



February 9, 2009  
Volume 1, Issue 1

## ***The State Budget: When Will the Bleeding End?***

**I**t seems that everywhere one turns, the news keeps getting worse. The collapse of the housing market over the summer, which caused a virtual tsunami across the finance industry, eventually rippled into the rest of the economy. As expected, government has been impacted by this in many countless ways. Revenue has seriously dropped in city halls and county seats all over New York, and Albany is struggling to find ways to address shortfalls that reach into the billions. As the number of unemployed begins to swell, so will the need for public services. Yet, with the exception of Washington, nobody is allowed to merely print money to get themselves out of this challenge.

In mid-December, Governor David Paterson issued his Executive Budget for the 2009-2010 fiscal year, which also included a "Deficit Reduction Plan" provision to address shortfalls in the budget for the current fiscal year. On Tuesday, Feb-

ruary 3, the governor and legislative leaders reached a compromise on addressing the budget shortfall that exists for this fiscal year (\$1.6 billion), and are still negotiating a budget for the fiscal year that starts April 1. The budget shortfall for next year is much worse, over \$15 billion.

The Governor and legislature reached an agreement that closed the budget gap for the 2008-09 state fiscal year, also known as the Deficit Reduction Plan. Advocates collectively issued a sigh of relief in this plan. In many ways, the "worst case scenario" was avoided, but there are still some cuts that will impact HIV services. For most HIV organizations, the worst of the cuts will be a 20 percent reduction in remaining spending in new legislative member items, which is on top of a 6 percent cut enacted in last August's special session. For example, at Village Care of New York, our initial funding of \$750,000 was reduced to \$705,000 after the August session,

and will be cut another \$141,000 this time; our total legislative program funding for the current FY now stands at \$564,000.

Whether a legislative program cut is significant or not will very much depend on the relative size of the legislative grant to that particular agency's overall budget. Some HIV organizations may also have been relying on a legislative grant to pay for a program that could not be funded through any other means (such as HIV legal services). In those cases, the loss of 20 percent of a grant could have major consequences for the ability to provide a particular service.

On the health care side, much of what the governor proposed for the Deficit Reduction Plan for 2008-09, fortunately was not enacted. This included proposed reductions in Medicaid reimbursement for nursing homes, home care and hospitals. Luckily, it does not appear that the legislature agreed to any reductions in Medicaid support for



Village Care of New York is a non-profit organization that offers comprehensive care for persons living with HIV/AIDS and for older adults with chronic and continuing care needs.

these services. Nursing homes and home care programs were bracing for drastic cuts that would have had a serious impact on the level and quality of care that they could have been able to afford to provide. The legislature and the governor agreed to delay nursing home rebasing (recalculation of reimbursement levels) from January 1, 2009, until the start of the new state fiscal year (April 1, 2009), which many nursing homes have been saying they need, but it will have to wait another few months. Not surprisingly, the governor and legislature agreed to eliminate the retroactive trend adjustment (inflation increase) for hospitals, nursing homes and home care providers. However, at this point providers had long ago anticipated the trend adjustment would not happen and hopefully had already budgeted accordingly. Readers should keep in mind this was an agreement only about this year's budget shortfall.

Next fiscal year, starting on April 1, is still under negotiation between the governor and legislative leaders. The state is facing a \$15 billion cut shortfall for 2009-2010, and the state is targeting cuts in three major areas: health care, education and state aid for local government. Health care (especially hospitals and unions) and education advocates have already begun a public information campaign, in the form of television commercials and rallies in Albany, to stop the proposed cuts to their industry.

The proposed budget for the next fiscal year, considering the magnitude of the deficit, is extremely problematic for many advocates, including providers of services to persons living with HIV/AIDS, especially Medicaid-funded providers. There are a few good items in the budget that deserve the support of the HIV community, but much of what has been proposed would be catastrophic for Medicaid services that many

persons living with HIV/AIDS rely upon. Below is a copy of Village Care's testimony to the NYS Senate Committee on Finance and the NYS Assembly Committee on Ways and Means. This testimony highlights many of the areas of support and concern for us and many others in the HIV community.

