CITIZENS BUDGET COMMISSION

BLOG | HEALTH CARE

Coronavirus Complications

Additional Actions Are Needed to Complete Medicaid Redesign

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When Governor Andrew Cuomo released the Fiscal Year 2021 Executive Budget, the approach for dealing with the significant fiscal issues in the Medicaid program—a $4 billion gap in fiscal year 2020 and $3 billion in fiscal year 2021 and beyond—was clear: (1) continue to defer $1.7 billion annually in Medicaid payments; (2) immediately implement $851 million in mostly recurring savings in the last quarter of fiscal year 2020; and (3) reconvene a Medicaid Redesign Team (MRT) to identify another $2.5 billion in fiscal year 2021 savings that will grow in subsequent years.

Since January the approach has run into three setbacks. First, the coronavirus 2019 (COVID-19) pandemic is damaging public health, health care, economic activity, and public finances. Second, the MRT recommended $1.6 billion in savings, a shortfall of $851 million against its $2.5 billion target. Third, federal legislation in response to COVID-19 limits the state's ability to enact between 29 and 50 percent of the savings recommended by the MRT, if the State chooses to accept the estimated $4.5 billion in federal aid.

These setbacks mean the structural Medicaid problem the Governor set out to fix will persist, and will likely be exacerbated by increased healthcare needs and by falling revenues that will likely necessitate cuts in Medicaid and all other areas of the budget. Rather than providing needed fiscal relief due to falling revenues, some of the federal aid may be used to fill the previously existing structural Medicaid gap. To ensure a sustainable Medicaid program that can help New Yorkers most in need in the future, the Executive and Legislature should continue the course correction started by the MRT, especially as they enact a budget during these troubled times.

Federal Action Hinders Implementation of Some MRT Proposals Amid Growing Economic and Fiscal Uncertainty

The MRT conducted its work on a short timeline, and put forth a set of ambitious recommendations to achieve $1.6 billion in savings in fiscal year 2021 in the Medicaid program. (See Table 1.) The largest part of the package relates to savings in long-term care ($647 million),

which has been a fast-growing element of Medicaid. Other large savings are in hospital payments ($399 million), mainstream managed care plans ($108 million), transportation ($93 million), and pharmacy services ($71 million).[1]

While the MRT was developing its proposals, the nation was struck by the COVID-19 pandemic. Congress enacted the Families First Coronavirus Response Act (H.R. 6201) to respond to the anticipated need due to the added medical burden and the anticipated economic downturn. On March 18, 2020 President Donald Trump signed the bill into law. The law offers fiscal relief to the State through a temporary 6.2 percent increase (from 50 percent to 56.2 percent) in federal share of Medicaid costs. The enhanced federal funding is worth approximately $380 million per month to the State (or $4.5 billion on an annualized basis). However, the enhanced federal funding is contingent upon the State meeting conditions intended to prevent states from cutting their Medicaid programs. One provision of the law would block enhanced federal funding if "eligibility standards, methodologies, or procedures" are more restrictive than those in effect on January 1, 2020. Another provision requires states to share savings from increased Federal payments with local governments.

The provisions will hamper New York's ability to implement some of the MRT recommendations; however, their impact is not clear cut. CBC staff has categorized the recommendations as likely permissible, questionable, and likely impermissible. Fully half (or $831 million) of the package is likely permissible. About one-fifth, or $343 million, is questionable; these are changes in the distribution of funding for indigent care and New York City Health + Hospitals that do not change eligibility rules but require federal approval of changes in the State's Medicaid Plan. Another $474 million, or 29 percent, are likely to be prohibited under federal law because they relate to eligibility requirements, particularly for those seeking long-term care services.[2]

This would not be the first time the State benefitted from enhanced federal Medicaid funding while enacting concomitant savings in the Medicaid program. The provisions of the federal COVID-19 response law are similar to those accompanying enhanced federal funding in response to the 2009 recession in the American Recovery and Reinvestment Act (ARRA).[3] In the State fiscal year 2010 budget, negotiated shortly after passage of ARRA, the State enacted savings actions worth over $2 billion annually while realizing approximately $10 billion in enhanced federal funding over three years.[4]

The federal law also impedes the Executive Budget proposal to shift growing Medicaid costs onto counties and New York City. This proposal is unsound financing policy and would reverse the one of the Administration's signature achievements: freezing local government costs for Medicaid in 2015. Furthermore, shifting Medicaid costs to counties and New York City now

could result in burdening localities differentially based on the local severity of the outbreak and economic decline. Thus, the federal impediment is not of significant concern in this case.

