HANYS' SFY 2024-2025 state budget testimony

Joint legislative hearing of the Senate Finance and Assembly Ways and Means committees

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Always There for Healthcare

Good morning Chairs Krueger, Weinstein, Rivera and Paulin, and committee members. I am Bea Grause, president of the Healthcare Association of New York State, representing nonprofit and public hospitals, health systems and post-acute care providers across New York. Thank you for this opportunity to discuss the 2024-2025 executive budget proposal. New York's hospitals, health systems and post-acute and continuing care providers appreciate your ongoing support and commitment to ensuring all New Yorkers have access to high-quality care.

New York State's longstanding, complex, healthcare financing mechanisms that support access to care for millions of New Yorkers are failing. Emergency room overload, nursing home and hospital unit closures, and the lack of home healthcare are all symptoms of this impending failure. The lack of access to care will intensify without immediate, significant and sustained action.

New Yorkers are aging. As a result, more patients will need extended care for cancer, stroke and neurodegenerative conditions such as Alzheimer's disease. New York, like other states in the nation, faces a now chronic and severe workforce shortage. The combination of these and other factors has increased the cost of delivering care in all settings.

This increasing and changing patient care demand and the higher costs of delivering care to patients needing care are realities we must face together. We must work together to build a sustainable healthcare system that meets New Yorkers' current and changing demands in a way that is structurally affordable for all stakeholders. That essential work will take years of bipartisan focus and collaboration. We must start now. This year's immediate focus must center on the stability of the healthcare system that New Yorkers depend on for the care they need right now.

The executive budget proposal wholly fails to address the urgent need to stabilize all hospitals and nursing homes and protect access to care in New York state. In fact, the fiscal proposals in this budget take New York backward and will make vital improvements to care and access more difficult and more expensive down the road.

Rather than taking action to end years of chronic Medicaid underpayment, this budget proposes Medicaid cuts that could result in a loss of nearly $1.3 billion for hospitals and nursing homes. Seventy-six percent of New York hospitals remain financially unstable. New York has over 5,000 fewer nursing home beds today than in 2019.[1] In the face of overwhelming evidence, this budget fails to recognize the need for decisive action to preserve access to care.

We can do better. We must do better.

[1] Testimony provided by LeadingAge New York at the Joint Assembly Hearing on Health Care Workforce (December 19, 2023). https:// www.leadingageny.org/advocacy/main/legislative-action-center/leadingage-new-york-testimony

The Medicaid rate increases for hospitals and nursing homes included in last year's budget were a good start. You heard the extraordinary fiscal challenges facing hospitals and nursing homes in the communities you represent and responded with the first significant rate increase in many years. On behalf of our members, I thank you again for that support and urge you to partner with us again.

The Medicaid rate increases for hospitals and nursing homes provided a long overdue jump start for an ailing reimbursement system. We must continue to build on this starting point, not move away from it.

I encourage you to bear in mind several factors when reflecting on last year's Medicaid rate increases. First, the increased Medicaid rate for hospitals was largely offset for many by other reductions in last year's budget, including the Medicaid pharmacy benefit carve-out and cuts to the state's Indigent Care Pool. The impact of the rate increase was further diminished by extraordinary increases in labor, drug, energy and supply costs, which are rising at a pace well above the rate of inflation.

And finally, last year's Medicaid rate increase for hospitals and nursing homes was the first significant rate increase in many years — 15 years! Over this same period, however, the cost of providing care increased every single year. As a result, the gap between Medicaid reimbursement and the cost of delivering care has widened.

Because Medicaid is one of the most significant payers of healthcare in New York state, this widening under-reimbursement is destabilizing our healthcare system.

Historical Trend Factors	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24
Hospital Inpatient	0%	0%	0%	0%	0%	0%	0%	0%	0%	-1.5%	0%	1%	7.5%
Hospital Outpatient	0%	0%	0%	0%	0%	0%	0%	0%	0%	-1.5%	0%	1%	6.5%
Nursing Home	0%	0%	0%	0%	0%	0%	0%	0%	0%	-1.5%	0%	1%	7.5%
Assisted Living Program	0%	0%	0%	0%	0%	0%	0%	0%	0%	-1.5%	0%	1%	6.5%
All Other	0%	0%	0%	0%	0%	0%	0%	0%	0%	-1.5%	0%	1%	0.0%
CPI-U Medical Care Inflation	3.5%	3.1%	2.2%	2.5%	3.3%	3.5%	2.0%	1.7%	4.7%	1.8%	2.9%	1.5%	Not Yet Available

Sources: Our New York, Our Future (Jan. 16, 2024) New York State Budget Director Presentation. *https://www.budget.ny.gov/pubs/archive/fy25/ex/fy25-director-presentation.pdf*
U.S. Bureau of Labor Statistics. Consumer Price Index-Medical. *https://www.bls.gov/cpi/latest-numbers.htm*

The Medicaid 1115 waiver will do many good things, but it won't stabilize the healthcare system.

The executive budget proposes to infuse approximately $7.5 billion in new funding over the next three years through the recently approved Medicaid Section 1115 Demonstration Program (the "New York Health Equity Reform" program). This waiver certainly can help the state address critical issues facing our healthcare system, such as reducing health disparities and promoting workforce development. However, the waiver doesn't negate the imperative to stabilize all hospitals and nursing homes. In fact, without stabilization, the waiver's opportunity will be significantly diminished.

Specifically, the waiver will draw down federal investments to help reduce health disparities and improve health equity. This will largely be achieved by authorizing coverage for services that address the social needs of targeted Medicaid enrollee populations with clinical and social risk factors. Our hospitals and health systems look forward to working with the state and our partners across the healthcare spectrum to achieve these laudable goals.

The waiver also recognizes the substantial challenges facing some of our financially distressed safety net hospitals. Their stability *enable*s their ability to focus on population health, health equity and quality of care improvements.

However, the waiver is not actually providing additional financial support for financially distressed hospitals. Rather, it shifts a similar level of funding from one program — the state's Vital Access Provider Assistance Program — to another model created under the NYHER demonstration program. Factoring out this funding, over 80% of funding in this waiver is dedicated to the coverage of social care interventions and does nothing to close the Medicaid gap for hospitals and nursing homes in a broad-based and structural way.