After reading this testimony, readers might want to know "What can I do?" There are a number of vehicles that individuals and agencies will use to move along a more progressive, fairer budget for persons living with HIV/AIDS. Letter writing campaigns, visits to state elected officials and organized trips to Albany are a few of the vehicles that HIV advocates will be employing. This is the critical time to get in touch with your state elected officials to stop the cuts to health care; between now and March is when the legislature and the governor will be negotiating a deal over the next state fiscal year's budget.

**TESTIMONY OF VILLAGE CARE OF NEW YORK TO  
NEW YORK STATE SENATE COMMITTEE ON FINANCE  
AND  
NEW YORK STATE ASSEMBLY COMMITTEE ON WAYS AND MEANS ON  
FY2009-2010  
EXECUTIVE HEALTH BUDGET**

*February 2, 2009*

**About Village Care of New York**

Village Care of New York is pleased to provide to the NYS Senate Committee on Finance and the NYS Assembly Committee on Ways and Means written testimony on the 2009-2010 Executive State budget. Village Care of New York is a community-based not-for-profit organization serving seniors, per-

sons living with HIV and AIDS, and others who face chronic and disabling conditions. It is our mission to nurture good physical and mental health by accepting people as they are and by engaging individuals in an interactive process of healing body, mind and spirit in a therapeutic environment.

Founded in 1977 from grassroots activism intent on ensuring high-quality care for Greenwich Village's frail seniors, the organization soon recognized the toll that AIDS was having in its community and responded early with a number of innovative programs and services, including the first AIDS day treatment program in the country and the largest AIDS skilled nursing facility.

Village Care has continued to grow and innovate and now encompasses a range of skilled nursing, home- and community-based primary care and supportive services, providing a continuum of care and full range of services for older adults and persons living with HIV/AIDS.

Village Care's programs served some 6,000 individuals, and the organization has seen demand grow by 72 percent over the last four years. Village Care clients reflect the true diversity of New York – 37 percent of those we serve are black, 27 percent Hispanic, 23 percent white and 13 percent Asian and other. Reflecting both our senior services and our expertise in HIV and aging, we serve an older population, with 18 percent over 85 years old, 21 percent between 65 and 84 and most of our remaining clients in their forties and fifties.

### ***The Proposed FY2009-2010 State Budget***

Village Care fully recognizes the dire economic crisis that the State faces. The job that Governor Paterson and his staff have in meeting the State's constitutional requirement to balance the budget during this tight fiscal environment is an onerous one. At the same time, the State needs to maintain its constitutional requirement to provide "aid, care and support of the needy." As the State's economy continues to deteriorate, more and more individuals, many of whom were already living at the edge of poverty, will find themselves in need of services that can only be effectively financed through public means. The private sector is not coming to the rescue; if anything, the public has come to realize the important and vital role

that government plays in our everyday lives.

Everyone must do their part to help during these challenging times. Unfortunately, the proposed budget for 2009-2010 relies heavily on cuts in programs that serve the neediest New Yorkers – frail elderly, the poor and those with the most complex health care needs, such as individuals living with HIV/AIDS.

If we rely only on a heavy-handed budget ax to seek our way out of this crisis, we will be doing irreparable long-term damage to our citizens with the most basic needs and with few, if any, resources of their own. Painful cuts may indeed be in order, but we should not balance the budget on the backs of New York's poor. New revenue options are an imperative for any comprehensive budget package if we are to fix the State's budget woes in a fair, rational manner.

We applaud the governor for taking a frank, "no holds barred" approach to this budget crisis. He has been open and honest with the public about the dire situation the State faces. Nonetheless, we are extremely concerned about the impact that the cutbacks, if enacted as proposed, will have on the individuals that Village Care serves, along with the thousands more who receive care from the state's mission-driven, not-for-profit providers. A more balanced approach to addressing this deficit is needed to ensure that the poor and severely disabled do not bear the brunt of the burden for managing this challenge.