The shortfall in the MRT package of $851 million and possible need to defer at least $474 million (if not fully half) of MRT recommendations create a significant gap in the Governor's budget proposal. The uncertainties caused by the pandemic are also a great concern. The pandemic will generate added health care costs under the Medicaid program, making the baseline assumptions about expenditure growth likely too low. More significantly, the economic consequences of the containment measures are enormous as part of the cause of large shortfalls relative to tax revenue projections.

Immediate Medicaid Budget Actions

Amid the formidable challenges of the larger health and economic crisis, the Governor and Legislature should take five important Medicaid related actions as a budget is adopted.

1. **Include the MRT recommendations in the budget.** The State budget can include all MRT proposals, and implement those that do not risk federal funding effective immediately. To the extent legally acceptable and without jeopardizing future federal aid, proposals that are impermissible or questionable can be enacted as part of the State budget, but implemented after enhanced federal funding concludes.
2. **Lobby federal lawmakers to clarify and revise the COVID-19 response law to allow New York to implement planned cost savings.** New York needs to restructure its Medicaid program to be sustainable. Every effort should be made to be allowed to responsibly complete this task
3. **Include transparency improvements to the Medicaid program.** The MRT's recommendations omitted important, zero-cost measures to help prevent another Medicaid budget blunder. CBC previously recommended a list of reporting and public data improvements that are easily implemented, would allow the public to monitor the program, and help identify future savings.
4. **Omit the provision for local share growth.** Inclusion would reverse an important achievement in State Medicaid finance policy.
5. **Continue collaborative redesign and reform of the health care system.** There may be more work for the MRT to complete, and health care delivery challenges persist outside of Medicaid. COVID-19 has further highlighted that forward-thinking redesign of fiscal sustainability, quality, and access are needed.

While the MRT fell short of its expected savings target and federal COVID-19 response legislation restricted the State's options to implement some recommendations, the State may couple some savings measures with enhanced federal funding in Medicaid to get the program

through the next short period. But there is much more work to be done. Additional Medicaid and non-Medicaid savings will need to be identified for fiscal year 2021, and the budget revisited as needed as events and economic impacts continue to unfold. As the Executive and Legislature negotiate a budget in these difficult times, they can maintain (and improve upon) the "course correction" of the MRT without abandoning ship.

By Patrick Orecki

Table 1: Estimated Permissibility of MRT Recommendations

	Fiscal Year 21 Cost/(Savings)	Impact of H.R. 6201
MRT RECOMMENDATIONS	**($1,649)**	
Hospital Actions	**($399)**	
Increase the progressivity of Indigent Care Pool distributions	($157)	Questionable
Strengthen NYC Health + Hospitals	($186)	Questionable
Realize additional savings without impacting core hospital operations	($56)	Likely Permissible
Care Management Actions	**($43)**	
Implement Health Home Improvement, Efficiency, Consolidation and Standardization	($33)	Likely Permissible
Promote Further Adoption of Patient-Centered Medical Homes (PCMH)	($6)	Likely Permissible
Promote Effective and Comprehensive Prevention and Management of Chronic Disease	($5)	Likely Permissible
Promote Maternal Health to Reduce Maternal Mortality	$1	Likely Permissible
Mainstream Managed Care Actions	**($108)**	
Promote Encounter Data Accountability and Partially Restore of Managed Care Quality Incentive Pools	($114)	Likely Permissible
Enact statutory reforms intended to reduce inappropriate payment denials	$9	Likely Permissible
Standardized Medicaid Managed Care Prior Authorization Data Set	$0	Likely Permissible
Explore new efforts to facilitate Value Based Payment arrangements	$0	Likely Permissible
Explore boroughwide or regionwide integrated delivery system and global budget demonstrations for the Bronx and rural areas	$0	Likely Permissible
Authorize Electronic Notifications	($2)	Likely Permissible

