

March 2018

Governor's Budget Would Cut Funding to NYC for Child Welfare and Juvenile Justice by \$190 Million

Governor Cuomo's 2019 executive budget for New York State contains two proposals that, if enacted, would substantially reduce state aid for the city's Administration for Children's Services (ACS), and a third proposal that excludes the city from funding for a new state initiative. The largest reduction proposes capping New York City's share of state child welfare funding at \$320 million per year, which IBO estimates will cost the city as much as \$161 million annually beginning next year. This proposed cut follows last year's reduction of about \$44 million in the Foster Care Block Grant, the other major source of state funding for ACS. Last year's reduction was also first proposed by the Governor.

The Governor's executive budget also proposes ending state funding of the city's juvenile justice Close to Home program, which would cost the city more than \$31 million in expected aid. In addition, implementation of the state's initiative to raise the age of criminal responsibility from 16 to 18, which was signed into law last year, will also have implications for ACS's budget. While the Governor proposes allocating \$100 million for the initiative, it excludes New York City from the funding.

Child Welfare

In past years the state has provided unlimited aid to fund its share of child welfare costs, and the new proposal to establish a cap on state funds applies only to New York City and not to other localities. State child welfare funding reimburses ACS for 62 percent of its costs, net of federal funding; the funds are used for preventive services (which aim to prevent children from entering foster care), protective services, independent living, adoption, and aftercare for children returning home from foster care.

State child welfare funds are also used to reimburse the city for some of ACS's fringe benefits costs.

The state calculated its proposed \$320 million cap for New York City by averaging the city's claims against this revenue source over a five-year period, from federal fiscal years 2013 through 2017. (IBO calculates that the average claim for this revenue source based on city fiscal years 2013 through 2017 was about \$323 million.) The state further projects that without the cap, the city would receive \$337 million in state child welfare funding for federal fiscal year 2018, a 5.3 percent increase, and that the total cut is therefore only \$17 million.

Basing a projection for future funding on the average of past claims ignores how funding has trended over time. City support from state child welfare funding, steadily increased over those five years, as shown in the table on page 2. The increase in revenue is primarily due to two factors. First, the Mayor's Office of Management and Budget (OMB) has been able over time to negotiate with federal officials higher reimbursement rates for civilian fringe benefits, which means that ACS has been reimbursed more money for those staff members whose fringe costs are partially covered under state child welfare funding. These annual negotiations have accounted for \$24.5 million of the increase from 2013 through 2017 (from here on, all years refer to city fiscal years).

Second, as shown in the table on the bottom of page 2, ACS increased its spending on preventive and protective services, the two largest program areas eligible for state child welfare aid, over the five years used for the state's calculation of the cap. In part this reflected a continuing focus on expanding and enhancing preventive services in order to keep as



Proposed \$320 Million State Child Welfare Cap Poses Risk to New York City									
<i>Dollars in millions</i>									
	2013	2014	2015	2016	2017	2018	2019	2020	2021
State Child Welfare Aid, Excluding Fringe Benefits	*\$211.3	\$228.1	\$206.0	\$226.3	**\$427.1	\$394.0	\$393.1	\$395.1	\$397.7
State Child Welfare Reimbursement for Fringe Benefits	47.1	47.0	85.2	74.8	71.6	98.0	88.0	88.0	88.0
Total Revenue	*\$258.4	\$275.1	\$291.2	\$301.2	**\$498.7	\$492.0	\$481.1	\$483.1	\$485.7

SOURCES: Mayor's Office of Management and Budget, Comptrollers' Annual Financial Reports
NOTES: *Includes \$9.6 million in prior year revenue received in 2013.
**Includes \$78.9 million in prior year revenue received in 2017. IBO estimates that roughly \$30 million of this revenue should actually be applied to 2015, and roughly \$50 million to 2016.
State funds received as reimbursement for fringe benefits appear in the city's miscellaneous budget. Figures for 2013 through 2017 reflect actual state assistance, while figures for 2018 through 2021 are Mayor's Office of Management and Budget projections based on the January 2018 preliminary budget.
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many children as possible out of foster care. Additionally, ACS has come under scrutiny in recent years for the high-profile deaths of children whose families had previously been reported to the agency for suspected maltreatment: in particular, Myls Dobson in January 2014 and Zymere Perkins in September 2016. Both of these tragedies spurred reforms and increased spending for protective services.

Cost of the Cap. In advocating against the \$320 million cap, ACS Commissioner David Hansell, Mayor de Blasio, and other city officials have said that it would represent a cut of \$129 million, not the \$17 million claimed by the state, based on a projection by the city that it should receive \$449.3 million in state child welfare aid in 2019, the first full city fiscal year that would be impacted by the cap. However, this projection of \$449.3 million was based on the financial plan released in November 2017, not the preliminary budget released in February 2018. The Governor's executive budget was released before the Mayor's preliminary budget, so the city based its initial analysis on the November plan.