Below are some areas of the budget that we support:

- Increase in the basic welfare grant by 30 percent over a three-year period.
- Increase in funding for food banks, food pantries, soup kitchens and emergency shelters.
- Increase in indigent care pool for community clinics.

Below are some areas in the budget that are the most troubling for Village Care:

- Proposed cuts to Medicaid nursing homes rates.
- Proposed cuts to Medicaid home care rates and the new tax on home care revenues.
- Proposal to include personal care services in the Medicaid managed care benefit package.
- Reduction in the state's contribution to SSI payments.

Village Care strongly supports the 10 percent increase in the basic welfare (non-shelter) grant over three years. The value of the basic welfare grant has dangerously shrunk over the last two decades, as the state has consistently failed to adjust payments to accommodate inflation and other rising costs. This proposed increase would go a long way towards addressing the growing challenge that poor New Yorkers face in meeting basic needs. In addition to these proposed increases, Village Care believes that a long term solution to this problem would be for the legislature and Governor to tie automatic increases in the welfare grant to the consumer price index.

As the number of unemployed New Yorkers begins to swell with the worsening economic crisis, no doubt increasing numbers of persons

will be faced with difficult choices about putting food on the table, and therefore the need for emergency food services grow. Village Care's Momentum Project, which provides meals for needy individuals who are HIV positive, has, for example, seen a dramatic upswing in persons coming to its multiple sites throughout the city and the economic situation has worsened. Village Care supports the governor's proposal to increase funding for food banks, food pantries, soup kitchens and emergency shelters by \$4.4 million.

Lastly, Village Care also supports the Governor's proposal to double the amount of funding for the indigent care pool for community clinics, to \$55 million. Village Care also supports the inclusion of community mental health centers in this proposal. The current national arrangement to tie health insurance to employment means that as workers lose their jobs, they also lose their health insurance. The number of uninsured will undoubtedly rise as the number of unemployed increases, yet individual's health care needs will not disappear along with their jobs. A larger indigent care pool will help to alleviate challenges with providing health care for those who cannot afford to pay.

### **Medicaid cuts to Nursing Home Rates**

Sadly, there is much in this budget that Village Care finds troubling and we believe that there are provisions that will have a lasting, harmful impact on the ability of organizations to provide quality, meaningful health care to poor New Yorkers. The most egregious of the proposed cuts are those to nursing homes. A proposed 8 percent cut in the Medicaid nursing home rate in

the current fiscal year and another 2 percent cut in 2009-2010 will have a drastic impact on the level of services that Village Care can provide. Village Care operates two nursing homes, one for seniors and another specialty nursing home for persons living with HIV/AIDS. Both of our facilities will be unduly disadvantaged by these cutbacks.

We would like to highlight for you the impact that the proposed budget for nursing homes, especially AIDS nursing homes, would have.

Rivington House, The Nicholas A. Rango Health Care Facility, is the nation's largest nursing home dedicated solely to the treatment of AIDS. We have an average daily census of 201. Rivington House is unique, serving a largely disenfranchised population while helping to control the greatest infectious public health threat of our time. Half of our residents are permanently disabled and will likely live with us till they die. The remaining beds turn over four times a year. We had 424 admissions in 2008 with an average length of stay of 8 ½ months.

Seventy-five percent of Rivington House's AIDS patients also struggle with mental health diseases and drug addiction. Upon admission over 90 percent are homeless with little or no family support. We rehabilitate, educate and support our residents while procuring adequate community housing so they can be discharged to a stable environment.

