the Department discretion to simplify the calculation of the payment rate and allow for alternatives to the All Patients Refined Diagnosis related Groups (DRG) classification system.

Section 4 of this bill would add a new subparagraph (xiv) to Public Health Law §2807-c (35) (b) to implement facility specific reductions in inpatient payments for lower performance on a mix of potentially avoidable inpatient services and reinvest a portion of the savings in primary care, maternity, and other ambulatory services.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

The Hospital proposals in this section account for \$39.5 million in State share savings in FY 2020 and FY 2021.

Effective Date:

This bill would take effect immediately; except section 4 shall take effect October 1, 2019.

**Part I – Authorize the regulation of pharmacy benefit managers.**

Purpose:

This bill would make statutory changes necessary to regulate the registration and licensure of Pharmacy Benefit Managers.

Summary of Provisions and Statement in Support:

Sections 1 and 2 of this bill would amend the Insurance Law to regulate Pharmacy Benefit Managers (PBMs) through registration, licensure, examination and disclosure requirements.

Budget Implications:

Enactment of this bill is necessary to protect consumers and ensure that PBMs are not contributing to the rising costs of health insurance and prescription drugs through unfair business practices.

The costs associated with implementing these regulations will be supported by assessments collected from PBMs.

Effective Date:

This bill would take effect immediately.

**Part J – Codify of the Affordable Care Act**

Purpose:

This bill would protect the health of New Yorkers by ensuring access to affordable, high quality health insurance coverage.

Summary of Provisions and Statement in Support:

Section 1 of this bill would amend the Insurance Law and Public Health Law, as described below:

*Subpart A*

Sections 1 and 6 of this subpart would amend sections 3221 and 4305 of the Insurance Law to codify the ACA, which expanded the guaranteed availability provisions for small group coverage to include large group coverage and the requirement that health insurers offer and accept coverage for all employers in the State.

Sections 2 and 7 of this subpart would amend sections 3231 and 4317 of the Insurance Law to make a technical correction to language addressing small group size.

Sections 3, 4, 8 and 9 of this subpart would amend sections 3232 and 4318 of the Insurance Law to codify the ACA prohibition on insurers from imposing any pre-existing condition exclusion in an individual or group policy of hospital, medical, surgical or prescription drug policies.

Section 5 of this subpart would amend section 4235 of the Insurance Law to codify the ACA prohibition on minimum participation requirements for group comprehensive coverage.

Section 10 of this subpart would amend section 4413 of the Insurance Law by adding a new subsection that requires health insurance coverage newly issued to Employer Welfare Funds after June 1, 2019 to comply with the requirements of the Insurance Law.

Section 11 of this subpart would amend section 4406 of the Public Health Law to make a technical correction to the small group size requirements set forth in the Insurance Law and to remove references to pre-existing condition exclusions.

Section 12 of this subpart would establish the effective date for this subpart.

*Subpart B*

Sections 1, 2, 7-9, 11-13, 16, 20-22, 26, 29, 30-34, and 36-41 of this subpart would amend various sections of the Insurance Law to remove references to the ACA.

Sections 3-5, 15, 17-19, 23-25, and 28 of this subpart would amend various sections of the Insurance Law to provide the Superintendent the Department of Financial Services with the authority to designate a preventive care and screening service that is consistent with current or previous recommendations to continue to be provided without cost-sharing.

Sections 6, 14 and 27 of this subpart would amend sections 3216, 3221 and 4303 of the Insurance Law to remove the annual dollar limit of two thousand five hundred dollars for enteral formulas, as required under the ACA.

Sections 10 and 35 of this subpart would amend the Insurance Law by adding sections 3217-j and 4306-h to codify the essential health benefits, limits on cost-sharing, and the actuarial value requirements as required under the ACA.

Section 42 of this subpart would establish an effective date for this subpart.

#### *Subpart C*

Sections 1-3 of this subpart would amend the Insurance Law by adding new sections to codify State regulations which prohibit insurers from excluding coverage for medically necessary abortions.

Section 4 of this subpart would establish an effective date for this subpart.

#### *Subpart D*

Sections 1-2 of this subpart would amend the Insurance Law by adding new sections 3242 and 4329 that codify the ACA requirement that health insurers providing coverage for prescription drugs to publish their drug formulary and establish a process for an insured to request a formulary exception.

Section 3 of this subpart would establish an effective date for this subpart.

#### *Subpart E*

Sections 1-3 of this subpart would amend section 2607 and add sections 3243 and 4330 of the Insurance Law to codify the ACA and DFS regulatory prohibitions on health insurers from discriminating based on sex, sexual orientation, gender identity or expression, transgender status, marital status and sexual stereotyping.

