



Association for Community Living

**JOINT SENATE/ASSEMBLY
LEGISLATIVE HEARING ON THE 2017/2018 BUDGET
February 6, 2017**

Thank you, Senator Young and Assemblyman Farrell for this opportunity to submit testimony. We would also like to acknowledge the participation and interest of the Senate and Assembly committee members present and in particular Senate Mental Health and Developmental Disabilities Committee Chair, Senator Robert Ortt, and Assembly Mental Health Chair, Assemblywoman Aileen Gunther.

The Association for Community Living represents more than 90% of all the OMH and LGU funded mental health beds in the system across NYS - more than 30,000 units. The agencies that operate this housing also provide many other services in the community-based mental health system. Virtually all of the people living in these units rely on the state for their housing and Medicaid for mental health and other health related services.

Housing is the cornerstone of a successful community behavioral health service system. Without safe and affordable housing coupled with supports, very few individuals with a serious mental illness would successfully reside long-term in the community. We are grateful that over the past 30 years, New York State has heavily invested in a robust community based housing system for people with mental illness that is far greater in quantity than any other mental health system in the country. Community based housing options allow people to transition from costly state run hospitals; provide an appropriate alternative to jails, prisons, adult homes and nursing homes; and provide a place to live and recover for homeless individuals.

For these reasons, we applaud the further downsizing of the state psychiatric institutional system and the conversion of 140 state operated community residence and transitional unit beds to Supported Housing. We also thank the Governor and DOB for a modest investment in the rates of some OMH funded residential programs, namely the \$10 million to increase rates for Supported Housing and congregate SRO facilities. However, we understand that this will only be allocated to approximately 12 counties. The COLA has now been deferred for the 6th of the past 7 years and at least 42 counties have not had any rate increases within that time.

As New York State has continued to build on capacity every year, it has not done enough to sustain the current housing programs. When compared to inflation, mental health housing programs have lost approximately \$115 million over the past 26 years. This issue is so

significant, that almost all mental health advocacy groups, as witnessed by my colleagues' testimonies, have again taken on housing infrastructure as a primary issue this year. The people we serve must not have their housing jeopardized. It leads to decompensation, hospitalization, incarceration or worse.

Of course, we are fully behind the \$2.5 billion in new funds that will be used to develop 6,000 units of supportive housing. However, while new development is critical to contain Medicaid spending, the level of funding for these programs must be sufficient to cover costs. OMH Supported Housing was originally designed to serve people who needed minimal supports to remain in the community; therefore, only minimal services were funded. However, most new beds are now set aside for high users of Medicaid; people coming out of long-term stays at Psychiatric Centers, prisons and jails; those actively using drugs and alcohol; the chronically homeless and the chronically institutionalized in adult homes and nursing homes. These individuals require more frequent and intensive services for behavioral as well as medical problems. OMH Supported Housing is an extraordinarily inexpensive rent stipend and service program when compared to the other alternatives. The yearly rates for Supported Housing range from \$7,731 to \$16,156 PER UNIT PER YEAR depending on what county of the state the bed is located. The current rates are not cost based, nor are they budget based, and do not take into account the actual rents being paid and services required under our OMH contracts to assist a person in remaining in the community. We ask the legislature to pass legislation that requires the NYS-OMH to develop a formula which takes into consideration actual rents, along with a realistic services allocation when determining Supported Housing rates. ACL has developed such a formula, using HUD-FMRs in place of actual rents, and has applied it to each county in the state, generating a one-page report, since 2003. This year's is attached to this testimony.

Also, it is a huge problem that our units are funded at a fraction of what OASAS pays. In NYC, for example, that percentage is 65%. In the rest of the state that percentage is even lower. The same ratios exist when our funding is compared to AIDS supported housing funding.

It would take \$115 million (or \$38.3 million per year for three years) to restore all the OMH housing programs to where they should be after years of losing funding to inflation, which in essence, is a cut. As the Governor noted in his speech about \$163 million for free tuition: "It is a mere rounding error." Therefore, \$115 million is certainly within the government's ability to provide. It is these providers that make no progress when times are tough and then make no progress when times are good. When is it their turn?

