SFY 2025 Joint Legislative Budget Hearing—Health

Assembly Ways and Means, Assembly Health, Senate Finance, and Senate Health Committees

January 23, 2024

Kenneth E. Raske, President

GREATER NEW YORK HOSPITAL ASSOCIATION

Committee Chairs and Members, thank you for the opportunity to testify today. I am Kenneth E. Raske, President of the Greater New York Hospital Association (GNYHA). GNYHA represents not-for-profit and public hospitals, health systems, and continuing care providers around the tri-state region, including 170 hospitals and health systems and 54 continuing care facilities in New York State.

For over 30 years, GNYHA and 1199SEIU United Health Care Workers East have worked together on major health care policy issues at both the State and Federal levels, such as the adoption of Family Health Plus and defending the Affordable Care Act.

Over the past several months, GNYHA and 1199SEIU through the Healthcare Education Project (HEP) have launched a comprehensive education campaign to 1) persuade Albany to increase New York's Medicaid reimbursement rate for hospitals to 100% of cost and 2) strive for health care justice for all New Yorkers by reducing health care disparities and improving health outcomes for low-income, predominantly Black and Brown communities. As part of this initiative, the hospital industry would agree to clearly defined metrics to demonstrate improvements in health disparities from the State's investments. The Federal government would fund about 60% of the cost.

This proposal is intended to occur over the next four years. We are seeking a significant down payment this year, but as importantly a commitment to achieving these goals. Unfortunately, the proposed Executive budget fails to embrace these goals.

Who could disagree that these are worthy goals? Who here doesn't want to tackle the health disparities that impact communities across New York? We can't ignore the facts: the heart disease mortality rate for Black New Yorkers is 30% worse than for whites, the diabetes mortality rate for Blacks is more than double than for white New Yorkers (for Hispanics, it is 40% higher than whites), while asthma hospitalizations are 4 to 6 times higher for Blacks than for white New Yorkers.[1]

New York voters resoundingly support this effort. According to a recent HEP poll, 70% believe that Albany should do more to ensure that all New Yorkers have access to quality, affordable health care, and 79% support increasing hospital rates to cover the cost of care. Some will argue that the State cannot afford it. However—and I think you will agree—the consequences of inaction are grave: further deterioration of health outcomes in Black and Brown communities, declining access to care, reduced services, and hospital closures—very possibly in your neighborhoods.

We ask the Legislature to support our goals. I call on all members of the Legislature to join our campaign and thank those of you who have signed a pledge to ensure that the final budget includes a significant down payment toward Medicaid equity, including Assembly Member Paulin and Senator Rivera and many others that I see here today.

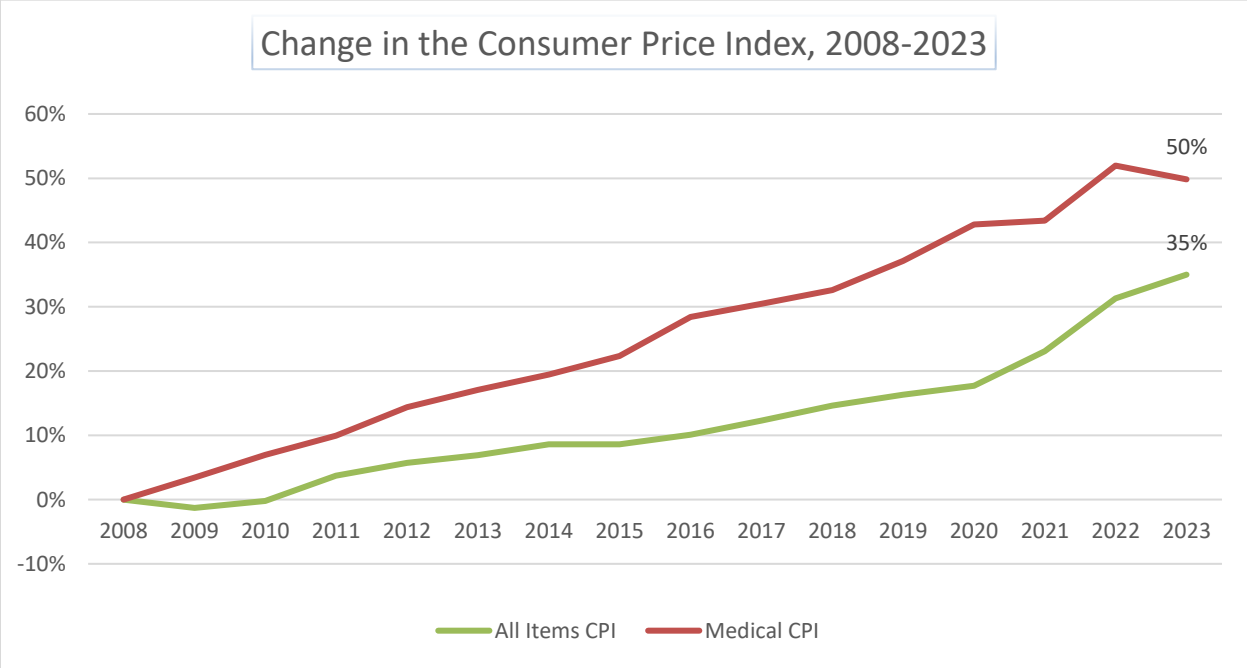
Let's work together on crafting the solution.