As the table above shows, the preliminary budget projects receipt of \$481.1 million in state child welfare aid in 2019, meaning that the total annual cut could actually be closer to \$161 million starting next year. The increase between plans is primarily due to OMB raising its forecast for state reimbursement of fringe benefits by \$26.7 million

each year from 2019 and beyond. The fringe benefits rate for 2019 is not final, however, so it is possible that this figure could change.¹

Assuming that the cap is not adopted, ACS projects that state aid for child welfare revenue will continue to increase from 2018 on because the agency anticipates further increases in preventive services and other costs eligible for state assistance as the agency phases in new initiatives aimed at strengthening families. For example, the city has projected that the state's share of [new child welfare supports](#) added in the 2017 executive budget is \$23.6 million in 2018 and \$30.6 million in 2019 and later years. An additional \$29.6 million in state child welfare assistance for each year from 2018 on is expected to help cover mandated training for protective and preventive staff and to increase the rates paid to providers of preventive services under contract with the city.

Juvenile Justice

Close to Home. The Close to Home initiative was launched in 2013 as a partnership between the city and state. It enables New York City youth who are adjudicated as juvenile delinquents and found by Family Court to require confinement to be placed in small residential facilities in or near the city, under ACS's oversight. Previously, these youth were placed upstate under the custody of the state's Office of Children and Family Services. ACS oversees two

Administration for Children's Services Spending on Preventive and Protective Services Has Increased Steadily Since 2013									
<i>Dollars in millions</i>									
	2013	2014	2015	2016	2017	2018	2019	2020	2021
Preventive Services	\$205.2	\$221.4	\$228.1	\$234.9	\$248.1	\$312.7	\$330.7	\$331.1	\$335.2
Protective Services	220.0	215.8	242.5	254.0	291.7	311.6	306.4	306.3	306.3

SOURCE: Mayor's Office of Management and Budget
NOTES: Total spending from all revenue sources. Actual spending for 2013 through 2017, 2018 through 2021 are projections from the Mayor's Office of Management and Budget. Does not include spending on fringe benefits.
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Close to Home Spending and State Aid

Dollars in millions

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total Close to Home Expenses	\$46.3	\$56.2	\$88.7	\$85.9	\$87.7	\$85.9	\$85.5	\$85.5	\$85.5
State Aid for Close to Home	10.5	11.5	10.5	11.5	24.4	30.5	30.5	30.5	30.5

SOURCES: Mayor's Office of Management and Budget, Comptroller's Annual Financial Reports

NOTES: Actual spending and state aid for 2013 through 2017, 2018 through 2021 are projections by the Mayor's Office of Management and Budget.

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types of facilities, both of which are operated by nonprofit organizations: nonsecure placement and the more restrictive limited-secure placement. The former type of facilities began accepting youth in September 2012, and the latter in December 2015.

Since the beginning of Close to Home, the state has provided some of the program's funding, in keeping with a long-standing history of cost-sharing between the state and localities for local youth placed in state facilities. With the expiration of the Close to Home legislation this year, the Governor's executive budget proposes an extension for five years—but without any state funding.

The state's annual appropriation for Close to Home is \$41.4 million, based on cost and population estimates conducted before the launch of the initiative. But because the number of city youth in the program has not been as high as originally estimated, the city has received less than \$41.4 million a year: from \$10.5 million to \$11.5 million in 2013 through 2016, and in 2017, the first full year of limited-secure placement, \$24.4 million.

Under current law, the city has been anticipating receiving \$30.5 million in state funding for Close to Home each year from 2019 through 2021. Actual costs, however, are likely to be higher beginning in October 2018, when 16-year-olds will be moved into the juvenile justice system under the new Raise the Age program (see below). If the state does not withdraw its financial support of the Close to Home initiative, the city may receive the full appropriation of \$41.4 million, or even request more funding, after Raise the Age begins to take effect.

Raise the Age. The Raise the Age law will also have implications for the budget of ACS and other city agencies. As 16- and 17-year olds who are arrested begin to be treated as juveniles, some will be eligible for services designed to divert them from the juvenile justice system, including alternative-to-detention programs run by ACS

and/or alternative-to-placement programs run by ACS or the Department of Probation. Others will require detention or placement in facilities overseen by ACS, and ACS will need to hire and train new staff to supervise these youth.²

Raise the Age requires localities to begin treating most 16-year-olds who are arrested as juvenile delinquents or adolescent offenders, instead of as adults, by October 1, 2018. (Adolescent offenders is a new category within the juvenile justice system.) The same treatment for most 17-year-olds who are arrested is required by October 1, 2019.

The city has estimated that implementing Raise the Age will cost a total of roughly \$200 million annually. Some of this cost will be borne by other agencies, such as probation, corrections, police, and the Law Department, but the majority will fall into the ACS budget. Many details of Raise the Age implementation are still being worked out, however, and it is not clear at this point exactly what the program will cost.

The Governor's budget appropriates \$100 million statewide for localities' Raise the Age implementation costs, but these funds can only be accessed if localities are under their property tax-levy caps, a restriction that does not apply to New York City, or through a financial hardship waiver. Given that the Governor's office has repeatedly stated that the reasoning for capping New York City's child welfare funding and ending state support for Close to Home is that the city has surpluses it can use to absorb these costs, it seems unlikely that a hardship waiver from the city would be approved.

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Endnotes

¹Based on the city's actual civilian fringe benefits rate for this year, the preliminary budget also added \$36.7 million for 2018 for ACS fringe reimbursement from the state.

²It is not clear at this time if ACS will be able to hire and train enough staff to supervise 16-year-olds by October 1 of this calendar year, and it is possible that Department of Correction officers may supervise some or all of these youth for some period of time.

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