Assuming a three-year plan, we request \$28 million this year because this Executive Budget already included \$10 million. The programs that would benefit from this include:

- **Community Residence-Single Room Occupancy (CR-SRO) programs:** A CR-SRO provides a high level of service and can be very long-term stay or permanent. These are large apartment buildings with studio apartments, however, they are licensed by the State Office of Mental Health, are required to meet regulatory requirements, and are subject

to Justice Center oversight. These programs admit the *most disabled* in the mental health system but are forced to operate with inadequate staffing due to erosion of funding – in some cases 1 staff to 65 or more residents.

- **Supported Housing:** Supported Housing was originally designed to serve people who needed minimal supports to remain in the community. However, more and more new beds are set aside for high users of Medicaid; people coming out of long-term stays at Psychiatric Centers, prisons, and jails; those actively using drugs and alcohol; the chronically homeless and the chronically institutionalized [in adult homes and nursing homes]. These individuals require more frequent and intensive services for behavioral as well as medical problems. OMH Supported Housing is an extraordinarily inexpensive (*too inexpensive*) rent stipend and service program when compared to the other alternatives. The yearly rates for Supported Housing range from \$7,731 to \$16,156 **PER UNIT PER YEAR** depending on what county the bed is located.
- **Community Residence program:** This includes both smaller licensed CRs and **Treatment Apartments**. Adding funds would stabilize these programs and would have the added value of ramping up the model's efficiency in rehabilitating people more quickly; an outcome that the Managed Care Organizations will expect when this model is moved into Managed Care. The Licensed Community Residence Treatment Program has two parts, congregate treatment homes ranging from 8 to 48 beds, and treatment apartments for 2-3 people. They serve people with high levels of service needs, particularly people who cannot negotiate the larger community or manage their medications. There is full medication supervision in these programs for those who need it, which most do. There has been no new development of these programs in many years – in fact, some are being transformed into more independent settings (in 2008, the non-profits operated 4,683 congregate community residence beds, while in 2014 they operated 4,111). ACL is supportive of the policy to focus new development on the more independent settings, however, the higher level of service is still necessary and should be resourced at higher levels. These programs may have *one* staff person working a shift at very low pay (state reimbursement levels are less than \$14/hour). This forces providers to hire people with minimal education, and perpetuates a cycle of high staff turnover. These are jobs that need highly trained and skilled staff because they are expected to work with the most seriously psychiatrically disabled people. Maintaining competent staff is a problem nonprofit housing providers are facing all over NYS.
- **SP-SROs (permanent housing with supports):** These are also large apartment buildings with studio apartments, but are not licensed by OMH. They are expected to admit clients with higher levels of need, and are some of the oldest in the state. SP-SROs have had fewer increases than any other programs because some of the other programs have received one time increases. They are in dire need. Additional funding would equip them to serve clients that they are already admitting who have very challenging service needs.

The lack of increases over the years has created an inability to pay sufficient wages that reflect the difficult and important work being performed in residential settings. The recent minimum wage increase and raising of the exempt employee thresholds will, in particular, have a large impact on residential providers. Currently OMH residential programs are reimbursed at approximately 60% over minimum wage for counselor positions. If we want to attract and retain qualified staff, the reimbursement rate needs to be maintained at 60% over the new minimum wage of \$15 per hour, with corresponding increases for the next level of staff. We ask the legislature to monitor this carefully and demand that contracts with NYS be amended as the higher minimums are phased in.

Moreover, the governor raised the exempt employee thresholds. The executive proposal does not address the costs the community mental health system has already incurred as of January 1, 2017. They will continue to incur costs at an escalated pace due to the Governor's Department of Labor overtime rule changes which require the threshold to go up each year for the next four years. We support paying employees what they deserve to be paid, but the state of NY is not paying us what we need to cover all the costs of the programs.

Over the past six years New York State has saved billions by successfully curbing the growth rate of Medicaid. The MRT has dramatically bent the cost curve in Medicaid in NYS, helping NY to remain under the global cap. Some of the MRT initiatives have been housing. I think it's fair to say that our providers through their housing programs, and all the other community based services that they operate, have been important participants in bending the curve and in keeping NY under the cap. However, they have reaped little to no benefit from doing so. They are left out of DSRIP for the most part, they have not had a COLA in six of the last seven years, while they serve more and more challenging clients with multiple needs. Additionally, they deal with the opioid epidemic on a daily basis. Refusing to give providers a COLA is not a viable long term solution to NYS's Medicaid spending issues.