Section 4 of this subpart would establish an effective date for this subpart.

#### *Subpart F*

Sections 1-4 of this subpart would amend sections 1101 and 3201 of the Insurance Law to prohibit insurers from evading New York protections with respect to health insurance coverage issued to associations and to employers that have their principal place of business in the State and employers with the lesser of 25 percent or 25 employees that work in the State.

Section 5 of this subpart would amend section 4237 of the Insurance Law to align permissible blanket association requirements with the existing requirements for association groups in the Insurance Law.

Section 6 of this subpart would amend section 4237-a of the Insurance Law to prohibit the sale of stop-loss insurance outside the State to employers with 100 or fewer employees with at least one employee that works in the State.

Section 7 of this subpart would establish an effective date for this subpart.

Section 2 of this bill would provide that invalidation of any portion of this act will not affect or invalidate the remainder of the act;

Section 3 of this bill would establish that the Superintendent has the highest level of deference in interpreting the Insurance Law;

Section 4 of this bill would provide that the Executive intends for the laws of this State to provide consumer and market protections at least as strong as those under the Federal Patient Protection and Affordable Care Act.

Section 5 of this bill would establish the effective date for this bill.

Budget Implications:

Enactment of this bill is necessary to protect the health of New Yorkers by promoting quality and affordable health coverage and care.

Effective Date:

This bill would take effect immediately upon enactment, except section 1 which would take effect on the 100<sup>th</sup> day after it shall have become law.

**Part K – Extend enhanced rates for the Medical Indemnity Fund and transfer administration of the Medical Indemnity Fund from the Department of Financial Services to the Department of Health**

Purpose:

This bill would extend the enhanced rates of the Medical Indemnity Fund (MIF) program through December 31, 2020 and transfer authority to administer the program from the Department of Financial Services (DFS) to the Department of Health (DOH).

Summary of Provisions and Statement in Support:

Sections 1 through 3 of this bill would amend §2999-h, §2999-i, and §2999-j of the Public Health Law to transfer custody and administration of the MIF from DFS to DOH.

Section 4 of this bill would amend section 5 of chapter 517 of the laws of 2016, extending provisions related to enhanced payment rates of the Medical Indemnity Fund program through December 31, 2020.

Section 5 of this bill would amend §99-t of the State Finance Law to transfer custody and administration of the MIF from DFS to DOH.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget in order to extend the enhanced rates and transition administration of the Medical Indemnity Fund program from DFS to DOH. There is no fiscal impact to the State associated with the enactment of this bill.

Effective Date:

This bill would take effect April 1, 2019.

**Part L – Require insurance policies to provide coverage for medically necessary fertility preservation and large group insurance policies to provide coverage for in vitro fertilization**

Purpose:

This bill would require insurance policies to provide coverage for medically necessary fertility preservation and large group insurance policies offered in New York State to provide three cycles of in-vitro fertilization coverage.

Summary of Provisions and Statement in Support:

Sections 1 and 2 of this bill would amend sections 3221 and 4303 of insurance law to require every large group, small group and individual policy issued or delivered in New York State to provide coverage for standard fertility preservation services when a medical treatment may directly or indirectly cause iatrogenic infertility to an insured; and to require every large group policy issued or delivered in New York State to provide coverage for three cycles of in-vitro fertilization used in treatment of infertility. Further, it would bar discrimination against an insured individual seeking such treatment.

Requiring such coverage furthers Governor Cuomo's Women's Agenda to promote safer and more affordable reproductive health care.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to achieve the Governor's commitment to women's health and reproductive rights.

Effective Date:

This bill would take effect January 1, 2020 and will apply to policies and contracts issued, renewed, modified, altered or amended on and after that date.

## **Part M – Enact the Comprehensive Contraception Coverage Act**

### Purpose:

This bill will enact the Comprehensive Contraception Coverage Act (CCCA), requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services, and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage.

### Summary of Provisions and Statement in Support:

Section 1 of the bill would provide that the act shall be known and may be cited as the Comprehensive Contraception Coverage Act.

Sections 2 through 4 would amend various sections of insurance law to require commercial group health insurance policies to cover all FDA-approved contraceptive drugs, devices and products when prescribed by a health care provider.

Coverage shall: (i) include emergency contraception when prescribed through a prescription, a non-patient specific order, over the counter, or through any other lawful means; (ii) allow for dispensing of up to twelve months of contraception; (iii) include voluntary sterilization procedures for women; (iv) include patient education and counseling about contraception; and (v) include any follow-up care related to the covered contraceptives including management of side-effects, counseling and device insertion and removal.