We must not view the waiver and the federal investments it brings as a means for stabilizing all hospitals and health systems. The waiver must be viewed as a tool that sits in tandem with, not in lieu of, the state investments critically needed to address chronically inadequate Medicaid rates.

In fact, in its January 9 approval letter to the Department of Health, the U.S. Centers for Medicare and Medicaid Services pointed out the undeniable linkage between increased provider Medicaid rates and improved patient care: "Research shows that increasing Medicaid payments to providers improves beneficiaries' access to health care services and the quality of care received."

Fiscal distress is widespread among New York hospitals and nursing homes.

Our urgent request to close the Medicaid funding gap for hospitals and nursing homes is grounded in data and facts that speak to the dire financial condition of our state's hospitals and nursing homes — and our collective need to preserve New Yorkers' access to care.

The governor's State of the State address acknowledged that hospitals in New York are struggling financially more than in the rest of the U.S., with 42% of hospitals reporting an operating deficit in 2021.[2]

Findings from a fall 2023 joint fiscal survey effort between HANYS, Greater New York Hospital Association, Healthcare Association of Western and Central New York, Iroquois Healthcare Association and Suburban Hospital Alliance of New York State

[2] Gov. Kathy Hochul (January 2024) 2024 State of the State. https://www.governor.ny.gov/sites/default/files/2024-01/2024-SOTS-Book-Online.pdf#page=116

shine a light on the stark reality of hospitals' financial conditions (survey report attached):

- 76% of all hospital respondents reported negative or unsustainable operating margins in 2023.
- The median operating margin across all respondents was negative 3.0% — even with some facilities receiving federal resources and supportive funding from the state.

As noted previously, the Medicaid program is a prominent provider of health insurance coverage in New York state. A large driver of the financial challenges hospitals face stems from Medicaid paying hospitals just 70 cents for every dollar of care provided — 30% less than the actual cost of delivering care. This leaves hospitals significantly and unsustainably under-reimbursed.

Cost challenges also persist, with respondent hospitals reporting that contract labor, drug, energy, supply and overall labor costs all have increased faster than inflation since 2019:

- Contract labor: +141%
- Drugs: +67%
- Energy: +28%
- Supplies +27%
- Total labor: +25%
- Inflation: +19%

The fiscal situation is similarly challenging for New York's nursing homes.

The vast majority of individuals living in our nursing homes are insured by New York's Medicaid program. According to a HANYS analysis of New York state nursing home cost reports for 2021, 72% of resident days spent in nursing homes are covered by Medicaid. However, a Medicaid and CHIP Payment and Access Commission report found that in 2019, Medicaid paid nursing homes only 76 cents for every dollar of care provided — 24% less than the actual cost of delivering care.[3]

In part, because of Medicaid underpayment and staffing challenges, there are 5,600 fewer certified nursing home beds available to New Yorkers today when compared to 2019.[4]

The Legislature must help mitigate the persistent and alarming fiscal deterioration of hospitals and health systems statewide. Inaction will impact access to care and

[3] Medicaid and CHIP Payment and Access Commission (January 2023) "Estimates of Medicaid Nursing Facility Payments Relative to Costs." https://www.macpac.gov/publication/estimates-of-medicaid-nursing-facility-payments-relative-to-costs

[4] Testimony provided by LeadingAge New York at the Joint Assembly Hearing on Health Care Workforce (December 19, 2023). https:// www.leadingageny.org/advocacy/main/legislative-action-center/leadingage-new-york-testimony

quality of life for New Yorkers across the state and weaken the economic vitality of communities from Long Island to Buffalo.

HANYS advances the following responses to select SFY 2024-2025 executive budget provisions.

1. Make a multi-year commitment to close the Medicaid payment gap for hospitals and nursing homes.

Medicaid is a predominant insurer, payer and safety net in New York, with nearly one-third of all New Yorkers depending on the program for healthcare coverage. However, Medicaid provider reimbursement rates have not kept pace with rising costs; Medicaid pays just 70 cents for each dollar of care provided by New York's hospitals. For nursing homes, Medicaid payments averaged 76 cents for each dollar of care in 2019, and rates have fallen farther behind costs in the years since.

Recommendation: HANYS urges lawmakers to make a multi-year commitment to closing the Medicaid payment gap by providing significant across-the-board Medicaid funding increases in this year's budget. In addition, HANYS urges lawmakers to retain and enhance supportive funding and capital funding.

2. Reject any harmful policies or funding cuts that further deteriorate the financial sustainability of hospitals and nursing homes.

In addition to dismissing the imperative to stabilize New York's hospitals and nursing homes through Medicaid rate investments, the executive budget proposes nearly $1.3 billion ($800 million state share) in Medicaid cuts that either directly or potentially will cut Medicaid funding to hospitals and nursing homes.

These proposals, if enacted, will undo the value of the Medicaid rate investments to hospitals and nursing homes made last year. Notably, half of the reductions (state-share) are undefined and lack any policy rationale as to how these proposed savings would improve New York's healthcare delivery system.

The following outlines the executive budget's Medicaid reductions directed toward hospitals and nursing homes — cuts that would be untenable for these providers to absorb:

Executive budget proposal	State share reduction	Gross state and federal reduction
Undefined Medicaid cuts (non-long-term care) — Would authorize an undefined state share healthcare funding cut outside of community-based, long-term care services via one or more savings proposals developed in consultation with the healthcare industry and other stakeholders.	($200,000,000)	($400,000,000)

Undefined Medicaid cuts (long-term care) — Would authorize an undefined state share healthcare funding cut across multiple long-term care programs in consultation with long-term care stakeholders.	($200,000,000)	($400,000,000)
Hospital VAPAP cut — Would reduce state support funding for financially distressed hospitals provided through the Vital Access Provider Assistance Program.	($275,000,000)	($275,000,000)
Nursing home VAPAP cuts — Would reduce state support for funding for financially distressed nursing homes provided through VAPAP.	($75,000,000)	($75,000,000)
Hospital capital rate cuts — Would cut the hospital inpatient capital rate add-on by 10%, increasing the total cut to the capital component of hospital Medicaid rates to 20%.	($21,300,000)	($42,600,000)
Nursing home capital rate cuts — Would cut the nursing home capital rate add-on by 10%, increasing the total cut to the capital component of nursing home Medicaid rates to 15%.	($28,500,000)	($57,000,000)
Total	($799,800,000)	($1,249,600,000)

Recommendation: Given the critical financial condition of the state's hospitals, nursing homes and other providers, HANYS urges the Legislature reject the $1.3 billion in executive budget cuts directed toward hospitals and nursing homes.