Also, through DSRIP, NY is investing billions of state and federal funds into transformative projects that have the potential to save even more state Medicaid funds. The financial benefits of DSRIP have not resulted, however, in any significant resources going to behavioral health community based organizations (BH CBOs). BH CBOs have contributed time and resources to the development of PPS projects by attending meetings, helping design the PPS projects, and offering services to assist in the success of the projects. However, in most areas of the state, the DSRIP money is not finding its way to the BH CBOs. Additionally, money set aside for behavioral health HCBS waiver services is not being spent. We ask that some of that unspent money be used for the benefit of behavioral health CBOs so that they can increase their spending on the administrative functions that are now required to keep up with the state's accelerated transformation activities, as well as on infrastructure, salary increases, and workforce development.

Finally, we would like to recognize and support New York State's commitment to addressing the homeless issue. A total of \$2.5 billion is targeted towards developing and supporting 6,000 new supportive housing units over the next 5 years. The majority of this money was included in the 2016-17 budget and is subjected to an MOU between the Governor and legislature prior to being released. Please meet with the Governor's people to negotiate the terms of the MOU ASAP and sign it.

We are doing a service for the State, one that the state solicited us to provide through RFPs. If the state decided to pay a car company a fraction of what it costs them to bring a car to market, the state would not have a fleet of cars. At some point, the state will not have a functioning community based system of care.

SUMMARY OF ACL's BUDGET PRIORITIES

- Support the \$10 million for rate increases for OMH Housing programs.
- Add 28.4 million for OMH licensed and funded housing programs as part of a three-year plan that would add another \$38.4 million for each of the next two years. A chart showing the losses to inflation over the years is attached.
- Add \$50.5 million per year for each of the next 5 years to address the structural issues created by the incremental increases to the minimum wage.
- Add approximately \$4.0 million to bring the remaining 2,198 NY I & II Beds up to the NY/NY III rate.
- The executive proposal does not address the costs to the community mental health system as a result of the Governor's Department of Labor overtime rule changes. We urge the legislature to analyze the impact or ask the Governor to analyze the impact.
- Sign the housing and homeless initiative MOU so that the remainder of the \$1.9 billion that was in the 2016-17 budget can be used to develop all 6,000 new supportive housing beds that were promised.
- We ask that some of the unspent Behavioral Health HCBS unspent money be used for the benefit of Behavioral Health CBOs so that they can increase their spending on administration that is now required to keep up with the state's accelerated change schedule, as well as on infrastructure, salary increases, and workforce development.



OMH Funded Supported Housing – 2016 Adequate Rate One Bedroom Apartment

The following explains the accompanying chart
It computes an adequate SH rate in each county

This chart was first created in 2002. It has been updated each year to reflect changes in HUD FMR, SSI rates, OMH increases/decreases and policy that effect funding, e.g. caseloads.

- A. RENT:** Based on HUD Fiscal-Year 2016 Fair Year Market Rents for a **One Bedroom apartment**
- B. RENT PAID BY RESIDENTS:** Residents pay 30% of income, typically the SSI living alone rate of \$820/month, which is \$246 per month or \$2,904 per year.
- C. TOTAL PROPERTY COST TO AGENCY:** Column A minus column B.
- D. CONTINGENCY FUNDING:** \$500. Based on current OMH minimum of \$500 per recipient annually to resolve housing situations that put the resident at risk of losing his/her housing including non-collectable rent payments due to various reasons, minor maintenance not the responsibility of the landlord, furniture storage, and any other housing related emergency problems that, if not addressed, could cause loss of housing. This number has not changed since 1991.
- E. OTHER THAN PERSONAL SERVICES (OTPS):** \$1500 per SH slot - Based upon a realistic estimate of costs that includes travel, insurance, office supplies, telephone, office rent, etc.
- F. CASE MANAGER:** \$39,000 = \$30,000 salary plus \$9,000 for fringe benefits (30%) for a case manager
With a caseload of 20. A 15% differential is included for downstate counties: \$44,850 = \$34,500 salary plus \$10,350 for fringe benefits (30%)
- G. SUPERVISOR:** \$52,000 = \$40,000 salary plus \$12,000 for fringe benefits (30%) for a supervisor with a caseload of 100 consumers or 5 case managers. A 15% differential is added for downstate counties: \$59,800 = \$46,000 salary plus \$13,800 for fringe benefits (30%)
- H. ADMINISTRATION and OVERHEAD (A&OH);** at 12% on columns D through G – well under the mandated 15% required under Executive Order #38.
- I. ADEQUATE SUPPORTED HOUSING RATE:** Total of cost columns C-H.
- J. CURRENT SUPPORTED HOUSING RATE:** This is the rate SOMH pays by county for each supported housing unit in each county as of July 1, 2016.
- K. SHORTFALL:** This number is the difference between column I and column J per bed.
- L. NUMBER OF SH BEDS:** The actual number of beds in each county. This number is from the September 2015, OMH Residential Program Indicators Report.
- M. TOTAL COUNTY SHORTFALL:** The shortfall per bed (Column K) multiplied by the number of beds in the county (Column L) equals the actual shortfall in dollars specific to each county.