Section 5 would amend section 265-1 of social services law to allow prescription contraceptives to be dispensed at one time or up to twelve times within one year from the date of the prescription.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to achieve the Governor's commitment to women's health and reproductive rights.

### Effective Date:

This bill would take effect on January 1, 2020, provided however that section 2, 3 and 4 apply to policies and contracts on or after that date.

**Part N – Establish a commission to evaluate options for achieving universal access to high-quality, affordable health care in New York**

Purpose:

This bill would direct the Department of Health and the Department of Financial Services to establish a commission, including outside independent experts, to consider and advise on options for achieving universal access to high-quality, affordable health care in New York.

Summary of Provisions and Statement in Support:

Section 1 of this bill amends Unconsolidated Law to establish a commission to evaluate options for achieving universal access to high-quality, affordable health care in New York. The Commissioner of the Department of Health and Superintendent of the Department of Financial Services will appoint independent health policy and insurance experts to the commission. The commission will consult with the legislature and stakeholder groups and convene at least one meeting for members of the public to review and discuss options for achieving universal access to care and provide a report to the Governor by December 1, 2019.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill will take effect immediately.

**Part O – Reduce Department of Health's General Public Health Work Program reimbursement to New York City from 36 percent to 20 percent**

Purpose:

This bill would reduce Department of Health's General Public Health Work (GPHW) program reimbursement rate for non-emergent expenditures above the base grant for New York City from 36 percent to 20 percent.

Summary of Provisions and Statement in Support:

The GPHW program reimburses local health departments for providing core public health services, individually tailored to the needs of their communities. These core services fall into six categories: Family Health, Communicable Disease Control, Chronic

Disease Prevention, Community Health Assessment, Emergency Preparedness, and Environmental Health.

Local governments bear the service costs in the first instance and file claims with the GPHW program. Each locality receives a base grant up to an amount based upon the county's population and the level of services provided: full service counties receive up to the greater of \$650,000 or 65 cents per resident; partial service counties receive up to \$500,000. The remainder of local government non-emergency claims are then reimbursed at the rate of 36 percent. Emergency claims can be reimbursed up to 50 percent. This proposal would reduce the reimbursement rate for the non-emergency claims above the base grant to New York City from 36 to 20 percent. This proposal recognizes that New York City, unlike other counties, has direct access to other public health funding sources. For example, New York City directly receives a grant from the Centers for Disease Control and Prevention for epidemiology and laboratory capacity.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and would achieve a total net savings of \$27 million in Fiscal Year 2020 and \$54 million when fully annualized.

Effective Date: This bill would take effect July 1, 2019.

**Part P – Lower blood lead levels and establish lead based paint standards**

Purpose:

This bill would make statutory changes necessary to implement Lead related recommendations.

Summary of Provisions and Statement in Support:

Section 1 of this bill would amend Public Health Law section 1370 by lowering the blood lead level that constitutes an elevated lead level from ten to five micrograms per deciliter (ug/dL). In addition, the definition is amended to clarify the statutory authorization for the Department of Health to establish levels "lower" than five micrograms per deciliter, pursuant to rule or regulation.

Section 2 of this bill would amend Public Health Law by adding a new section 1370-f to require the Commissioner of Health to promulgate regulations to establish minimum standards for lead based paint in residential rental properties, and to provide necessary authority to local housing code enforcement agencies to include lead paint hazard control into existing enforcement activities. In addition, if the owner of a residential rental

property is found to be in violation of the established standards, an assessed penalty would be allowable.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and accounts for a State investment of \$28.6 million towards addressing priority concerns related to childhood lead poisoning and prevention. Lowering the blood lead level is expected to drive an increase in inspections, which may generate up to \$1 million in fines and penalties.

Effective Date:

This bill would take effect immediately.

**Part Q – Authorizing Additional Awards for Statewide II Applications**

Purpose:

This bill would permit the Department of Health (DOH) to award up to \$300 million, made available under the Statewide III Health Care Facility Transformation Program, to applications already submitted under the Statewide II Health Care Facility Transformation Program. This proposal would allow DOH to deploy Statewide III funds more rapidly to achieve the goals of the program including strengthening and protecting access to health care across New York.

Summary of Provisions and Statement in Support:

The Statewide III Health Care Facility Transformation Program (Public Health Law § 2825-f) authorizes DOH to award \$525 million for projects that strengthen and protect continued access to health care services in communities throughout the State.

This proposal would permit DOH to award up to \$300 million, made available under Statewide III, to applications already submitted under the Statewide II. These applicants were rated highly enough to be considered for awards under Statewide II, but the amounts requested could not be accommodated by the overall amount of funding available under Statewide II.