3. Advance proposals that provide meaningful aid and direct relief to hospitals and health systems but impose minimal to no new state costs.

New York's healthcare system is undeniably vast and complex. The solutions needed to take on the challenges facing our healthcare system require a multi-pronged approach that includes both fiscal support and sound policies that provide oversight to our healthcare system, while supporting and fostering quality care, innovation and a robust workforce.

The average number of openings across healthcare occupations in New York state is 168,000 annually[5]. In turn, the state produces about 41,000 new workers to fill

[5] The Health Care Workforce in New York State: Trends in the Supply of and Demand for Health Care Workers (April 14, 2023), Tables 16, 32, and 35, CHWS: https://www.chwsny.org/wp-content/uploads/2023/05/Health-Care-Workforce-NYS-Trends-2023-Final.pdf

healthcare workforce openings each year, a 4x shortfall[5]. These existing shortfalls identify a clear supply problem that needs creative interventions from government, providers and educators that better leverage the skills of individuals already working in our healthcare settings and build on our state's higher education and professional development infrastructure to attract more workers to the healthcare field.

The governor's executive budget advances a series of proposals that, when taken together, will help support our hospitals and nursing homes — and the professionals working in them — provide the care that New Yorkers deserve. Importantly, the following proposals would add minimal to no new costs to the state.

Invest in our healthcare workforce.

Maintaining a robust and stable healthcare workforce is the cornerstone of providing quality care. HANYS strongly supports efforts to address the immediate workforce needs of today, while also building the pipeline of healthcare workers we will need in the future.

Recommendation: HANYS supports the following proposals in the executive budget that would invest in the healthcare workforce and provide much-needed practice and oversight modernization:

Staffing flexibilities

Right now, many talented healthcare professionals are unable to put the full scope of their knowledge and training into practice because of regulatory restrictions; many perform administrative and basic clinical tasks that could be delegated to individuals without their higher credentials.

New York's healthcare workforce desperately needs greater flexibility and modernized oversight to meet patient needs in settings from hospitals to the community and at home. HANYS supports common sense policies that better leverage the skills of individuals already working in care settings across the continuum.

We urge the Legislature to support the following proposals that enable healthcare professionals to practice at the top of their credentials and training, including but not limited to:

- allowing experienced physician assistants to practice without the supervision of a physician;
- authorizing certified medication aides to administer routine and prefilled medications in residential healthcare facilities;
- allowing medical assistants under the supervision of a physician or physician assistant to draw and administer immunizations to patients in an outpatient setting; and

- extending for two years amendments to the Nurse Practice Modernization Act, which allows experienced nurse practitioners to practice without the supervision of a physician.

Interstate licensure compacts

The executive budget would authorize New York state to join the Interstate Medical Licensure Compact and Nurse Licensure Compact. In doing so, New York would join 37 other states that are part of the IMLC. Two additional states have joined the NLC since last year, bringing the total number of participating states to 41.

We strongly urge consideration of these bold initiatives and encourage the Legislature to support this proposal this year.

Repeal COVID-19 sick leave law

The executive budget would repeal the state's COVID-19 sick leave law, effective July 30, 2024. Enacted in the early days of the pandemic, the law requires employers to provide up to 14 days of supplemental leave for employees subject to a mandatory or precautionary order of quarantine or isolation due to the virus. With the April 2020 enactment of the state's paid sick leave law and changes in quarantine requirements, this law is outdated and further exacerbates current healthcare workforce shortages. New York state remains one of very few jurisdictions where this requirement continues.

Ensure the right care in the right place to meet growing patient demand.

HANYS supports initiatives in the budget that expand access to new models of care that would improve patient experience and outcomes, capitalize on existing workforce resources and reduce emergency department overcrowding and bed shortages.

Recommendation: HANYS supports the following proposals in the executive budget that advance innovative care models to meet evolving patient needs:

EMS modernization

The executive budget advances policies that would strengthen and modernize the state's emergency medical services and allow hospitals and emergency medical technicians to provide more care to patients in their homes and communities. Reforms include but are not limited to:

- extending and expanding the existing integrated and community paramedicine program, which allows EMTs to provide non-emergent care outside of traditional emergency response and transport roles, to help facilitate more appropriate use of emergency care resources;

- requiring DOH to establish a Paramedic Telemedicine Urgent Care program that could utilize telemedicine to improve access to care in rural areas and reduce avoidable emergency department visits; and
- establishing an EMS demonstration program that would help facilitate innovation in the medical care provided by EMS and in meeting the healthcare needs of communities.

Hospital at Home

Building on the successful federal Acute Hospital Care at Home demonstration program, the executive budget would allow hospitals to provide care in patients' homes without obtaining a license as a home care agency under certain circumstances and receive Medicaid reimbursement based on the annual operating costs of the services.

The executive budget would also expand the current hospital-home care-physician collaborative program, which helps to prevent avoidable hospitalizations and aids in post-acute recovery, to include hospice and emergency medical services providers. Doing so recognizes the role these providers play in delivering quality care in convenient and medically appropriate settings.

Reform payer policies to preserve and expand access to care.

Preserving access to safe, high-quality and cost-effective patient care is the mission of New York's hospitals and health systems. Accordingly, New Yorkers must have access to affordable, high-quality and comprehensive coverage.

Recommendation: HANYS urges the Legislature to support the following proposals to ensure patients have access to comprehensive coverage for essential health benefits:

Telehealth payment parity

Telehealth increases access to healthcare services for patients who face challenges to receiving in-person care, whether due to geographic limitations in underserved areas, provider shortages or restricted patient mobility. New York's law that requires reimbursement for telehealth services to be equal to rates paid for comparable in-person services expires on April 1, 2024.

The executive budget would extend the law for one year. HANYS urges the Legislature to make the law permanent. Reimbursement for telehealth services must remain adequate to ensure hospitals and other providers can continue to offer a greater variety of telehealth services patients need.