[1] *New York State Health Indicators by Race/Ethnicity, 2018-2020 (https://www.health.ny.gov/statistics/community/minority/county/newyorkstate.htm)*

Financial Challenges Facing New York Hospitals

Over the last few years, our hospitals and our dedicated workforce have faced crises head on. However, the current fiscal crisis could fundamentally change the future of hospitals as we know them today. This is not hyperbole. As Governor Hochul noted in her State of the State address on January 9, "hospitals in New York are struggling financially more than in the rest of the U.S—42% of hospital facilities in New York had an operating deficit in 2021." The Governor did not mention that the figure rose to 63% in 2022, a year in which New York hospitals experienced a median operating margin of -2.5%.[2] Based on a recently completed financial survey of hospitals statewide, the median operating margin fell in 2023 to -3.0% and 3 out of 4 New York hospitals experienced an "unsustainable" margin.[3]

A core fundamental issue is that New York's Medicaid program reimburses hospitals 30% less than the actual cost of delivering care—a direct result of years of disinvestment in a program that covers almost 40% of New Yorkers. As I have highlighted in previous years' testimony, Medicaid rates remained essentially flat for 15 years. During this period, general inflation as measured by the Consumer Price Index rose 35% and medical inflation rose 50%.



It's no mystery why so many hospitals are struggling financially.

In the past year alone, we have seen hospital closures, with others submitting formal closure plans or reducing services, including maternity services, due to financial strain. Without investments in this budget, the 30% Medicaid gap will increase and a growing number of hospitals will require extraordinary subsidies from New York State in order to sustain services.

[2] GNYHA analysis of 2022 NYS Institutional Cost Reports.

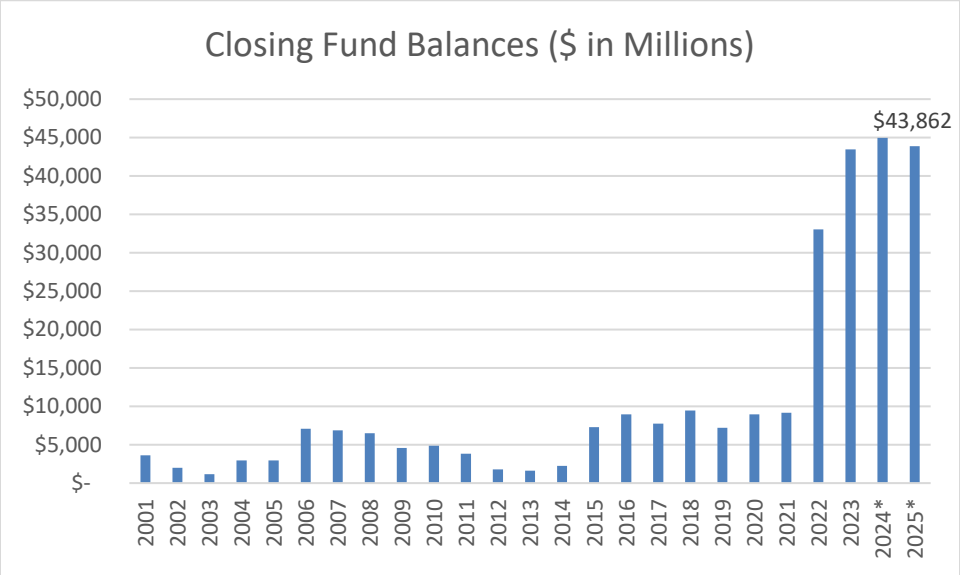
[3] Kauffman Hall benchmark. Hospitals require an operating margin of at least 3% to be sustainable and support reinvestment in patient care services and hospital infrastructure such as capital improvements and information technology.