Allowing DOH to make awards to previous eligible applicants would expedite the award process, allowing faster progress towards the goals of the program.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because this will allow capital awards to be made quicker to eligible entities.

Effective Date:

This bill would take effect immediately.

**Part R – Establish the Maternal Mortality Review Board to review and assess the cause of death and factors leading to each death to reduce the risk of maternal mortality and severe maternal morbidity in New York State**

Purpose:

This bill would establish the Maternal Mortality Review Board, which will review and assess the cause of death and factors leading to each death to reduce the risk of maternal mortality and severe maternal morbidity in New York State.

Summary of Provisions and Statement in Support:

The Maternal Mortality Review Board builds upon the Governor’s commitment to advance equality and promote opportunity in women and girls’ health, safety, workplace, and family life. The board will implement an enhanced multidisciplinary analysis to review each and every maternal death in New York State and work to develop recommendations to improve care and management.

Section 2 would establish the Maternal Mortality Review Board. The board will be composed of fifteen multidisciplinary experts appointed by the Commissioner of Health. The Board will be responsible for collecting and reviewing relevant confidential information related to each maternal death and identify strategies for reducing the risk of maternal mortality. Based on the review of relevant information, the Board will make recommendations to the Commissioner on preventing Maternal Death. The bill would also maintain the confidentiality of the information reviewed.

The bill would further establish an advisory council on maternal mortality and severe maternal morbidity, consisting of at least 20 members representative of the diversity of the women and communities disproportionately affected by maternal mortality and morbidity in New York State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to achieve the Governor’s commitment to women and girls' health and safety.

The proposal in this bill is funded by an investment of \$4 million in FY 2020 and FY 2021 to fund various maternal health initiatives.

Effective Date:

This bill would take effect immediately.

**Part S – Enact the Reproductive Health Act**

Purpose:

This bill would enact the Reproductive Health Act (RHA) and revise existing provisions of law regarding abortion.

Summary of Provisions and Statement in Support:

Section 1 of the bill would establish the legislative intent of the RHA.

Section 2 would create a new article 25-A of the Public Health Law, which includes section 2599-aa, Policy and Purpose, and section 2599-bb, Abortion, which states that an abortion may be performed by a licensed, certified, or authorized practitioner within twenty-four weeks from the commencement of pregnancy, or there is an absence of fetal viability, or at any time when necessary to protect a patient's life or health.

Section 3 of the bill would repeal §4164 of the Public Health Law, which establishes that when an abortion is to be performed after the twelfth week of pregnancy it shall be performed only in a hospital and only on an in-patient basis; and when an abortion is to be performed after the twentieth week of pregnancy, a physician other than the physician performing the abortion shall be in attendance to take control of and to provide immediate medical care for any live birth that is the result of the abortion.

Section 4 of the bill would repeal Subdivision 8 of §6811 of the Education Law, which establishes as a Class A misdemeanor the sale and distribution of any recipe, drug or medicine for the prevention of conception to a minor under the age of sixteen years unless done by a licensed pharmacist and prohibits advertisement or display of such articles within or without the premises of such pharmacy.

Section 5 of the bill would repeal Penal Law SS 125.40 (abortion in the second degree); 125.45 (abortion in the first degree); 125.50 (Self-abortion in the second degree); 120.55 (self-abortion in the first degree); and 125.60 (issuing abortifacient articles) and would amend the article heading of Article 125 to exclude mention of abortion.

Section 6 of the bill would amend Penal Law § 125.00, removing references to "abortion in the first degree" and "self-abortion in the first degree" as criminal acts.

Section 7 of the bill would amend Penal Law § 125.05, removing reference to abortion.

Section 7-a of the bill would repeal subdivisions 2 (abortional act) and 3 (justifiable abortional act) of § 125.05 of the Penal Law.

Section 8 of the bill would repeal subdivision 2 of § 125.15 of the Penal Law, which establishes a person is guilty of manslaughter in the second degree when "he commits upon a female an abortional act which causes her death, unless such abortional act is justifiable pursuant to subdivision 3 of section 125.05."

Section 9 of the bill would repeal subdivisions 3 of § 125.20 of the Penal Law, which establishes a person is guilty of manslaughter in the first degree when " He commits upon a female pregnant for more than twenty-four weeks an abortional act which causes her death, unless such abortional act is justifiable pursuant to subdivision 3 of section 125.05."

Sections 10, 11, and 12 of the bill would make conforming changes by removing references to the "crime of abortion" in the Criminal Procedure Law, the County Law, and the Judiciary Law.

