

GOVERNMENT AND REGULATORY AFFAIRS, HEALTH CARE AND LONG TERM CARE INFORMATION MEMO

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A Contingency Budget Like None Other: Destabilizing Federal Medicaid Proposals Dangle Like Damocles's Sword Over New York's Health Care System

New York State's FY '26 budget is balancing precariously on a banana peel.

Although Governor Hochul finally approved the budget in May after a weekslong standoff with the legislature, the budget rests on assumptions that may crumble later this year. Like many states across the country, New York is preparing for the very real possibility of major Federal funding cuts – among them, to aspects of the Medicaid program – that could render New York's budget unworkable. Although this is nothing new for budgets – including New York's – to have the backstop of general contingencies like rainy day funds, this year is different. The newly signed budget includes express language that would functionally allow the State to tear up its agreement and shift to austerity footing to account for widespread impacts to the funding for New York's healthcare safety net.

The Context

Congress is negotiating a massive reconciliation bill that cleared the House of Representatives on May 22, following all night negotiations. The bill continues to wend its way through the legislative process and will move next to the Senate. Within are provisions that would, if passed, broadly restrict and reshape aspects of the Medicaid program as we know it. Among other elements, the bill would prohibit states from establishing new provider taxes or from increasing the existing tax rates with respect to Medicaid. Notwithstanding, President Trump was captured in a recent and widely reported sidebar conversation with legislators requesting that they table major Medicaid changes, providing important context for the forthcoming Senate deliberations.

In parallel efforts, the Trump Administration recently announced plans to promulgate a rule to prohibit states from generating additional funding via Medicaid reimbursement programs, and on May 12, 2025, Centers for Medicare & Medicaid Services ("CMS") proposed a rule that would prohibit states from imposing higher taxes on Medicaid business. States are statutorily obligated to fund at *least* 40 percent of the reimbursement of expenditures under their respective Medicaid plans. Thus, the burden of Medicaid costs is, theoretically, shared between Federal and State governments. New York, in addition to California, New Jersey, Louisiana, Illinois and Michigan, have funding strategies whereby they utilize a tax maneuver to generate funds for providers. On May 12, 2025, the proposed rule could, among other potential effects, invalidate an agreement New York arrived at with the CMS of President Biden's administration to pursue such a tax strategy.

The Realities If These Strategies Progress

New York's FY '26 Budget includes a \$34.2 billion investment in Medicaid. New York projected \$1.47 billion of FY '26 funding to derive from the Medicaid tax – in addition to \$3.7 billion over three years generated from Managed Care Organizations – to support the entities within the healthcare system (safety net hospitals, nursing homes, assisted living and hospice care). New York's counterparts presently are negotiating budgets of their own¹.

If Medicaid reconstruction efforts are successful, New York would be left to shoulder the burden of Medicaid costs *without the ability* to raise revenue pursuant to its current policy, causing New York's continued effort to maximize its part in the Medicaid cost sharing plan to effectively implode. As the negotiations progress at the Federal level, Bond's attorneys in its health and long term care and in its government and regulatory affairs practice groups will be closely tracking developments and their implications. Should you have questions, please contact [Nicole Macris](mailto:nmacris@bsk.com) at nmacris@bsk.com or [Gabriel Oberfield](mailto:goberfield@bsk.com) at goberfield@bsk.com.

¹ See, e.g., <https://www.dhcs.ca.gov/Budget/Documents/DHCS-FY-2025-26-May-Revision-Budget-Highlights.pdf> [California May 14, 2025 Revision]; <https://budget.illinois.gov/content/dam/soi/en/web/budget/documents/budget-book/fy2026-budget/Fiscal-Year-2026-Operating-Budget.pdf> [Illinois]; https://doa.louisiana.gov/media/pwodqjww/fy26_executive_budget.pdf [Louisiana Executive Budget]; <https://www.nj.gov/treasury/pdf/BudgetPacketFY2026.pdf> [New Jersey]).