It's a Matter of Choices

You have several options to pay for this critical investment in health equity and racial justice, and it will not require personal income tax increases. Significant funds are already available: according to the Executive budget, the State will end the current year with over $49 billion in cash and will end SFY 2025 with a cash balance of nearly $44 billion. *New York's reserves are believed to be the largest reserve balance of any state in U.S. history.* The Executive's proposed budget closes what was a projected $4.5 billion budget gap in SFY 2025 and reduces the out-year budget gaps by half, while still maintaining this historically high cash balance.

The Financial Plan estimates total reserves of 36% of State operating funds and the cash balances are more than twice what is needed to support the "principal reserves" (the rainy day and economic uncertainties funds) target of 15% to protect essential services in the event of an economic downtown. An excess of over $23 billion remains after the principal reserves are fully funded, including $5.7 billion in the undesignated fund balance and other recently established smaller reserve funds continue to build as the State's cash balances have grown. *The Financial Plan is accumulating nearly $1 billion in interest and investment income as a result.*

The chart below shows the dramatic growth in cash balances over the past several years.



Source: NYS Controller and SFY 2025 Executive Budget Financial Plan. *Note: 2024 reflects April 30, 2024, projected balance and 2025 reflects March 31, 2025, projected balance.

The time is now to acknowledge that New York has the resources available to make a significant down payment towards addressing the health care needs of New Yorkers and closing the hospital funding gaps. Budgets represent choices—and Albany's choice is whether to invest in hospitals, and the Medicaid beneficiaries they care for, or not. There are resources available within the broader State budget to make a down payment. We should also be looking at the real drivers of Medicaid cost growth, such as the dramatic growth in the managed long term care program that is crowding out resources within the Medicaid global cap to invest in other services, including our hospitals.

Our request is eminently reasonable. Addressing 100% of the Medicaid gap this year would require a State investment of $2.7 billion. But as I outlined earlier, we have a four-year plan to close the gap and are only seeking a significant down payment towards this goal in this year's budget. This is clearly achievable within the resources available in the Financial Plan. It's a matter of priorities and choices.

The Inconvenient Truth of Last Year's Budget

The Executive Branch makes frequent mention of the 7.5% inpatient and 6.5% outpatient Medicaid rate increase for hospitals in last year's budget. But that increase—after the rate remained essentially flat for 15 years—was almost completely wiped out by the budget's hospital cuts (e.g., cuts to the Indigent Care Pool and the 340B drug program). Given these cuts, the effective rate increase was only 1.66%, about one-quarter of the cost increases that hospitals have experienced over the past year. As a result, the net benefit of these hospital Medicaid investments was severely limited. Notably, last year's budget also included a $200 million reduction in State grants for hospitals in extreme financial distress with less than 15 days cash on hand. As I will discuss below, this is having serious ramifications for distressed hospitals.

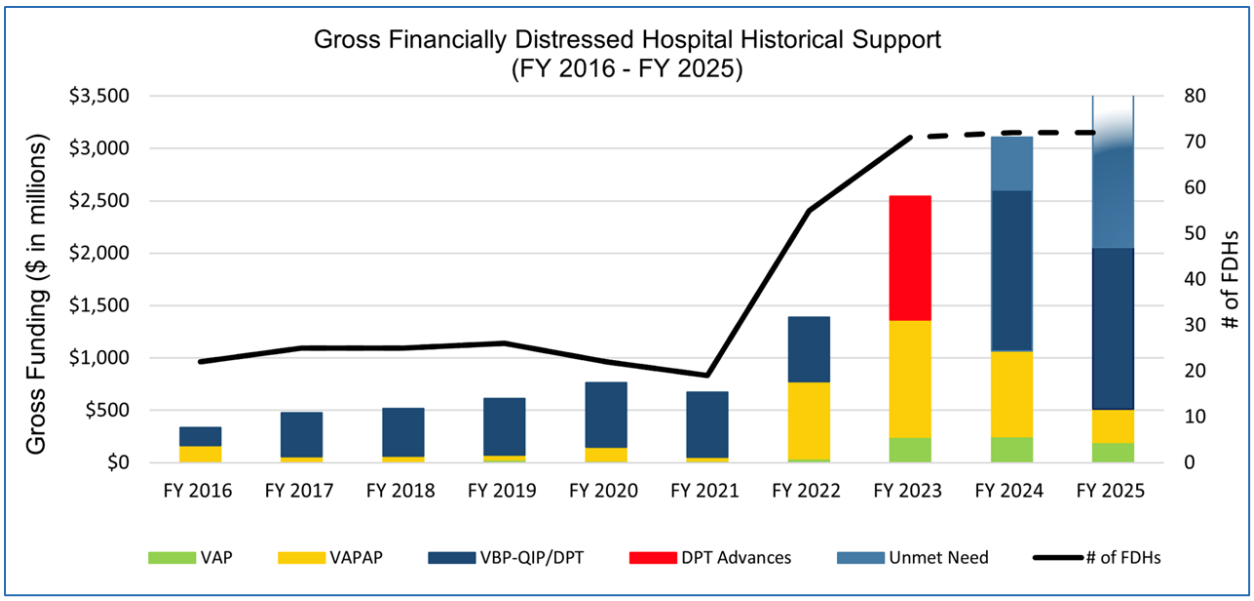
While last year's budget also included $700 million in annual hospital investment through the Essential Plan, little of this funding has been released to hospitals yet, while the impact of the 340B cuts and Indigent Care Pool cuts were immediately felt. And hospitals have continued to face significant labor shortages, requiring continued reliance on expensive contract labor. Over the past four years (2019-2023), contract labor costs have increased 141%.[4]