Section 13 of the bill would create a severability clause.

Section 14 sets forth the effective date, establishing that the bill shall take effect immediately.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to achieve the Governor's commitment to women's health and reproductive rights.

Effective Date:

This bill would take effect immediately.

**Part T – Codification of the NY State of Health Marketplace**

Purpose:

This bill would protect the health of New Yorkers by ensuring access to affordable, high quality health insurance coverage.

Summary of Provisions and Statement in Support:

Section 1 of this bill would establish this act as the "NY State of Health, The Official Health Plan Marketplace Act".

Section 2 of this bill would amend the Public Health Law to add a new Title VII in Article II to codify the establishment of New York's health benefit exchange.

Section 268 of this title would state that the purpose of this title is to codify the establishment of the health benefit exchange in New York, known as NY State of Health, The Official Health Plan Marketplace (hereafter the "Marketplace").

Section 268-a of this title would establish definitions for the purposes of this title.

Section 268-b of this title would establish the Marketplace as an office within the Department of Health.

Section 268-c of this title would define the functions of the Marketplace, including but not limited to performing eligibility determinations for Federal and State insurance affordability programs, certification of Qualified Health Plans and health plans certified by the Marketplace pursuant to applicable law, assign an actuarial value to each Marketplace certified plan in accordance with criteria developed pursuant to applicable law; standardize the format for presenting health benefit options in the Marketplace, standardize the benefits available through the Marketplace at each level of coverage, maintain enrollment periods consistent with federal and state law, implement procedures for the certification, recertification, and decertification of health plans as Qualified Health Plans or health plans approved for sale by the Department of Financial Services or the Department of Health and certified by the Marketplace, contract for health care coverage offered through the Marketplace, set minimum requirements for Marketplace participation; require qualified health plans and/or other health plans certified by the Marketplace to offer essential health benefits pursuant to applicable law, operate a toll-free telephone hotline to respond to requests for assistance, maintain an internet website through which enrollees and prospective enrollees may obtain standardized information on plans and insurance affordability programs; operate a small business health options program through which eligible small employers may select Marketplace certified plans offered in the small group market and assist eligible employers in qualifying for small business tax credits available pursuant to federal and state law; operate programs to provide enrollment assistance to consumers.

Section 268-d of this title would define the requirements that Marketplace certified health plans must meet, including but not limited to licensing or certification of the insurer by the Superintendent or Commissioner, providing the essential health benefits package described in State law, submission of justification for any premium increases prior to implementation, and providing information to the public in plain language regarding enrollment data and claims payment policies.

Section 268-e of this title would provide that any applicant or enrollee may appeal to the Department of Health regarding certain eligibility determination issues.

Section 268-f of this title would establish the Marketplace Advisory Committee, which considers and advises the Department of Health and the Commissioner on matters concerning health care coverage through the Marketplace.

Section 268-g of this title would provide that the Marketplace is funded by State and Federal sources, and that the accounts of the Marketplace are under supervision of the Comptroller.

Section 268-h of this title would provide that insurers, insurance producers, and Qualified Health Plans are not exempt from complying with any other applicable State laws.

Section 3 of this bill would provide that invalidation of any portion of this act will not affect or invalidate the remainder of the act.

Section 4 of this bill would establish the effective date for this bill.

Budget Implications:

Enactment of this bill is necessary to protect the health of New Yorkers by promoting quality and affordable health coverage and care through the NY State of Health Marketplace.

The small fiscal impact for the allowed necessary and actual expenses incurred by Marketplace Advisory Committee is currently budgeted within existing Marketplace resources.

Effective Date:

This bill would take effect immediately upon enactment.

**Part U – Create an Optional Private Pay Model in the State Office of the Aging**

Purpose:

This bill would authorize a private pay program for programs administered by the State Office for the Aging.

Summary of Provisions and Statement in Support:

Section 1 of this part would amend Elder Law § 203 by adding a new subdivision 12 to authorize the Director of the State Office for Aging (SOFA) to implement a private pay program option to expand access to SOFA programs to those above 400% of the Federal poverty limit who chose to purchase these services using private funding. Counties would have the discretion to opt-in to the program.

Budget Implications:

Enactment of this part is necessary to implement the FY 2020 Executive Budget and to provide the State Office for the Aging the authority to allow Counties to expand access to services currently offered by the State Office for Aging and funded with State and local dollars to seniors at no cost to the State or county via a private pay program for people with incomes at or above 400% of the Federal poverty line.

Effective Date:

This bill would take effect April 1, 2019.