Liquidation of damages on health insurers

Managed care organizations are required to meet certain performance standards and contract obligations under state and federal regulations, including New York's

MCO model contract. Unfortunately, MCOs continue to find ways to violate those standards. To increase compliance, the executive budget would authorize DOH to recover liquidated damages — not to exceed $25,000 per violation — from MCOs for failure to meet the contractual obligations and performance standards of their contract. Any damages collected by DOH would be paid out of the health plans' administrative costs and cannot be passed on to providers.

Ensure access to behavioral health services.

Across the nation and in New York, our healthcare system is facing a mental and behavioral health crisis. More than one in five New Yorkers report mental disorder symptoms[6] and behavioral health service availability is falling far short of meeting current demand. The challenge is further exacerbated by longstanding limitations in insurance coverage, widening mental and behavioral workforce gaps and persistent societal stigma.

Recommendation: HANYS supports measures in the executive budget focused on ensuring the practices of commercial health insurance payers support New Yorkers' access to behavioral healthcare services.

Mental health parity

State and federal mental health parity laws prohibit health insurers from imposing coverage limits on mental health or substance use disorder benefits that don't apply to medical and surgical benefits. However, insurers continue to violate these requirements. Currently, the Department of Financial Services has the authority to issue fines of up to $1,000 per offense for willful violations of the state's insurance law. The executive budget would expand the law to authorize DFS to impose penalties of up to $2,000 per offense for violations of state or federal behavioral health parity requirements.

Commercial insurance minimum reimbursement rates

Insurers also disregard state and federal parity laws by paying providers less for behavioral health services than for physical health services. As demand for mental health services continues to rise and access to care declines, it's critical that providers receive adequate reimbursement for these valuable services. The executive budget would require commercial health insurers to reimburse covered outpatient treatment provided by facilities licensed, certified or otherwise authorized by the Office of Mental Health or the Office of Addiction Services and Supports at a rate no less than the Medicaid rate.

Insurers must be held accountable for their failure to comply with parity laws. HANYS supports these proposals to ensure New Yorkers have unfettered access to vital behavioral health services.

[6] New York State Department of Health. Priority Area: Mental Health/Substance Abuse - Mental Health. https://www.health.ny.gov/prevention/prevention_agenda/mental_health_and_substance_abuse/mental_health.htm

Conclusion

As I close my testimony, I want to widen our lens to consider our whole healthcare system. Understandably, the stability of our hospitals, nursing homes and larger delivery system is often assumed, as New Yorkers go about their day-to-day lives. Whether for routine care, an urgent medical issue, a place for rehabilitation, a nursing home bed or a response to an emerging public health crisis, New Yorkers expect our delivery system to be there when they need it.

In that context, over the past six months alongside our board of trustees, HANYS has invested in a deep exploration of the state's healthcare system. There are four drivers pushing New York state's healthcare delivery system to an existential cliff:

1. Healthcare demand is increasing and changing.
2. The number and mix of healthcare workers cannot meet demand.
3. Health disparities persist.
4. The healthcare affordability crisis for all stakeholders is growing.

Without significant policy solutions and delivery system changes that address these drivers, health system market disruptions may domino across the state, impacting all providers and all New Yorkers regardless of their geography, health insurance status and demographics.

The interlaced effects of these four drivers complicate efforts to find solutions — our jobs and our charge in this regard are not easy.

We all must work from the same fact base to find essential policy and delivery system changes that consider the strengths and differences of the diverse group of providers in New York state and be grounded in what is best for the health of all New Yorkers.

An absolute prerequisite to addressing any of these drivers is a stable infrastructure for New Yorkers to access care. That essential stability begins with a multi-year commitment to close the Medicaid payment gap for hospitals and nursing homes.

Attached are HANYS and our allied regional associations' fall 2023 fiscal survey results and HANYS' summary chart outlining our positions on key healthcare provisions of the proposed executive budget for 2024-2025.

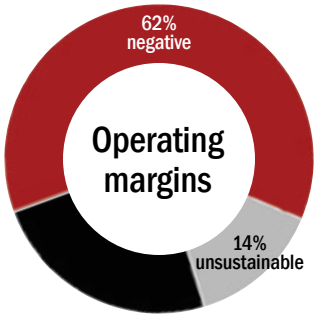
Thank you for your attention to, and partnership on, solutions that address the sustainability of hospitals and health systems across the state and preserving New Yorkers' access to safe, high-quality patient care.

PATIENT ACCESS IS IN JEOPARDY AS HOSPITALS FACE CONTINUED FISCAL AND WORKFORCE CHALLENGES

The findings of a fall 2023 survey of New York's hospitals and health systems illustrate the urgent need for state and federal policymakers to take action to preserve New Yorkers' access to care.

Fiscal distress remains widespread among New York hospitals.

76% of respondents reported negative or unsustainable operating margins in 2023. The median operating margin is negative 3.0%, even with some facilities receiving federal resources and supportive funding from the state.



Amid fiscal and other challenges, 68% of respondents report canceling capital projects in 2022 and/or 2023, with 41% expecting to do so in 2024. Capital projects modernize critical patient care infrastructure and technology.

Public and commercial payers are failing New Yorkers.

In New York, Medicare and Medicaid pay for 71% of inpatient hospital discharges and 61% of outpatient visits. However, Medicare pays just 89 cents and Medicaid pays just 70 cents for every dollar of care provided by hospitals, leaving hospitals significantly and unsustainably under-reimbursed.

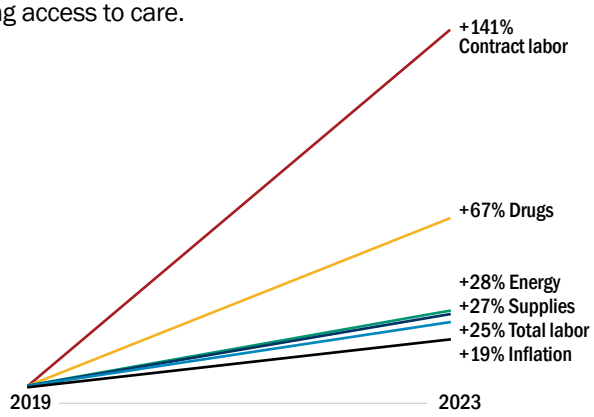
Meanwhile, negotiations with commercial insurers leave little opportunity to address escalating hospital expenses in a timely or meaningful way. While public payers are failing to cover the cost of care, private insurers are increasingly refusing to pay at all.