Distressed Hospital Funding

Given these facts, it is unreasonable to think that hospitals would not struggle financially to sustain services when they lose money on so many of the patients they treat, especially safety net hospitals that predominantly treat Medicaid and Medicare beneficiaries and the uninsured. In the post-pandemic years, a rapidly growing number of hospitals across New York State in urban, rural, and suburban areas have required subsidies to keep their doors open. The chart below, released with the Executive budget, demonstrates this growth. In SFY 2024, about 75 hospitals—nearly 30% of all New York hospitals—received financial subsidies through various funding programs. The SFY 2024 budget reduced Vital Access Provider Assistance Program (VAPAP) funding by $200 million (from $700 million in SFY 2023 to $500 million) and left significant shortfalls, or "unmet need." This funding was needed simply to meet payroll and basic vendor payments *after* the SFY 2024 budget investments were factored in. Because there was insufficient funding in the budget, hospitals are unable to plan and are forced to make last-minute decisions about which bills to pay, and they have no ability to invest in new or expanded services, or capital infrastructure improvements.

Alarmingly, the SFY 2025 proposed Executive budget eliminates the $500 million in supplemental VAPAP funding, leaving demonstrated unmet need of more than $1.25 billion for hospitals that are 100% dependent on subsidies to keep their doors open. Since the New York State Department of Health (DOH) only has access to the financial needs of hospitals that it is currently subsidizing, this figure is likely far higher industrywide. The Executive appears to replace the VAPAP funding with the newly announced 1115 Medicaid waiver funding, but this is nothing more than swapping out one dollar for another, with very little positive impact.

[4] Joint Hospital Association Financial Survey.



Source: New York State Division of the Budget, Executive Budget Briefing Book

Medicaid Waiver

The Executive lauded the recent Federal approval of a new $7.5 billion 1115 Medicaid waiver. GNYHA and 1199SEIU advocated for the waiver and support its goals—they align with our health equity goals—but the waiver does not address the fundamental problem of the 30% Medicaid hospital rate gap. While the waiver will provide $550 million annually to certain distressed safety net hospitals downstate (voluntary hospitals located in the Bronx, Brooklyn, Queens, and Westchester County that meet defined payer mix and financial criteria), it is dedicated to a Hospital Global Budget Incentive program described below.

This new waiver funding is not "swappable" with other safety net/financially distressed hospital subsidies in the budget. In addition to the funding being limited to a relatively small number of hospitals in a concentrated geographic area, the funding is dedicated for a Hospital Global Budget incentive program. Eligible hospitals must meet certain deliverables and complete key planning activities required to transition to a Global Budget by April 1, 2027, including in the areas of data analytics and interoperability, financial modeling, care coordination and management, quality improvement, network development and physician engagement, opportunities for service line rationalization, and talent management. To have any chance at success in what is a very challenging and experimental approach to hospital funding, eligible hospitals must be able to use the Medicaid waiver dollars for planning and preparation for the Global Budget demonstration as required by the Centers for Medicare & Medicaid Services.

Other waiver funding will be dedicated to the social care needs (i.e., housing supports, food and nutrition assistance, and transportation) for high-risk Medicaid beneficiaries. Importantly, nearly $700 million will be available for workforce investments through career pathway/retraining initiatives and loan repayment programs. Other investments will be made to boost payments to Patient-Centered Medical Homes.