**Part V – OMIG Managed Care Program Integrity**

Purpose:

This bill would make statutory changes necessary to clarify OMIG's authority to recover overpayments and to ensure program integrity within the Medicaid Managed Care and Managed Long Term Care programs.

Summary of Provisions and Statement in Support:

Section 1 of this bill would amend Social Services Law §364-j to create authority to impose penalties for fraud or abuse where otherwise authorized by law.

Section 2 of this bill would amend Social Services Law §364-j to add a new section §34 to clarify that payments made by a Managed Care Organization (MCO) under the Medicaid Managed Care program are Medicaid payments, and would be subject to oversight and recovery.

Section 3 of this bill would amend Social Services Law §364-j to add a new section §36 to permit OMIG to conduct periodic program integrity related reviews of a Managed Care plan's contractual performance, and recover a percentage of the administrative component of the rate paid to the MCO if the MCO is not meeting its program integrity obligations.

Section 4 of this bill would amend Social Services Law §363-d to establish that an MCOs compliance program which meets federal requirements, shall also be deemed in compliance with the state requirements to implement and maintain a compliance program.

Section 5 of this bill would amend Public Health Law §3613 to add a new subdivision to require home care service workers to obtain a National Provider Identifier (NPI) number from the National Provider Plan and Provider Enumeration System (NPPES).

Section 6 of this bill would amend Social Services Law §364-j to add a new section §35 to require MCOs to recover overpayments from its subcontractors or providers that have been identified by a State audit or investigation, when OMIG has been unsuccessful in attempting to recover the identified overpayments, and to remit the full amount back to the Department of Health within six months of the date of OMIG's audit report or notice of agency action.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the ten-year rolling average of the medical component of the Consumer Price Index, as proscribed in current statute.

The Medicaid Integrity proposals in this section account for \$4.1 million in savings in FY 2020 and \$8.7 million in savings in FY 2021.

Effective Date:

This bill would take effect immediately.

**Part W – Authorize the Office of Mental Health to continue to recover Medicaid exempt income from providers of community residences**

Purpose:

This bill would extend the Office of Mental Health's (OMH) authority to recover Medicaid exempt income from providers consistent with legislation enacted in prior years.

Summary of Provisions and Statement in Support:

This bill would amend unconsolidated law by extending the relevant fiscal period during which OMH may seek to recover excess income to June 30, 2022. Specifically, the bill validates the Commissioner of OMH's authority to recoup Medicaid exempt income from providers of community residences licensed by OMH. Legislation enacted in prior years extended and confirmed OMH's statutory authority to recoup exempt income for specific periods.

This proposal would allow OMH to continue its practice and permit it to recover an amount equal to fifty percent of the Medicaid revenue received by providers that exceeds the fixed amount of annual budgeted Medicaid revenue, as established by OMH. This authority is consistent with contractual agreements between OMH and residential providers. This bill is necessary to continue existing practice and avoid a loss of \$3 million in annual exempt income recoveries.

Recent legislation ratified OMH's authority to recoup exempt income during established timeframes; however, some providers maintained that OMH lacked sufficient legal authority to continue this action. Litigation brought against the State on this issue resulted in a favorable outcome and supported the agency's practice of recouping exempt income.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and will avoid a potential loss of \$3 million in recoveries on an annual basis.

Effective Date:

This bill would take effect immediately.

**Part X – Establish voluntary jail-based restoration to competency programs within locally-operated jails**

Purpose:

This bill would authorize a volunteering county to develop a residential mental health pod unit for felony level defendants within their local jail.

Summary of Provisions and Statement in Support:

This proposal would amend Section 730.10 of the Criminal Procedure Law (CPL) to authorize the establishment of jail-based restoration to competency programs, for felony defendants pending judicial hearings, within locally-operated jails subject to the facility's consent. Specifically, up to two New York State counties would be authorized to voluntarily develop residential mental health pod unit(s) within local jails for the purposes of housing, treating, and restoring felony-level defendants to competency as they await trial.

Currently, New York State CPL Section 730.10 provides that felony-level defendants may be restored to competency in: a) an OMH psychiatric center; b) a psychiatric unit within an Art. 28 hospital; or c) on an outpatient basis in the community. This proposal would expand CPL to provide that restoration to competency may also take place in a mental health unit(s) operated within a local correctional facility, subject to the facility's consent.

