



New York State – 12/12/08

Attendees: Deborah Bachrach, Richard Daines, David Hansell, David Lara, Dennis Norton,
Joseph Baker, Kerek Douglas

Already aware of PTT's Transparency Policy





TRANSITION ISSUES FOR THE OBAMA ADMINISTRATION



STATE OF NEW YORK

The collapse of our nation's financial services sector has had catastrophic fiscal consequences for the State of New York. With tax revenues plummeting and economic growth stagnating, New York will be forced to make massive spending reductions that threaten many of the health care, education and other essential services that our constituents need most during an economic downturn. A Federal investment in fiscal relief for states would mitigate the most devastating spending cuts and have clear countercyclical economic benefits.

Federal Fiscal Relief for States A Necessary Investment for Economic Recovery

New York State's Fiscal Condition

With Wall Street accounting for 20 percent of our state revenues, the continuing decline in the financial services sector has hit New York especially hard. During the last four quarters, the New York securities industry has reported over \$40 billion in losses. Wall Street bonuses are now projected to decline by 46 percent, while capital gains collections are expected to decline by 41 percent. In New York, the recession is projected to be long and deep. New York's economy will lose an estimated 60,000 financial services sector jobs – twice as many as after 9/11 – and at least 180,000 jobs statewide.

Inevitably, the Wall Street crisis is having an immediate and massive impact on New York's budget. We are currently projecting a budget gap of \$12.5 billion in our coming fiscal year and total gaps of \$47 billion over the next four years. We also must close a current year gap of at least \$1.5 billion with only four months remaining in our fiscal year.

These are the largest budget deficits in our State's history, exceeding even the gaps we faced after the 9/11 disaster. This time, however, we have every reason to believe that Wall Street will never bounce back the way it did several years ago.

New York's Response to the Fiscal Crisis

Since taking office in March 2008, Governor Paterson has acted aggressively to address the State's growing deficits by reducing spending. So far this year, we've saved nearly \$1.8 billion by cutting State agency spending, taking across the board cuts against local assistance funding and implementing other savings actions. In his 2009-10 Executive Budget to be released next week, the Governor will propose even deeper cuts against nearly every spending category to close a combined 08-09/09-10 deficit that will exceed \$14 billion. We will reduce or eliminate non-essential programs, restructure State agencies and seek major union concessions in an effort to avoid a large number of layoffs that will only create more economic stress.

But states can only cut so much before we begin to jeopardize our fundamental responsibilities to provide core services – providing healthcare, educating our children,



caring for the needy, maintaining our infrastructure, and investing in our economy. Health care and education alone account for 52 percent of our total general fund spending. Given the tools at our disposal, we cannot balance our budget without deep reductions in these two critical program areas.

🗳️ Direct Fiscal Relief for States

Immediate Federal fiscal relief of at least \$150 billion over three years is necessary to assist states in maintaining critical services and avoiding budget cuts that will only worsen our nation's economic downturn. Of this amount, an FMAP increase of \$100 billion would cover ½ of the projected budget shortfalls over the next two years, according to the Center for Budget and Policy Priorities. And at least \$50 billion should be delivered through a block grant to states.

This Federal funding will be used to mitigate cuts in health care, education and other essential human services and protect valuable jobs. It will enable us to meet the needs of an increasing Medicaid caseload, and help us maintain an education aid commitment that will target funding to schools and students with the highest needs.



waiver as the State does when one spouse is in a nursing home. In addition, by restricting Medicare coverage to wheel chairs used only in the home (and not for work or school), CMS has made it harder for dual eligibles to access needed services and has shifted wheel chair costs to state Medicaid programs.

☛ Harmonizing Medicaid and SCHIP

The Medicaid and SCHIP programs provide health insurance coverage to low and moderate income children. Many of these children move between the programs as family circumstances change. However, the programs have different eligibility rules and program requirements, making seamless coverage difficult and imposing an unnecessary administrative burden on states. In addition, as with Medicaid, shifting interpretations of SCHIP rules make it difficult for states to effectively reach uninsured children. This was precisely what occurred on August 17, 2007 when CMS issued new “crowd out” rules, outside of the regulatory process and with no basis in state experience. The letter rule effectively denied New York federal SCHIP funds for children with family incomes between 250% and 400% of the federal poverty level. New York now covers these children entirely with state dollars.