- 66% of hospitals report commercial insurers are increasing their prior authorization requests.
- 89% report commercial insurers are increasing their prior authorization denial rates.
- 60% report commercial insurers' prior authorization requests have resulted in delayed patient access to care.
- 28% report a revenue loss of 5% or more associated with commercial insurers' denials of care.

Adequate reimbursement from *all* payers is essential to preserving and expanding access to care.

Workforce shortages persist, while hospital expenses continue to rise.

- 98% of hospitals report nursing shortages, while 96% of hospitals report shortages in other clinical and non-clinical roles.
- If hospitals could fill current vacancies, 76% report they would increase the availability of existing services and/or increase staffing to reduce patient wait times.
- Contract labor, drug, energy, supply and overall labor costs have all increased faster than inflation since 2019.



Patient care access is diminishing amid unrelenting fiscal and workforce challenges.

State and federal policymakers must act now to maintain existing vital healthcare funding, bolster the healthcare workforce and enact sensible policy changes that enhance patients' access to care.

Most importantly, state lawmakers must make a multi-year commitment to close the Medicaid funding gap.

HANYS Always There for Healthcare | Healthcare Association of Western and Central New York | Suburban Hospital Alliance of New York State, LLC | Iroquois Healthcare Association | Greater New York Hospital Association GNYHA

Survey participants reflect 76% of the annual revenue generated by New York hospitals and health systems statewide. Medicaid and Medicare volume and payment data points are from hospital cost reports. "Unsustainable" margin levels reflect a Kaufman Hall standard. General inflation values are based on U.S. Bureau of Labor Statistics Consumer Price Index data. This survey was a joint effort of the Healthcare Association of New York State, Greater New York Hospital Association, Healthcare Association of Western and Central New York, Iroquois Healthcare Association and Suburban Hospital Alliance of New York State.

January 2024

State Fiscal Year 2024-2025 Executive Budget		
Issue/topic	**Governor's executive budget proposal**	**HANYS' comments**
Global funding provisions		
Global cap extension	Would extend the Medicaid global cap through SFY 2025-2026.	The global cap is set to the five-year rolling average of Medicaid spending projections as estimated by CMS. The SFY 2024-2025 annual global cap growth is 6.7%, or $1.6 billion. However, the Executive is projecting total Medicaid spending to increase by 10.9%.
Capital funding	The Executive budget does not provide new capital dollars for healthcare providers. The proposal does carve out a share of the remaining Statewide Healthcare Facility Transformation Program (SHCFTP) IV and V for safety net hospitals that meet certain criteria (described later in this document).	HANYS is deeply disappointed that the governor's proposal fails to include critically needed access to capital for hospitals and health systems.
Unallocated Medicaid savings	Would seek $200 million in undefined state cuts ($400 million gross) to Medicaid programs outside of community-based long-term care services. This is in addition to $200 million in yet-unspecified cuts ($400 million gross) to long-term care programs.	HANYS strongly opposes any cuts to hospitals and health systems. HANYS will advocate for a multi-year investment to bring Medicaid rates up to the cost of providing care to patients.
Hospitals		
Medicaid rates	Would not provide any meaningful Medicaid rate increases to hospitals. Would reduce the inpatient capital rate add-on by 10%, increasing the total cut to the capital component of hospital Medicaid rates to 20% beginning Oct. 1, 2024. This reduction would include budgeted capital and all reconciliation add-on amounts calculated on or after Oct. 1. This change is estimated to reduce funding to hospitals in SFY 2024-2025 by $21.3 million state share ($42.6 million gross).	HANYS is deeply disappointed that the governor's proposed budget fails to include across-the-board Medicaid rate increases for hospitals. HANYS strongly opposes any cuts to hospitals and health systems and will advocate for a multi-year investment to bring Medicaid rates up to the cost of providing care to patients.

State Fiscal Year 2024-2025 Executive Budget		
Issue/topic	**Governor's executive budget proposal**	**HANYS' comments**
Supportive funding for financially distressed providers	Would cut approximately $500 million in state funds from the Vital Access Provider Assurance Program. With that reduction, the proposal would sustain about $2 billion for supportive funding programs for financially distressed safety net hospitals and other providers across the Vital Access Provider, VAPAP and Directed Payment Template programs. The proposal also allocates $275 million in state funds ($550 million gross) for financially distressed safety net hospitals in Kings, Queens, Bronx, and Westchester counties as incentive funds to advance a Medicaid Hospital Global Budget initiative included in the recently approved 1115 Medicaid Waiver amendment.	HANYS strongly opposes the Executive's decision to cut needed supportive funding for financially challenged safety net hospitals despite recognizing their billions of dollars in unmet financial needs.
Healthcare safety net transformation program	Would dedicate up to $500 million in capital funding previously authorized under SHCFTP IV and V for safety net hospitals that meet certain criteria. The grants would be allocated to encourage partnerships with other health systems, plans or community-based organizations and must be submitted with a five-year transformation plan. As part of the program, DOH would be authorized to waive certain regulations to facilitate implementation of projects funded under this program.	HANYS supports the goals of this proposal but urges the state to provide a new capital investment rather than reallocating existing capital funding.

State Fiscal Year 2024-2025 Executive Budget		
Issue/topic	**Governor's executive budget proposal**	**HANYS' comments**
Hospital Financial Assistance Law	The executive budget would make significant changes to the hospital financial assistance law and general business law, effective six months after enactment. They include: • Add a new definition of "underinsured," defined as individuals with out-of-pocket medical costs totaling more than 10% of their income over the past 12 months, and require hospitals to extend financial assistance to both uninsured and underinsured individuals (current law applies only to the uninsured). • Require hospitals to offer financial assistance to patients with incomes of up to 400% of the federal poverty level (current law is up to 300% of the FPL). • Require that hospitals offer more generous discounts than required by current law. • Add notification requirements for hospitals to inform patients of the availability of financial assistance. • Allow patients to apply for financial assistance at any time in the collection process. • Prohibit hospitals from suing patients with incomes below 400% of the FPL for the purpose of collecting medical debt. • Require that any legal complaint related to the collection of medical debt be accompanied by an affidavit from the hospital's chief financial officer stating, based on a reasonable effort to determine the patient's income, the patient does not have an income below 400% of the FPL.	While HANYS has concerns about certain provisions contained in this proposal, we look forward to working with the Executive and Legislature to enact reasonable reforms to the current HFAL statute that protect patients, align with federal requirements and recognize the need for hospitals to be reimbursed for services provided.
Patient consent for payment	Would require providers to obtain patient consent for treatment separately from obtaining patient consent for payment. Providers would also be prohibited from requiring payment consent prior to the patient receiving the services.	HANYS supports this proposal.