Conclusion

We need your help. We are asking you to work with us to correct this injustice and adopt clear, reasonable goals. Other states with far less generous Medicaid programs than ours reimburse their hospitals the full cost of the care they deliver to Medicaid patients. New York must join them. We are sensitive to the State's economic position. We are asking you to create a multi-year pathway to fully funding Medicaid reimbursement to our hospitals. Thank you for your time. We look forward to working together to achieve Medicaid equity for the people of New York.

Other Budget Provisions
Below are GNYHA's positions on some of the other proposals in the Executive Budget.

Capital Funding. The Executive budget would reduce the Medicaid capital rate add-on for hospitals and nursing homes that are already chronically undercapitalized by 10% (this is in addition to the 10% cut implemented in SFY 2022). We urge the Legislature to reject this cut. In addition, the budget does not include any new capital grant funding. While there is roughly $1 billion in capital transformation funds that has yet to be released in a Request for Applications, far more is needed to recapitalize and transform New York's health care delivery system. GNYHA strongly urges the Legislature provide additional capital transformation funding in this year's budget.

Safety Net/Distressed Hospital Funding. The Executive budget reduces State funding for VAPAP by $500 million. As discussed above, while the recently approved 1115 Medicaid waiver includes $550 million per year for distressed safety net hospitals, that funding is only available to a relatively small subset of downstate hospitals and is earmarked for a Hospital Global Budget Demonstration Incentive Program. GNYHA urges the Legislature to increase support for financially distressed hospitals (a chart released with the budget shows well over $1 billion in unmet financial need for hospitals across New York State).

Nursing Home VAPAP. The budget would eliminate $75 million in the VAPAP program for financially distressed nursing homes. We oppose this reduction. These funds are critically needed to support the ongoing financial challenges facing not-for-profit nursing homes.

Medical Malpractice. The Executive proposes to alter the Physicians' Excess Medical Malpractice Program by requiring physicians and dentists eligible for excess coverage to pay half the cost. The budget would also delay reimbursement to the carriers that provide the coverage, over two years, for the remainder. GNYHA opposes this provision. Asking providers to pay 50% of the premium will severely damage hospital finances and fall the hardest on distressed hospitals with fewer resources. GNYHA is also concerned that many physicians will choose not to obtain excess coverage rather than pay half the premium; this would shift liability exposure to hospitals.

We are further concerned that some carriers will choose to leave the market rather than tolerate a delay in reimbursements. New York has the nation's highest medical liability costs, which drives up the cost of care and damages access to care. The State should investigate ways to reduce those costs, not shift even more of the burden onto individual practitioners and hospitals.

Mental Health. GNYHA supports the Executive proposals to create a 1.5% cost-of-living adjustment for outpatient mental hygiene programs and open 200 new psychiatric inpatient beds, including 100 in State psychiatric centers. We will work with the Office of Mental Health (OMH) and DOH to refine the requirements of the proposal to codify joint OMH-DOH guidance on evaluation and discharge practices.

Medical Debt. The budget proposal contains several changes to the Hospital Financial Aid Law (HFAL) that GNYHA is studying in consultation with our members, including:

- Raising the financial assistance threshold to 400% of the Federal Poverty Level (FPL) from 300%
- Limiting hospital lawsuits against patients earning below 400% FPL
- Requiring hospitals to provide financial assistance to "underinsured" persons
- Requiring that hospitals offer more generous discounts than required by current law and use Medicaid rates as the basis for determining fee-scaled amounts
- Eliminating consideration of patient assets from financial assistance determinations

New York's hospitals are committed to helping uninsured and low-income New Yorkers receive the care they need. GNYHA has engaged in significant discussions with the Assembly and Senate Health Committees in recent years about updating HFAL. We look forward to continuing these discussions as part of the budget deliberations.

Workforce. The Executive proposes several workforce initiatives, including:

- Continuing the Nurses Across New York Loan Repayment Program
- Allowing New York State to join the Interstate Medical Licensure Compact and Nurse Licensure Compact
- Permanently authorizing the collaborative drug therapy management program
- Authorizing mobile integrated and community paramedicine programs through March 31, 2031, and allowing up to 200 new or expanded programs
- Repealing the COVID-19 sick leave law

GNYHA strongly supports these measures, which will help hospitals hire and retain qualified health care workers as they confront a historic workforce shortage. We also urge Albany to pass legislation to modernize radiological tech supervision (A.8247, Paulin) and license anesthesia assistants.