☛ Integrating the Care and Funding of Medicare/Medicaid Beneficiaries

For both Medicaid and Medicare, the most medically complicated and costly beneficiaries are those elderly and disabled that are covered by both. Unfortunately, Medicare and Medicaid are operated in silos with little, if any, coordination of payment, benefit and delivery rules. This lack of coordination creates incentives to cost shift; hinders efforts to improve quality, coordinate care and contain costs; triggers coverage conflicts; and, requires costly and cumbersome administrative structures to parse out payment obligations between Medicare and Medicaid – although the federal government has a financial stake in both. CMS should advance an integrated approach to the care and financing of dual eligibles to ensure that the nation’s two largest insurers are maximizing the value of public dollars spent on health care. This could include requiring dual SNPs to contract with state Medicaid programs. (New York has over 50 dual SNPs but less than 400 people are enrolled in a dual SNP that contracts with Medicaid.) Additionally, mechanisms should be identified to permit states to share in Medicare savings that result from Medicaid expenditures. For example, New York Medicaid provides a rich home care benefit that avoids costly hospital admissions covered by Medicare, but there is no mechanism for the State to share in the savings.

☛ Maximizing Pharmaceutical Discounts

CMS has limited states ability to use their market power to provide affordable prescription drug coverage for low-income individuals with income just above Medicaid levels. For example, after months of review, CMS barred New York from including its pharmaceutical program for low-income elderly New Yorkers in the supplemental rebate program. Similarly, CMS denied New York’s request to receive a “best price” exemption for its drug discount care for low-income elderly and disabled persons not eligible for coverage under Part D. A second issue relates to implementation of Medicare Part D for dual eligibles. Prior to January 1, 2006, 6.2 million dual eligibles received their drug coverage through Medicaid. After January 1, 2006, these beneficiaries were switched to Part D with the result that pharmaceutical manufacturers received a \$2.8 billion windfall because rebates under Medicaid were 26% while Part D plans are negotiating discounts valued at approximately 8%. At the same time, CMS has implemented the “claw back” of state funds for drug costs for dual eligibles in a manner that inflates state obligations by, among other things, using a 2003 base year that does not reflect more recent cost savings initiatives in New York and using an artificially high inflation factor.



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This document highlights areas where CMS can take action, without legislation, that would enable New York and other states to operate Medicaid in such a way that eligible families and individuals are able to get and keep coverage and access quality, cost-effective health care. With a sound partnership between the state and federal government, Medicaid can become a foundation for universal coverage and a driver of value in New York and throughout the nation.

Rethinking the Administration of Medicaid A Federal-State Partnership to Assure Access, Quality and Efficiency

Medicaid Regulations

On June 30, President Bush signed an emergency war spending bill that included moratoriums on six Medicaid regulations until April 1, 2009. The regulations are: Targeted Case Management, Rehabilitation, School Based Services, Public Provider Cost Limit, graduate Medical Education and Provider Tax. Implementation of the outpatient hospital regulation has already required New York and other states to revisit and rework outpatient payment methodologies with no concomitant benefit to access, quality or efficiency. Implementation of the other six will do comparable damage to access, quality and efficiency. Repealing these regulations will allow a more thoughtful review of Medicaid financing after the expiration of the moratoria on April 1, 2009.

Timely Approval of State Rate Reform and Cost Containment Initiatives

States must submit to CMS, for review and approval, proposed amendments to their state Medicaid plans to ensure federal financial participation (FFP). This means that CMS must review and approve, 50 different state acute, ambulatory and long term care payment methodologies and payment levels. While CMS is required to approve state plan amendments (SPAs) within 90 days, that rarely occurs. CMS can stop the clock by sending states a request for information (RAI). To the extent approvals are not received in 90 days, rate reform, rate corrections, and cost containment initiatives are delayed, sometimes for years. Once the SPA is approved, New York retroactively adjusts the rate, not only adding administrative time and cost, but often causing confusion among providers and health plans seeking to reconcile payments. Delays in CMS approval of state plan amendments center around the following issues: (1) upper payment levels (calculation of the maximum amount states may pay for inpatient, nursing home and ambulatory care services); (2) re-review of extensions of existing state plan provisions; and (3) re-review of previously approved coverage and benefit decisions that underlie proposed rate changes. The SPA review process should be transparent, streamlined, and applied consistently across states to facilitate state health care reform initiatives.

Consistent and Reasonable Medicaid Coverage and Benefit Rules

CMS interpretations of eligibility and benefit rules have made it more difficult and expensive to administer the Medicaid program and have created arbitrary barriers for eligible New Yorkers seeking to get and keep health insurance coverage and access the services they need. For example, CMS rules have prevented New York from extending 12-months continuous eligibility to adults on Medicaid and maintaining the same income eligibility rules for married couples with one spouse in a home and community based



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The first step in rebuilding the federal government's leadership position in public health should be to ensure that prevention goals are included in all policies and that all initiatives are grounded on evidence based approaches. Medicare, Medicaid and health insurance coverage and payment policies should reflect public health priorities and taxes should be used as a tool to influence health behavior. However, more than money is necessary to build robust public health infrastructure. Agencies must also better coordinate their efforts to support public health programs.