State Fiscal Year 2024-2025 Executive Budget		
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Credit card use for medical care	Would prohibit providers from requiring patients to pre-authorize their credit card or have a card on file before receiving emergency or medically necessary care. Providers would also be prohibited from filling out any part of an application for a medical financial product on a patient's behalf. Additionally, it would require providers to notify all patients about the risks of paying for medical services with a credit card, including forgoing state and federal protections regarding medical debt.	HANYS supports the provision to provide emergent and medically necessary care without the need for credit card holds or payment consent. However, HANYS urges that any additional layer of patient notification does not place new administrative burdens on providers' limited resources.
Insurance/managed care		
Independent dispute resolution process	Would codify Department of Financial Services guidance by carving emergency healthcare services covered by Medicaid out of the state's IDR process. The state estimates this proposal would generate $7.5 million in Medicaid savings.	HANYS takes no position on this proposal. However, we strongly encourage DOH to have a process in place to ensure hospitals are reimbursed at the appropriate rate for out-of-network emergency services.

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Managed care competitive bid process	Would require DOH to establish a competitive bidding process for managed care plans wishing to participate in the state's Medicaid Managed Care and Medicaid Managed Long-Term Care programs. DOH, in consultation with the Office of Mental Health, Office for People with Developmental Disabilities, Office of Addiction Services and Supports and Office of Children and Family Services, would evaluate applications based on criteria including: • network adequacy, including the inclusion of major public hospitals; • not-for-profit status; • ability to offer different types of plans and in multiple regions; • participation in products offering integrated care for dual eligibles; • participation in value-based arrangements; and • commitment to community reinvestment spending. Would also impose a moratorium on the processing and approval of Medicaid managed care plans and Medicaid Managed Long Term Care plans, including existing health plans seeking to expand the scope of eligible enrollee populations, until the RFP process begins. Certain applications would be exempt from the moratorium, including those submitted prior to Jan. 1, 2024.	HANYS supports ensuring access to adequate coverage. However, further analysis of this proposal is needed to better understand its impact on MMC and MLTC plan enrollees.
Medicaid managed care organization penalties	Would authorize DOH, at the commissioner's discretion, to recover liquidated damages — not to exceed $25,000 per violation — from MCOs failing to meet the contractual obligations and performance standards of their contract. Any damages collected by DOH would be paid out of the health plans' administrative costs and profits and cannot be passed on to providers.	HANYS supports this proposal.

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Essential plan	Would make several technical changes to the state's Essential Plan program, including: • extending for one year (until Dec. 31, 2025) coverage for long-term supports and services in EP 3 and 4; and • authorizing DOH to seek federal approval to establish a program to provide subsidies for premium payments, and cost sharing or both for individuals in Qualified Health Plans with income levels up to 350% of the FPL.	HANYS supports this proposal. However, additional analysis of the subsidy program is needed.
Telehealth payment parity	Would extend New York's law requiring reimbursement for telehealth services to be equal to rates paid for comparable in-person services, through March 31, 2025.	HANYS supports this proposal, which ensures adequate reimbursement for telehealth services, but urges the Legislature to make the parity law permanent.
Elimination of cost-sharing for insulin	Would amend Insurance Law to eliminate copays, deductibles and coinsurance for prescription insulin, effective Jan. 1, 2025	HANYS supports this proposal.
Medicaid Managed Care 1% across-the-board reduction	Would eliminate the 1% rate increase included in Medicaid managed care premiums enacted as part of the SFY 2022-2023 budget. This rate reduction would take effect April 1, 2024, and result in a $204 million reduction in capitated rates paid to MMC plans.	HANYS opposes Medicaid reductions and is concerned this elimination would impose negative downstream effects on provider reimbursement rates.
Medical liability		
Excess medical malpractice program	Would extend the Physician Excess Medical Malpractice program for an additional year through June 30, 2025, and reduce state contributions from $78.5 million to $39.3 million. The executive budget would also restructure the program to require physicians and dentists to purchase excess coverage directly from the insurer and cover 50% of the cost.	HANYS strongly opposes any reduction in state support for this program.
Medical Indemnity Fund	Would provide level funding ($52 million) to support the New York State Medical Indemnity Fund for infants with neurological impairments.	HANYS supports this proposal.

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Interest on judgments	Would require the annual rate of interest paid on judgments to be calculated at the one-year U.S. Treasury bill rate.	HANYS supports this more reasonable and commonly used standard.
Post-acute and continuing care		
Nursing home rates	Would not provide any meaningful Medicaid rate increases to nursing homes. Instead, the proposal would reduce the capital rate add-on for nursing homes by 10%, increasing the total cut to the capital component of nursing homes Medicaid rates to 15% beginning April 1, 2024. This change is estimated to reduce funding to nursing homes in fiscal year 2025 by $28.5 million state share ($57 million gross). Additionally, the proposal would freeze operating rates for nursing homes at Jan. 1, 2024 levels while DOH works with stakeholders to develop a patient acuity model for nursing home payment centered on the federal Patient Driven Payment Model. The rate freeze would last until a new payment methodology is developed and implemented.	HANYS is deeply disappointed that the governor's proposed budget fails to include across-the-board Medicaid rate increases for nursing homes. HANYS strongly opposes any cuts to nursing homes and will advocate for a multi-year investment to bring Medicaid rates up to the cost of providing care to patients.
Supportive funding for nursing homes	Would reduce nursing home VAPAP funding by $75 million (from $100 million to $25 million)	HANYS strongly opposes the Executive's decision to cut needed supportive funding for financially struggling nursing homes.
Unallocated long-term care reductions	Would seek $200 million in undefined, reoccurring state-share savings ($400 million gross) across Medicaid long-term care programs.	HANYS strongly opposes cuts to an already fragile long-term care system and will advocate for adequate reimbursement that keeps up with the cost of care to stabilize and grow needed capacity.
Eliminate managed long-term care quality pool	Would discontinue the $51 million MLTC Quality Pool.	HANYS opposes this cut and its impact on provider-sponsored MLTC plans.