	HUD FAIR MARKET RENT	RENT PAID BY RESIDENTS	TOTAL PROPERTY COST TO AGENCY	CONTINGENCY FUNDING	O.T.P.S.	HOUSING DIRECT CARE STAFF	SUPERVISOR	A&OH at 12%	AD-EQUATE SUPPORTED HOUSING RATE PER BED/YEAR	CURRENT SUPPORTED HOUSING RATE	SHORTFALL PER BED PER YEAR	NUMBER OF S.H. BEDS	TOTAL COUNTY SHORTFALL
	A	B	C	D	E	F	G	H	I	J	K	L	M
ALBANY	9756	2952	6847	500	1,200	1950	659	1339	12,447	9,549	2,898	276	799,727
ALLEGANY	6552	2952	3643	500	1,500	1950	659	1238	9,440	8,500	940	37	34,793
BRONX	16,104	2952	13195	500	1,000	2243	757	2654	20,300	16,156	4,144	2165	8,971,327
BROOME	6828	2952	3919	500	1,200	1950	659	1234	9,413	7,746	1,667	221	368,352
CATTARAUGUS	6720	2952	3811	500	1,500	1950	659	1263	9,634	8,500	1,134	111	125,824
CAYUGA	6828	2952	3919	500	1,500	1950	659	1279	9,758	7,746	2,012	64	128,752
CHAUTAUQUA	6396	2952	3487	500	1,200	1950	659	1169	8,916	8,500	416	92	38,267
CHEMUNG	8448	2952	5539	500	1,200	1950	659	1477	11,276	8,500	2,776	138	383,054
CHENANGO	6924	2952	4015	500	1,500	1950	659	1294	9,868	7,746	2,122	54	114,596
CLINTON	7776	2952	4867	500	1,500	1950	659	1421	10,848	7,947	2,901	60	174,057
COLUMBIA	8436	2952	5527	500	1,500	1950	659	1520	11,607	9,549	2,058	39	80,260
CORTLAND	7212	2352	4303	500	1,500	1950	659	1337	10,889	7,746	3,143	56	176,028
DELAWARE	6888	2952	3979	500	1,500	1950	659	1288	9,827	7,746	2,081	33	68,665
DUTCHESS	12288	2952	9379	500	1,200	1950	659	2053	15,692	13,171	2,521	262	660,437
ERIE	7416	2952	4507	500	1,200	1950	659	1322	10,089	8,500	1,589	872	1,385,564
ESSEX	8076	2952	5167	500	1,500	1950	659	1466	11,193	7,947	3,246	33	107,116
FRANKLIN	6792	2952	3883	500	1,500	1950	659	1274	9,716	7,746	1,970	47	92,606
FULTON	7152	2952	4243	500	1,500	1950	659	1328	10,130	7,746	2,384	30	71,531
GENESEE	7428	2952	4519	500	1,200	1950	659	1324	10,103	8,500	1,603	47	75,329
GREENE	9036	2952	6127	500	1,500	1950	659	1610	12,297	9,549	2,748	35	96,178
HAMILTON	6744	2952	3835	500	1,500	1950	659	1267	9,661	7,746	1,915	7	13,406
HERKIMER	6972	2952	4063	500	1,200	1950	659	1256	9,578	7,746	1,832	30	54,971
JEFFERSON	9624	2952	6715	500	1,500	1950	659	1699	12,973	8,748	4,225	66	278,860
KINGS	16104	2952	13195	500	1,000	2243	757	2654	20,300	16,156	4,144	2,598	10,765,592
LEWIS	6864	2952	3955	500	1,500	1950	659	1285	9,799	7,746	2,053	53	108,817
LIVINGSTON	8328	2952	5419	500	1,200	1950	659	1459	11,138	8,700	2,438	40	97,510
MADISON	7548	2952	4639	500	1,500	1950	659	1387	10,586	7,746	2,840	28	79,513
MONROE	8328	2952	5419	500	1,200	1950	659	1459	11,138	8,700	2,438	564	1,374,891
MONTGOMERY	7008	2952	4099	500	1,200	1950	659	1261	9,620	7,746	1,874	37	69,329
NASSAU	15696	2952	12787	500	1,200	2243	757	2623	20,061	16,156	3,905	950	3,709,370