Re-establishing Federal Leadership in Public Health

- **Increase investment in public health preparedness**

The public health system plays a critical role in all-hazards emergency response along with the health care system. Investigation of infected and exposed individuals, timely and accurate laboratory testing, and dispensing of medications or vaccinations to treat or prophylaxis the public are all essential components of public health preparedness. However, decreasing federal funding while increasing restrictions on how grant funds must be spent is eroding the health preparedness infrastructure. The Obama Administration should restore funding to previous levels and remove restrictions on how states use categorical grant funding. In addition, it should make investments to ensure states can attract and maintain a skilled, well-trained public health workforce (e.g., training grants and loan forgiveness), develop information technology that supports effective and timely communication to preparedness partners and the public and maintain surveillance systems for early detection of biological, chemical and radiological exposures.

- **Address the Top Two Public Health Threats: Obesity and Tobacco**

The obesity epidemic threatens to overtake tobacco use as the leading cause of preventable, premature mortality and to decrease life expectancy for the first time in a century. The Obama Administration should develop comprehensive approaches for tackling these two preventable public health killers, which would share common factors. Wherever possible the federal government should implement policy requirements for existing funding streams to influence behavior, including requirements that schools, the Head Start program, Women Infant and Children (WIC) program and other federally funded nutrition programs offer only healthy foods and beverages and implement age-appropriate nutrition, and physical activity standards. Similarly, federally-funded programs and facilities should be required to follow Clean Indoor Air standards.

The approach should use tax-based approaches to influence behavior, including an increase in the federal tobacco excise tax (from \$0.39 to \$1.00) and new taxes for soda and junk food. It should also include a component to eliminate ubiquitous food advertising and marketing targeting children and tobacco imagery in G, PG and PG-13 movies.



Finally, the Food and Drug Administration (FDA) should regulate tobacco products and make nicotine replacement therapy (NRT) more readily available by enacting New York's petition to allow over the counter sale of NRT in all retail establishments that sell tobacco products in varying quantities.

- **Implement policies that improve inadequate maternal and child health**

The United States has unacceptable high rates of women who receive no or inadequate prenatal care, maternal mortality, premature births and infant mortality. The Obama Administration should take steps to address this problem, beginning with the restoration of funding for the Maternal and Child Health Block Grant (MCHBG). It should also expand current programs implementing universal, comprehensive prenatal care, including risk screening of all pregnant women and application of evidence based interventions to improve medical management to address risk factors (e.g., smoking, substance use and need for supports) and prenatal and postpartum home visiting programs (e.g., the Nurse Family Partnership). Another critical tool that the Administration should develop is electronic medical records systems that allow the public health system to track prenatal, intrapartum and postnatal care.

- **Improve support and coordination for adolescent health programs**

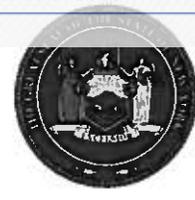
Behaviors leading to sexually transmitted diseases (STDs), unwanted pregnancy, and mental health problems begin in adolescence and have a dramatic impact on public health. The Obama Administration should adopt a broad-based federal/state initiative for sexuality education programs, including birth control and prevention of STDs. It should also allow adolescents to receive confidential services they are otherwise allowed to consent to based on their own income (i.e. mental health and substance use treatment, HIV testing, STD prevention, diagnosis and treatment). This would be achieved by amending federal Medicaid law to permit federal funds to be paid in all cases where adolescents are allowed to consent for confidential health services.

- **Personalized health care genomics**

Scientific advances in genomics hold great promise to improve health but need to be carefully translated into practice. The federal government must take an active role in this area, building on the foundation developed in the Obama Genomic and Personalized Medicine Act of 2007 (Senate Bill 976). This includes establishing a Genomics and Personalized Medicine Interagency Working Group (IWG) to analyze the public health impact of direct-to-consumer marketing of genetic tests. It would also require the development of public information on the safety and efficacy of genetic tests and improvements to genetics and genomics training for diagnosis, treatment, and counseling of adults and children for both rare and common disorders. The legislation would also commission a study for improving federal oversight and regulation of such tests and establish a national bio-banking database for the collection and integration of genomic data and associated environmental and clinical health information.