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Eliminate wage parity for the Consumer Directed Personal Assistance Program	Would eliminate the requirement for wage parity for CDPAP personal assistants in New York City, Long Island and Westchester, resulting in $200 million state savings in SFY 2024-2025 and grow to $400 million in SFY 2025-2026 due to a proposed effective date of Oct. 1, 2024.	HANYS is concerned this may lead to a decrease in community-based care and could impact other aspects of the healthcare continuum.
Special Needs Assisted Living Residences (SNALRs) and Assisted Living Residences (ALRs)	Would require DOH to establish quality measures and reporting requirements for ALRs. Specifically, ALRs would be required to: • report to DOH annually on the quality measures; and • post publicly in a form provided by DOH, its monthly service rate, staffing complement, approved admission or residency agreements and a consumer-friendly summary of all fees. DOH would score providers on the quality measures. Providers scoring in the highest quality category would receive an "advanced standing" designation and have their survey cycle extended to from 12 to 18 months. Providers licensed as both an adult care facility and an assisted living residence could seek accreditation and become exempt from the survey process at the commissioner's discretion. The proposal would make the SNALR demonstration program permanent, pending promulgation of regulations to further refine and govern the program.	HANYS has no position.
Workforce		
Workforce flexibilities	Proposed new healthcare workforce flexibilities would: • allow experienced physician assistants to practice without the supervision of a physician; • allow medical assistants under the supervision of a physician or physician assistant to draw and administer immunizations to patients in an outpatient setting; and • authorize certified medication aides to administer routine and prefilled medications in residential healthcare facilities.	HANYS supports these proposals intended to empower healthcare professionals to practice at the top of their license, ultimately expanding access to services.

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Scope of practice extenders	Would make permanent: • the ability of pharmacists to direct limited-service laboratories and perform COVID-19 and influenza tests; • the Collaborative Therapy Management Demonstration Program; and • the ability of physicians and nurse practitioners to order non-patient-specific orders to registered nurses for tests to determine the presence of COVID-19 or its antibodies or influenza virus. Would extend for two years amendments to the Nurse Practice Modernization Act, which allows experienced NPs to practice independently.	HANYS supports the extension of these vital flexibilities amid the current healthcare workforce shortage.
Interstate Medical and Nurse Licensure Compacts	Would authorize New York to join the Interstate Medical Licensure Compact and Nurse Licensure Compact.	HANYS supports measures aimed at increasing the number of qualified healthcare professionals authorized to practice in New York.
COVID-19 sick leave	Would repeal the 2020 law that requires employers to offer up to 14 days of sick leave and other benefits to employees under a mandatory or precautionary order of quarantine or isolation for COVID-19, effective July 31, 2024.	HANYS supports this proposal. New York State law provides for paid sick leave protections.
Paid time off for breast milk expression	Would expand labor law to allow at least 20 minutes of paid time to employees for breast milk expression, as needed, for up to three years following childbirth.	HANYS supports evidence-based efforts to improve maternal and infant health including encouraging breast milk feeding.
Paid prenatal leave	Would expand the state's paid family leave program to include granting employees time to attend prenatal care during pregnancy. This new benefit would begin Jan. 1, 2025, and be limited to 40 hours during any 52-week calendar period.	HANYS supports efforts to improve maternal and infant health including regularly attending prenatal and postpartum appointments.

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Increase short-term disability leave benefits	Would incrementally increase the maximum weekly short-term disability benefit. Once fully phased in in 2029, benefits would be two-thirds of an employee's average weekly wage, not to exceed two-thirds of the state average, during the first 12 weeks of leave. Benefits would be capped at $280 per week thereafter. The superintendent of financial services would be authorized to delay benefits based on various factors. Additionally, beginning Jan. 1, 2025, employee contributions would be capped at 0.05% of the employee's wages.	HANYS is reviewing this proposal's financial impact on hospitals and health systems.
Workforce funding programs	Would fund the following programs at prior year levels: • Doctor's Across New York ($15.9 million) • Nurses Across New York ($3 million) • Diversity in Medicine ($3.6 million) • Rural Access and Network Development Program ($9.4 million) • Area Health Education Centers ($2.2 million) Would eliminate the Empire Clinical Research Investigator Program.	HANYS supports fully funding these programs and strongly opposes the elimination of ECRIP.
Behavioral health		
Human services COLA	Would provide a one-time 1.5% human services cost-of-living adjustment, beginning April 1, 2024, for all eligible programs and services under the OPWDD, Office of Temporary and Disability Assistance, OCFS, OMH and OASAS.	HANYS supports this increase in funding for human service workers and will advocate to ensure that Medicaid rates for hospitals and nursing homes are also increased to better align with the cost of care.
Time-limited demonstration programs	Would make permanent the authority of OMH, OASAS and OPWDD to implement time-limited demonstration programs to test and evaluate new methods or arrangements for organizing, financing, staffing and implementing programs serving people with mental illness or intellectual or developmental disabilities.	HANYS supports this provision.

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Commercial reimbursement for certain mental health services	Would require insurers to reimburse OMH or OASAS licensed or certified providers at or above the Medicaid rate for outpatient behavioral health services.	HANYS supports this proposal. Commercial insurers typically reimburse providers below the Medicaid rate for behavioral health services.
Recruitment and retention of mental health clinicians	Would provide $14 million for the recruitment and retention of psychiatrists, psychiatric nurse practitioners and other licensed clinicians in psychiatric inpatient units of general hospitals, comprehensive psychiatric emergency programs, crisis, residential and outpatient programs.	HANYS supports this provision.
Comprehensive Psychiatric Emergency Program	Would permanently codify the CPEP model into law, which is currently slated to expire July 1, 2024.	HANYS supports ensuring access to psychiatric emergency service but encourages OMH to reconsider the CPEP model.
Opioids and overdose prevention	Includes several proposals aimed at ending the opioid epidemic, including: • increasing Prescription Monitoring Program record-keeping requirements for the prescription of controlled substances from five to ten years; • adding inpatient mental health facilities and nursing homes to the list of providers not required to consult the PMP registry; • permitting paramedics to order controlled substances to relieve acute withdrawal symptoms; and • aligning state law with revised DEA regulations, including permitting the distribution of up to a three-day supply of certain controlled substances while patients await referral to maintenance or detoxification treatment.	HANYS is reviewing these proposals.