NEW YORK	16104	2952	13195	500	1,000	2243	757	2654	20,300	16,156	4,144	1838	7,616,304
NIAGARA	7416	2952	4507	500	1,200	1950	659	1322	10,089	8,500	1,589	155	246,287
ONEIDA	6972	2952	4063	500	1,200	1950	659	1256	9,578	7,746	1,832	232	425,105
ONONDAGA	7548	2952	4639	500	1,200	1950	659	1342	10,241	7,746	2,495	322	803,310
ONTARIO	8328	2952	5419	500	1,200	1950	659	1459	11,138	8,700	2,438	73	177,956
ORANGE	12288	2952	9379	500	1,200	1950	659	2053	15,692	13,171	2,521	300	756,225
ORLEANS	8328	2952	5419	500	1,200	1950	659	1459	11,138	8,700	2,438	27	65,819
OSWEGO	7548	2952	4639	500	1,500	1950	659	1387	10,586	7,746	2,840	65	184,584
OTSEGO	7728	2952	4819	500	1,500	1950	659	1414	10,793	7,947	2,846	38	108,139
PUTNAM	16104	2952	13195	500	1,200	1950	659	2626	20,080	14,223	5,857	66	386,572
QUEENS	16104	2952	13195	500	1,000	2243	757	2654	20,300	16,156	4,144	1901	7,877,364
RENSSELAER	9756	2952	6847	500	1,200	1950	659	1673	12,780	9,549	3,231	125	403,869
RICHMOND	16104	2952	13195	500	1,000	2243	757	2654	20,300	16,156	4,144	702	2,908,948
ROCKLAND	16104	2952	13195	500	1,200	2243	757	2684	20,530	14,777	5,753	189	1,087,279
SARATOGA	9756	2952	6847	500	1,200	1950	659	1673	12,780	9,549	3,231	48	155,086
SCHENECTADY	9756	2952	6847	500	1,200	1950	659	1673	12,780	9,549	3,231	153	494,335
SCHOHARIE	9756	2952	6847	500	1,200	1950	659	1673	12,780	9,549	3,231	31	100,159
SCHUYLER	6516	2952	3607	500	1,500	1950	659	1232	9,399	8,500	899	8	7,192
SENECA	7260	2952	4351	500	1,500	1950	659	1344	10,255	8,500	1,755	33	57,900
ST.LAWRENCE	7320	2952	4411	500	1,500	1950	659	1353	10,324	7,746	2,578	98	252,600
STEUBEN	7488	2952	4579	500	1,500	1950	659	1378	10,517	8,500	2,017	127	256,127
SUFFOLK	15696	2952	12787	500	1,200	2243	757	2623	20,061	16,156	3,905	1519	5,931,087
SULLIVAN	8844	2952	5935	500	1,500	1950	659	1582	12,076	9,349	2,727	66	179,992
TIOGA	6828	2952	3919	500	1,200	1950	659	1234	9,413	8,500	913	27	24,644
TOMPKINS	11100	2952	8191	500	1,500	1950	659	1920	14,671	9,502	5,169	78	403,147
ULSTER	10728	2952	7819	500	1,200	1950	659	1819	13,898	10,100	3,798	171	649,415
WARREN	8460	2952	5551	500	1,200	1950	659	1479	11,290	9,349	1,941	49	95,087
WASHINGTON	8460	2952	5551	500	1,200	1950	659	1479	11,290	9,349	1,941	5	9,703
WAYNE	8328	2952	5419	500	1,200	1950	659	1459	11,138	8,700	2,438	76	185,269
WESTCHESTER	14772	2952	11863	500	1,200	2243	757	2484	18,998	15,906	3,092	899	2,779,708
WYOMING	8864	2952	8865	500	1,500	1950	659	1486	9,818	8,500	1,318	98	11,883
YATES	6876	2952	3967	500	1,500	1950	659	1286	9,813	8,500	1,313	12	15,755
												18500	65,161,571



Association for Community Living

OMH RESIDENTIAL FUNDING EROSION DUE TO INFLATION 1991 to 2016