Rivington House is dependent on Medicaid, with 96 percent of its revenues coming from that program. The proposed cuts in Medicaid and long-term care would jeopardize the care of the facility's residents. The reductions required by the proposed

Medicaid cuts would eliminate 30 direct-care positions, particularly nurses and certified nursing assistants. Without the staff we would no longer be able to admit the clinically and behaviorally complex residents that we currently care for. They would remain in the hospital or die in the streets. These alternatives would cost the state more in money than it currently does, not to mention the cost to the principles of our society. Rivington House would need to modify its model of care radically, perhaps more resembling a homeless shelter than a skilled nursing facility.

Take for example, our resident, R.B. She is a 33-year-old patient with the developmental age of a three year old. She was admitted from the hospital after being diagnosed with AIDS and after Adult Protective Service discovered she was infected with HIV by a relative during sexual abuse. She has thrived at Rivington House, but only because we are able to provide her with extremely close supervision and expert HIV care. There is no alternative placement for her. She would die in isolation and neglect, probably prematurely, without the level of care we are currently able to provide.

Or take resident, M.A., a 46-year-old resident. She was admitted from the hospital after suffering with a severe brain infection, cryptococcal meningitis. On admission, she was completely disoriented, bedbound with violent outbursts, weighing less than 100 pounds, on complicated intravenous feeding and antibiotic therapy, with multiple pressure ulcers. After receiving lengthy close observation coupled with expert nursing and medical care, she recovered. Six months after admission, she was reunited with her up-

state family. Now completely lucid, eating normally and independent in her activities of daily living, she was discharged to the care of her two daughters. Under the substantial changes that would be required by the proposed cutbacks, it's likely we would have been unable to admit her. We would not have the staff to provide the level of care she required. She would have remained in the hospital.

Then there is T.R., a 47-year-old resident. He was admitted from the hospital after being treated for bizarre behavior and extreme weight loss. He has schizophrenia and a personality disorder that caused impulsive, dangerous behavior, and his underlying psychiatric conditions were exacerbated by HIV dementia. He is incapable of caring for himself. He has been on close observation since admission almost a year ago. A dedicated staff member is needed to keep him safe. Otherwise he would hurt someone or someone would hurt him. We know of no other facility that could take care of his severe behavioral and HIV related conditions. Cutbacks of the scale proposed for Rivington House would mean that he would not have been admitted in the first place, and it is likely that enactment of the cuts would mean we would have to return him to a hospital setting.

In short, the budget cuts will force Rivington to severely limit admission criteria. The cuts will force us to re-hospitalize a number of residents. The money saved in the long-term care setting would be more than spent in more health care settings with, most likely, poorer outcomes.

### **Medicaid Cuts to Home Care**

A significant part of the Governor's proposal to reform the State's Medicaid program is to shift dollars away from expensive hospital care to community based care. As such, Village Care is perplexed by the proposal to cut Medicaid rates for home care services and to reinstitute a 0.7 percent tax on home care revenues. In addition, the remaining trend factor for the current fiscal year, along with next year's trend factor, are slated for elimination. The proposed budget would lower the Medicaid cost ceilings for Certified Home Health Agencies (CHHAs) and Long-Term Home Health Care Programs (LTHHCP) by 10 percent.

The Executive Budget also proposes a major overhaul to the reimbursement rate setting methodology for home care services, yet offers little detail on what the exact impact of this proposal would be on agencies or the services they provide. The impact on care is completely unknown at this point, and Village Care calls upon the legislature to reject this proposal.

The budget proposal would prohibit CHHAs, LTHHCPs and AIDS home care programs from subcontracting with licensed home care services agencies for the delivery of home health aide services. We strongly believe this action would not produce any savings, and at the same time has the potential to drastically impact on the delivery of critical care. Many CHHAs, LTHHCPs and AIDS home care programs rely exclusively on licensed home care programs for the delivery of certain services; this prohibition would cause major disruptions in services for individuals who lack the capac-

ity to function home alone. Village Care Plus, our Licensed Home Health Care program, provided our CHHA with over 440,000 hours of home aide service, accounting for 31% of our CHHA aide hours.