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Mental health rate increase	Would increase rates for children's ($15.2 million gross) and adult's ($27 million gross) mental health services provided in integrated DOH-licensed Article 28 facilities.	HANYS supports these investments.
Opioid Stewardship Program	Would extend the Opioid Stewardship Act of 2018 for three years, until June 30, 2027, and make permanent the Opioid Stewardship Fund, which is set to expire on June 30, 2024.	HANYS supports this proposal.
Mental hygiene law parity	Would impose increased penalties on health plans for violations of both state and federal mental health and substance use disorder requirements, up to $2,000 per offense.	HANYS supports this proposal.
Reproductive health		
Doula standing orders	Would authorize DOH to issue a statewide standing order for the provision of doula services without a physician referral for pregnant, birthing and postpartum individuals through 12 months postpartum.	HANYS supports this proposal, which is consistent with the recommendation of the Maternal Mortality Task Force to increase doula utilization.
Access to reproductive services	Would clarify minors' rights to confidentially obtain any reproductive health services, including abortions. Additionally, would codify the Reproductive Health Act in state law, which grants healthcare practitioners the right within their lawful scope to prescribe contraception.	HANYS supports this proposal.
Perinatal quality collaborative	Would increase funding for Perinatal Quality Collaboratives by $1 million.	HANYS supports this proposal.
Pharmacy		
Prescriber prevails	Would eliminate the prescriber's ability to make the final determination during disputes with Medicaid over which medications can be prescribed to Medicaid recipients.	HANYS opposes this proposal.

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Pharmacy cost reporting program	Would require DOH to develop and implement a pharmacy cost reporting program. The proposal requires licensed pharmacies participating in the Medicaid program to submit to DOH an annual cost report, including information on costs incurred during the procurement and dispensing of prescription drugs. Cost reports will be subject to audit and failure to submit a report can result in expulsion from the Medicaid program.	HANYS opposes unfunded mandates and is currently assessing the degree to which this requirement is necessary.
Physician-administered drugs	Would impose a State Maximum Allowable Cost for PADs, requiring reimbursement at the lower of: • (1) an amount equal to the national average drug acquisition cost or if such amount is not available, the wholesale acquisition cost or (2) the federal upper limit established by CMS or (3) the state maximum acquisition cost or (4) the actual cost of the drug to the practitioner; or • for drugs purchased by a 340B covered entity, the actual amount paid by the covered entity. Would also prohibit Medicaid reimbursements for PADs that can be administered on an outpatient basis.	HANYS is concerned this proposal would lead to a reduction in payment to pharmacies for physician-administered drugs.
Additional provisions		
Preventable epidemics	Would require patient notification that HIV testing is voluntary prior to testing. It would also require the reporting of negative results for HIV, Hepatitis C virus, Hepatitis B virus, and syphilis to DOH and allow pharmacists with specific training to administer mpox vaccines and preventive medications (HIV PrEP). Additionally, it would allow RNs to collect specimens for HBV testing without a non-patient-specific standing order.	HANYS shares the goal of ending preventable epidemics. However, further analysis of this proposal is needed to ensure it does not place additional administrative burden on already overstretched labs.

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Hospital at home	Building on the federal Acute Hospital Care at Home demonstration program, this proposal would: • authorize hospitals to provide care in patients' homes without obtaining a license as a home care agency, under certain conditions; and • authorize DOH to establish Medicaid rates based on annual operating costs for the services	HANYS supports efforts to allow hospitals to deliver quality care in convenient and medically appropriate settings. HANYS urges the state to ensure the program has a flexible regulatory and legal framework so as not to impede participation.
Healthcare delivery collaboration program	Would rename the hospital-home care-physician collaborative program and expand the program to include emergency medical services, skilled nursing facilities, hospice, and other community partners. The program would facilitate innovation in collaboration between participating entities in meeting the community's healthcare needs. Additionally, it would provide a framework to support voluntary initiatives to improve patient care access and management, patient health outcomes, cost-effectiveness in the use of healthcare services and community population health.	HANYS supports facilitating innovation and collaboration among healthcare providers to better meet changing and growing healthcare demands. HANYS urges the state ensure the program has a flexible regulatory and legal framework so as not to impede participation.
Emergency medical services	Would enact several EMS reforms; including: • extending the existing demonstration program for community paramedicine programs for an additional seven years until March 31, 2031, and create a process for the state to approve up to 200 new mobile integrated and community paramedicine programs; • designating medical emergency response and emergency medical dispatch agencies as essential services and establishing a framework for the provision, operation and regulation of these services; and • requiring DOH to establish a rural Paramedic Urgent Care program, under which EMS agencies would be able to deploy advanced emergency medical technicians to provide certain urgent care services (within their scope of practice and under physician supervision) including through telehealth.	HANYS supports added flexibilities to allow EMS to treat patients in various settings and values the importance of a strong EMS system for optimal patient outcomes. HANYS will review these provisions further to ensure they can be implemented with minimal, yet appropriate, regulatory requirements.

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School-based health centers	Would increase funding for school-based health centers by $3 million to $11.3 million	HANYS supports this proposal.
Gender affirming care	Would ease restrictions on and increase access to gender-affirming care for Medicaid recipients.	HANYS supports this administrative proposal.
Coverage for children	Would allow for the continuous enrollment in Medicaid and Child Health Plus for eligible children until age six, regardless of family's income and any changes.	HANYS supports this expansion of coverage.

The information contained in HANYS' Detailed Overview of the State Fiscal Year 2024-2025 Executive Budget is for general guidance on matters of interest only. This summary is provided "as is", with no guarantee of completeness, timeliness or of the results obtained from the use of this information, and without warranty of any kind, express or implied. In no event will HANYS, its related affiliates or subsidiaries, be liable for any decision made or action taken in reliance on the information in this summary.