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Long Term Care Actions	**($647)**	
Institute an HCBS Eligibility Lookback Period of 60 Months (to be consistent with look-back for nursing homes)	($20)	**Likely Impermissible**
Eliminate Spousal and Legally Responsible Relative Refusal	($2)	**Likely Impermissible**
Change Eligibility Criteria for Personal Care Services and Consumer Directed Personal Assistance Program (CDPAP) Eligibility Criteria for Enrollment in MLTC Partial Plans	($154)	**Likely Impermissible**
Make Administrative Reforms to the Personal Care Services (PCS) and CDPAS Program	($82)	**Likely Permissible**
Implement Comprehensive CDPAP Programmatic Reforms and Efficiencies	($33)	**Likely Permissible**
Provide Integrated Care to Dual Eligible Members	($5)	**Likely Permissible**
Reform the Fair Hearing Process	$0	**Likely Permissible**
Delay Implementation of the Expansion of Community First Choice Option (CFCO) Services	($47)	**Likely Permissible**
Cap Statewide MLTC Enrollment Growth at a Target Percentage	($215)	**Likely Impermissible**
Enhance Wage Parity Enforcement	$0	**Likely Permissible**
Issue a Request for Offer for LHCSAs	$0	**Likely Permissible**
Reduce Workforce Retraining and Retention Funding	($45)	**Likely Permissible**
Require all UAS Community Health Assessments (CHA) and reassessments to be conducted by an Independent Assessor (IA)	($8)	**Likely Permissible**
Implement Changes to the Community Spouse Resource Amount	($6)	**Likely Impermissible**
Offer Non-Medicaid Long-Term Care Programs to Encourage Delayed Enrollment in Medicaid including a private pay option for consumers to purchase on NYSoH	$0	**Likely Permissible**
Reduce Nursing Home Capital Funding	($30)	**Likely Impermissible**
Pharmacy Actions	**($71)**	
Fully Carve Out of the Pharmacy Benefit from Managed Care to Fee-for-Service	$11	**Likely Permissible**
Reduce Drug Cap Growth By Enhancing Purchasing Power to Lower Drug Costs	($46)	**Likely Permissible**
Limit Coverage for Over-the-Counter Drugs (OTCs)	($14)	**Likely Impermissible**
Eliminate Prescriber Prevails	($22)	**Likely Permissible**
Transportation Actions	**($93)**	**Likely Permissible**
Program Integrity	**($60)**	
Modernize Regulations Relating to Program Integrity	($60)	**Likely Permissible**
Modernize Medicaid Third Party Health Insurance	$0	**Likely Permissible**
General Savings	**($224)**	
Additional ATB Rate Reduction	($219)	**Likely Permissible**
Shift Water Fluoridation funding to Capital	($5)	**Likely Permissible**

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Health Workforce		
Modernize scope of practice and other workforce related statutes, regulations and administrative barriers		**Likely Permissible**
Advance workforce training and support initiatives to address workforce shortages		**Likely Permissible**
Health Information Technology	**($8)**	
Expand telehealth services	($3)	**Likely Permissible**
Modernize Medicaid information technology and expand access to data	($5)	**Likely Permissible**
Social Determinants of Health	**$4**	
Advance Social Determinants of Health (SDH) to Improve Care and Reduce Medicaid Costs	$4	**Likely Permissible**

Footnotes

1. The recommendations did not include needed transparency improvements in the reporting of Medicaid expenditures, leaving the budget vulnerable to fiscal gimmickry such as the payment deferrals. Statement by Andrew Rein, President, Citizens Budget Commission, *Statement on the Medicaid Redesign Team Recommendations* (March 19, 2020), https://cbcny.org/advocacy/statement-medicaid-redesign-team-recommendations.

2. The estimates above are based on CBC's assumptions of the applicability of the preemptive provisions in federal law. These provisions will be the subject of legal evaluation of State statute enacted to implement certain MRT recommendations (text of which is not yet available to the public). CBC's estimates are based on summarized recommendations of the MRT. See New York State Department of Health, *MRT II Executive Summary of Proposals* (March 19, 2020), www.health.ny.gov/health_care/medicaid/redesign/mrt2/docs/2020-03-19_executive_summary_of_proposals.pdf; and *MRT II Executive Summary Scorecard* (March 19, 2020), www.health.ny.gov/health_care/medicaid/redesign/mrt2/docs/2020-03-19_executive_summary_card.pdf.

3. See Bill Hammond, "Are Cuomo's hands tied on Medicaid?" (*Empire Center NY Torch blog*, March 22, 2020), www.empirecenter.org/publications/are-cuomos-hands-tied-on-medicaid/.

4. New York State Division of the Budget, "2009-10 Enacted Budget Gap-closing Plan – Health Care" (accessed March 25, 2020), www.budget.ny.gov/pubs/archive/fy0910archive/enacted0910/0910enactedInitiatives/0910enacted-healthCare.html; and *2009-10 Enacted Budget Financial Plan* (April 2009), p. 65, www.budget.ny.gov/pubs/archive/fy0910archive/enacted0910/2009-10EnactedBudget-FINAL.pdf.