OMH currently supports approximately 325 inpatient forensic beds that are used to serve an estimated 650 annual admissions of felony defendants deemed incompetent to stand trial. The cost per restoration is approximately \$128,000 and the State and counties outside of New York City each pay 50 percent. By contrast, it is estimated that

the per bed costs to restore these defendants in a jail-based setting is roughly one-third of the cost at a State facility (approximately \$42,500 per restoration). Since counties currently reimburse OMH for 50 percent of the costs of any restorations that occur at state hospitals, this proposal would save participating counties 33 percent of what they spend for such services, or approximately \$21,500 per restoration. Additionally, any county that consents to operate a jail-based restoration program will be eligible for additional State grant funding for the design, planning, construction and/or the operation of such program.

This proposal states that New York City will not be authorized to participate in this program, and that OMH will promulgate regulations for demonstration programs to implement restoration to competency within local correctional facilities.

Restorations to competency in jail-based residential settings have been implemented or have legislative authority in ten other states (including California, Florida and Texas).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to generate full annualized savings of \$1.7M for OMH (including the \$1.7M local offset). The \$1.7M in savings assumes only one county opens a JBR unit. If two counties open units, then OMH would achieve additional savings. Additionally, this program would result in lower costs for participating local governments.

Effective Date:

This bill would take effect immediately.

**Part Y – Defer Human Services COLA**

Purpose:

This bill would defer the human services cost of living adjustment (COLA) for FY 2020.

Summary of Provisions and Statement in Support:

This bill would amend chapter 57 of the laws of 2018 by deferring the COLA for FY 2020. The law requires that a COLA be developed based on the actual U.S. consumer price index for all urban consumers (CPI-U) for the twelve-month period ending in July of the preceding fiscal year. For FY 2019-20, the COLA would be 2.9%.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it will generate savings of approximately \$142M statewide.

Effective Date:

This bill would take effect immediately.

**Part Z – Eliminate duplicate license requirements to render integrated services for OPWDD providers and at Article 16 clinics**

Purpose:

The purpose of this legislation is to include OPWDD in amendments made by Chapter 57 of the Laws of 2018, Part S, Subpart B to PHL §2801(1) and MHL§§ 31.02(f) and 32.05(b) and amend MHL§ 16.03 by adding a new subdivision (g) that eliminates duplicative license requirements for providers of integrated services under the oversight of DOH, OMH and OASAS at Article 28, 31 or 32 clinics. The DOH, OMH and OASAS eliminated similar duplicative requirements for providers under their oversight in the FY 2019 Enacted Budget.

Summary of Provisions and Statement in Support:

Section 1 amends PHL § 2801(1) to provide that no provision of PHL Article 28 shall be construed to: (1) limit the volume of outpatient developmental disability services that can be provided by an outpatient provider of primary care services licensed by DOH under PHL Article 28 that is approved to provide integrated outpatient services; (2) require licensure under PHL Article 28 of a provider that is licensed or certified to provide developmental disability services and authorized to provide integrated services in accordance with regulations issued by DOH in consultation with OPWDD; or (3) require a provider licensed or certified under MHL Articles 31 or 32 to become licensed under PHL Article 28 if authorized to provide integrated services pursuant to regulations issued by DOH in consultation with OPWDD.

Section 2 amends new MHL § 31.02(f) to provide that no provision of MHL Article 31 or other law shall be construed to require a provider licensed under PHL Article 28 or certified under MHL Article 32 or MHL Article 16 to be licensed by OMH if the provider has been authorized to provide integrated services pursuant to regulations issued by OMH in consultation with DOH, OASAS and OPWDD.

Section 3 amends MHL§ 32.05(b) to provide that no provision of MHL Article 32 or other law shall be construed to require a provider licensed under PHL Article 28 or MHL Articles 31 or 16 to be certified by OASAS if the provider has been authorized to provide

integrated services pursuant to regulations issued by OASAS in consultation with DOH, OMH and OPWDD.

Section 4 adds new MHL § 16.03(g) to provide that no provision of MHL Article 16 or other law shall be construed to require a provider licensed under PHL Article 28 and MHL Articles 31 and 32 to be certified by OPWDD if the provider has been authorized to provide integrated services pursuant to regulations issued by OPWDD in consultation with DOH, OMH and OASAS.

Section 5 provides for an effective date, 180 days after signing to allow for the regulations to be drafted by OPWDD and other agencies regulations be amended to include OPWDD.

The addition of OPWDD provider agencies to these sections of law, and with the addition of new MHL § 16.03 (g), it will facilitate the ability of DOH, OMH, OASAS and OPWDD providers to address the co-occurring needs of the individuals they serve, promote better overall coordination and access of care, to improve individual outcomes.

Budget Implications:

None.

Effective Date:

This act shall take effect on October 1, 2019; provided, however, that the commissioner of the department of health, the commissioner of the office of mental health, [and] the commissioner of the office of alcoholism and substance abuse services, and the commissioner of the office for people with developmental disabilities are authorized to issue any rule or regulation necessary for the implementation of this act on or before its effective date.