Home care providers serve the frail elderly and people with disabilities. For most of these clients, a loss of home care puts them at extreme risk for nursing home admission. At the least, losing this proper care means that many would wind up in the hospital. Home care keeps people in their homes and avoiding expensive, more intensive medical care. We believe that cuts in home care are counter-productive in the overall goal of deficit reduction. Village Care's CHHAs has been very successful at preventing hospitalizations of its clients; last year there were over 80 hospitalizations that were avoided by our clients, saving the State significant dollars in avoided hospitalization bills.

### **Personal Care Services**

The executive budget includes a proposal to include personal care services in the Medicaid managed care benefit package. Personal care services should remain under fee-for-service Medicaid and not moved into the managed care benefit package. Medicaid managed care plans lack the capacity nor do they have any meaningful experience in care management or case management functions, nor is it required in their contract, an important consideration. Without any mechanism in place to ensure that vital services are not lost at enrollment, this carve-out to the benefit package must be maintained.

Currently, Certified Home Health Aide services provided within

CHHA services are included in the managed care benefit. Experience has shown that for beneficiaries with chronic illness and disabilities who are required to join managed care plans, many have lost CHHA services and face serious hardships. Managed care plans have routinely decided that CHHA services are not warranted, even for clients that were previously authorized by local social service departments. Village Care urges the legislature to reject the proposal to add personal care services to the Medicaid managed care package for this highly vulnerable population.

### **Reduction in State Contribution to SSI**

In light of the proposal to increase the basic welfare grant, Village Care is troubled by the proposal to reduce the State's contribution for individuals receiving Supplemental Security Income. SSI provides cash assistance for aged, blind and disabled individuals. Recently, SSI payments were marginally increased by the federal government to automatically adjust for inflation. In a cruel twist, the State is proposing to almost undo the federal government's response to a rise in the cost of living by revoking a portion of its own contribution. Individuals on SSI are already receiving checks with the new, higher benefit amount;

this proposal would result in individuals abruptly in the middle of the year receiving checks for a lower amount than they had adjusted to under the increase. Village Care strongly urges the legislature to reject the proposal to cut payments to some of the poorest New Yorkers, most of whom are elderly, blind or significantly disabled.

### **Other Revenues Options**

If the fiscal climate in New York continues to deteriorate and the State's fiscal challenges worsen, the State cannot dig its way out of this challenge by cutting vital services for vulnerable New Yorkers. In the end, other solutions must be found to meet the State's budgetary needs.

Village Care, along with countless other not-for-profit organizations across New York and the nation, has been working with government partners to promote passage of a temporary increase in the Federal Medicaid Assistance Percentage (FMAP). We look forward to continue to work with the state and other institutions to promote passage of an increase in the federal match for Medicaid as part of any future Congressional fiscal stimulus package. It is of extreme importance that any increase in revenue as a result of FMAP be targeted to health care and related services, where it

rightly belongs. It would be unconscionable if advocates were to push strongly for an increase in federal matching funds for Medicaid, only to see those new monies be directed to other areas and used for non-essential services.

In addition, we urge the State to take a look at new revenue options. Examples of some ideas are a reinstatement of the commuter income tax, tapping into the Tax Stabilization Reserve Fund (the "rainy day" fund) and closing corporate tax loopholes. NYS must also seriously consider revising the income tax to make it more progressive and allow wealthy New Yorkers to pay a fairer share of taxes. New York also lags behind most other states in the recovery of property and assets from deceased Medicaid beneficiaries and should pursue more aggressive recovery efforts. Areas where additional savings could be achieved are to more aggressively pursue efforts to encourage individuals to purchase long term care insurance and expand efforts in New York's managed care long term care programs. These and other revenues options should be seriously considered in lieu of across the board cuts to programs and services.

Thank you for the opportunity to comment on the upcoming 2009-2010 state budget.

For more information, please contact:

Matthew Lesieur  
Director of Public Policy  
Village Care of New York  
154 Christopher Street  
New York, NY 10014  
matthewl@vcny.org  
(212) 337-5601