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New York State urges the Department of Health and Human Services in the Obama Administration to build upon the success of, and move beyond, welfare reform, toward an economic security agenda for low-income individuals and families -- those who are struggling the most in the current economic downturn.

ECONOMIC SECURITY IN NEW YORK STATE: HOW THE FEDERAL GOVERNMENT CAN HELP

📌 Human services partnership with states that supports innovation, performance and accountability.

- ✓ Address Restrictive TANF Regulations: The Deficit Reduction Act (DRA) and the corresponding Final Rules implemented definitions of work, and documentation/verification requirements, which are process-oriented, restrictive and counterproductive to states' efforts at engaging individuals in employment. TANF needs to return to an outcome-focused program that aims at sustainable employment through skills development.
- ✓ Modify the Improper Payments Act (IPA) Audit of the TANF Program: Continued development of a payment error rate for TANF through this audit as currently structured would force states to reallocate limited funding now spent on services to needy families, to eligibility processes. New York recommends the method and goal of this audit be significantly altered.
- ✓ Eliminate Rule Repealing the Excess Maintenance of Effort (MOE) Credit: HHS recently put forward a rule eliminating the work participation rate credit for TANF excess MOE spending by states. This rule could jeopardize state spending on low income families at a time of great need, and should not be allowed to move forward.
- ✓ Initiate Collaborative Approach with States: While TANF has proven successful in helping individuals engage in employment and assist families in leaving cash assistance, experience has shown that there are a number of ways to make the program even stronger. In preparation for TANF Reauthorization in 2010, New York seeks an early, open, collaborative discussion with the Administration concerning changes that should be included in the reauthorizing legislation.

📌 Expand the scope of programs targeting single mothers to a broader focus on employment for young men disconnected from the workforce, and responsible fatherhood.

- ✓ Expand the Earned Income Tax Credit (EITC): New York supports establishing a federal non-custodial EITC, lowering the EITC eligibility age and providing a larger credit to single workers.
- ✓ Expand Certain TANF Spending to Include Fatherhood Programs: New York recommends expanding the use of TANF marriage promotion funds to include programs that support the development of parent/children relationships, including fatherhood programs.



- ✓ Expand Child Support Pass-Through: Increasing the amount of child support passed through to families on public assistance will provide more funds to our most vulnerable families, and will also provide a greater incentive for non-custodial parents to stay current in their child support payments, knowing that it will go to their children.
 - ✓ Restore Child Support Incentive Payments: As part of the DRA, federal child support incentive payments were eliminated, adversely impacting state efforts to improve their child support programs to better serve children and families. These provisions of the DRA should be repealed.
- 🗣️ Expand workforce development programs for low-skilled and low-wage workers to enable them to achieve and retain sustainable-wage employment.**
- ✓ Broaden TANF Education and Training Rules: Expand the time limit for vocational training and related activities, and the ability to count basic education and English as a Second Language as job readiness activities. This will allow states to better structure concurrent programs of work and educational activities, based on the needs of their diverse populations.
 - ✓ Increase Funding for Job Training: Many low-income individuals do not qualify for TANF-funded employment and training programs, yet they need and deserve a meaningful public investment to obtain and maintain self-sufficiency. The overall federal investment in job skills training should be increased and training should be tied to economic development objectives and sectoral strategies like green jobs.
 - ✓ Align Workforce Development Program Requirements and Outcomes: In order to create a true continuum of job training and skills development services for individuals as they progress from welfare into the workforce, HHS and other federal agencies should harmonize the programs that support such services, principally TANF and the Workforce Investment Act (WIA).
 - ✓ Increase Child Care Funding: The federal government increased work participation requirements for state TANF programs through the DRA, but failed to provide the increased funding for child care services necessary to enable families to succeed in the workforce.
- 🗣️ Ensure timely and continuing access to disability benefits for those who can't work**
- ✓ Eliminate the Backlog in Social Security Appeals: Too many applicants face a substantial delay in SSI eligibility determination, resulting in the loss of savings or worsening of medical conditions. Funding to SSA should be increased to eliminate the backlog of appeals.
 - ✓ Remove the Time Limit on SSI Eligibility for Certain Aliens: New York recommends eliminating the time limit on eligibility for SSI of certain immigrants as long as an application for citizenship is pending.
 - ✓ Reduce Administration Costs for State SSI Supplements: SSA charges states like New York, which provide supplements to federal SSI benefit levels, far more than the federal cost of administering those benefits. Unified administration and payment is good for beneficiaries, but federal policies overly burden States that make supplemental payments available.