**Part AA – Jurisdictional Changes to Eliminate Duplicative Oversight of Article 28 Hospitals and DOH Summer Camps**

Purpose:

This bill will amend Social Services Law to eliminate the Justice Center's duplicate oversight of Article 28 Hospitals and DOH Summer Camps.

Summary of Provisions and Statement in Support:

Section 1 amends paragraph (a) of subdivision (4) of § 488 of social services law, to remove the Justice Center's jurisdiction over inpatient psychiatric units of a general

hospital, as well as services provided in the unit of a hospital, as defined in § 2801(1) of public health law.

Section 2 amends paragraph (d) of subdivision (4) of § 488 of social services law, to eliminate summer camps for children with developmental disabilities from under the Justice Center's jurisdiction.

Eliminating these areas from the Justice Center's jurisdiction will eliminate duplicative oversight, as these facilities are highly regulated by other entities, such as DOH and CMS.

Budget Implications:

Enactment of this bill will provide savings of approximately \$500k on an annual basis.

Effective Date:

This bill would take effect immediately.

**Part BB – Behavioral Health Insurance Parity Reforms**

Purpose:

This bill ensures that New Yorkers suffering from Mental Health (MH) and Substance Use Disorders (SUDs) are not restricted from accessing health insurance benefits; requires general hospital emergency departments to have protocols to provide SUD screening, education, and treatment if appropriate; and mandates coverage of court ordered treatment only when provided by an OASAS certified program for Medicaid Managed Care.

Summary of Provisions and Statement in Support:

Part A amends the State Insurance Law to allow for increased access to behavioral health services (MH, SUD, and Autism) by:

- Requiring minimum coverage standards;
- Removing certain benefit limitations;
- Prohibiting denial of medically necessary care;
- Prohibiting multiple co-payments per day and requiring behavioral health copayments be equal to a primary care office visit;
- Requiring naloxone coverage;
- Prohibiting prior authorization for medication assisted treatment;

- Prohibiting preauthorization and concurrent utilization review of SUD services during the initial 21 days of treatment (*expanded from 14 days*);
- Prohibiting preauthorization and concurrent utilization review of inpatient psychiatric services for youth services during the initial 14 days of treatment;
- Requiring MH utilization review staff to have subject matter expertise;
- Allowing OASAS to designate a standard utilization review tool for in-State SUD treatment;
- Prohibiting insurers from retaliating against providers that report insurance law violations to State agencies;
- Requiring insurers to post additional detail regarding their behavioral health provider networks;
- Requiring insurers to provide their most recent comparative analysis for insureds;
- Allowing OMH to review and approve clinical review criteria; and
- Codifying parity standards in State law for both MH and SUD.

Part B amends PHL §2803-u by requiring general hospital emergency departments to have policies and procedures in place for providing medication assisted-treatment (MAT) prior to patient discharge.

Part C amends PHL §3343-a so that general hospital emergency departments are no longer exempt from checking the prescription monitoring program (PMP) registry prior to dispensing controlled substances.

Part D amends SSL §346-j to require coverage of court ordered treatment for OASAS certified programs within New York State.

Part E amends PHL §3306 to include fentanyl analogs as controlled substances.

Despite increasing rates of suicide and opioid related deaths, families with comprehensive health insurance coverage are unable to access needed behavioral health services due to benefit restrictions and higher copayments. While the 2008 Federal Mental Health Parity and Addiction Equality Act (MHAPEA) required commercial insurers to apply similar standards of coverage for behavioral health and physical health, recent studies have revealed that significant payment disparities continue to exist. This bill seeks to address this inequality by expanding and enforcing health insurance parity laws.

#### Budget Implications:

To monitor parity compliance, the Department of Financial Services estimates recurring staffing costs of \$1.7 million, which will be funded through assessments on health

insurance carriers. This will allow the agency to commence the additional oversight and enforcement activities required by this bill.

To implement network adequacy reviews, out of network analysis, parity reporting oversight, and stakeholder inquiries, the Department of Health estimates annual recurring cost of \$1.05 million, which will be absorbed within existing agency resources.

Limiting MH and SUD copays for outpatient services to primary care rates is estimated to cost the New York State Health Insurance Program (NYSHIP) approximately \$500K annually.

Effective Date:

Part A would take effect on the first of January after which the bill has been enacted, and shall apply to all health insurance policies and contracts issued, renewed, modified, altered or amended on or after such date.

Parts B, C, and D would take effect immediately.

Part E would take effect 90 days after enactment.

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.