



**Greater New York Hospital Association**

555 West 57th Street / New York, N.Y. 10019 / (212) 246-7100 / FAX (212) 262-6350  
Kenneth E. Raske, President

May  
Five  
2006

**VIA FACSIMILE AND E-MAIL**  
ML-131

TO: Chief Executive Officers (New York State)

FROM: Kenneth E. Raske, President

RE: Governor Pataki Decides To Fund Some Vetoed Programs

You may have seen the attached article in today's *New York Times* (NYT) entitled "From Pataki, A New Tack On Medicaid, Governor Moves to Restore Cuts." I wanted to try to explain to you GNYHA's understanding of the current situation. Unfortunately, the Governor has not changed his mind with regard to Medicaid cuts for hospitals and nursing homes; therefore the Medicaid program spending that was reported in the article does not include eliminating the Medicaid cuts. Instead, we believe that the Governor continues to take the position that he will ignore the Legislature's overrides of his vetoes of hospital and nursing home funding restorations on the grounds that the Legislature's actions were unconstitutional. While we are very pleased that program funding for the initiatives described in the NYT article will flow, we believe these announcements underscore the arbitrary nature of the Executive's positions with respect to the requirements of the State Constitution and we continue to be extremely dismayed over the resulting confusion and damage to New York's health care system.

As you know, the Governor claims that the Legislature's overrides of his vetoes of Medicaid spending and restorations have no effect because the Legislature's bills themselves were unconstitutional. In contrast, to the extent that he did not issue his vetoes on constitutional grounds but did so purely for non-constitutional reasons, for example, based on fiscal restraint, the Governor would be expected to recognize the Legislature's overrides and accept that the bills were law. Some of the programs referred to in the NYT article were subject to vetoes on both State constitutional grounds as well as on the grounds of fiscal restraint. For example, the Legislature added nursing home quality improvement funding, home health funding, and restored some of the Family Health Plus (FHP) cuts (including the proposal to exclude from FHP any worker employed by a firm with 100 or more employees). Because these are Medicaid programs that require the State to appropriate the Federal Medicaid share, the Governor had vetoed the Federal share of the programs as part of his vetoes of a longer list of programs that included hospital and nursing home cuts, citing the Legislature's violation of the State Constitution. However, he also issued vetoes of these programs on purely fiscal grounds. Amidst this confusing array of vetoes and veto justifications, it appears to us that the Governor is picking and choosing which veto overrides he wishes to honor and which he wishes to ignore. It

is still unclear where the Governor places the increase in the Medicaid emergency department reimbursement rate cap in this complicated and, we believe, arbitrary scheme.

While we are obviously pleased that the Governor has appeared to change course with respect to some important programs, this does not change the central dynamic of this process since the Governor announced that he would ignore the Legislature's veto overrides and implement his hospital and nursing home cuts. As you know, 1199 SEIU President Dennis Rivera and I sent a letter to Governor Pataki and the legislative leaders last week stating that we stand ready to engage in negotiations to break the budget impasse. We are hopeful that this offer will bear fruit in the coming days. In the meantime, we continue to prepare for legal action to compel the Governor to implement the budget that we believe is now the law of the land: the budget passed by the Legislature over the Governor's vetoes.

We will keep you apprised of developments. In the meantime, if you have questions, please call David Rich, Pat Wang, or Susan Waltman at GNYHA.

Attachment

cc (all via e-mail):     Government Affairs Representatives  
                                  Chief Financial Officers

May 5, 2006

## From Pataki, a New Tack on Medicaid

By [DANNY HAKIM](#)

ALBANY, May 4 — Days after saying that he was making steep cuts in Medicaid, Gov. [George E. Pataki's](#) aides said on Thursday that the governor was moving to restore funds to six Medicaid programs, including one that provides state health insurance to tens of thousands of workers for Wal-Mart and other corporations.

The reversal restored at least \$113 million of the nearly \$1.3 billion the governor had cut from Medicaid. It also added to growing confusion in Albany over what the governor meant when he said he would not carry out many of the Legislature's spending initiatives because of a complex constitutional dispute.

The governor's staff is also taking the unusual step of using appropriations left over from previous budgets to selectively revive certain programs. This week, for instance, Mr. Pataki also restored \$1 billion in federal aid for poor families.

State Comptroller [Alan G. Hevesi](#), a Democrat, criticized the maneuvering but said it "appears to be legal." He said: "You couldn't do something like this in New York City, which operates under more stringent and transparent accounting rules. This is another example of why [New York State](#) desperately needs fiscal reform and transparency in its budgeting."

The actions are the latest twist in a fight that began when lawmakers passed a budget in late March that the governor considered extravagant, leading him to veto several of their spending initiatives and tax cuts. Lawmakers overrode many of those vetoes, but the governor said many of the overrides were illegal. Now, he appears to be restoring money for some programs anyway.

Legislators, as well as union leaders, hospital officials and community groups, have been left to puzzle over what survived the tortuous budget process, and they are even uncertain about the budget's size. It could be \$109 billion, it could be \$113 billion — no one knows.

Scott Reif, a spokesman for the governor, said a budget report would be issued next week and would clear up the uncertainty.

Adding to the confusion, Mr. Pataki has spent much of his time traveling out of state as he tests the waters for a possible presidential run.

The administration's actions follow a barrage of attack ads by interest groups on the governor's efforts to rein in state spending. One ad features a weeping nurse virtually accusing the governor of killing babies. And a poll released on Thursday by the Siena College Research Institute found Mr. Pataki's "unfavorable" rating at 55 percent, the highest in any Siena poll.

It is not clear if the governor, with his latest moves, is shifting his strategy, or if his staff is simply struggling to interpret an especially tricky budget process.

On Tuesday, Mr. Pataki was asked about his little-noticed plan to suspend state insurance coverage offered to tens of thousands of workers at large companies like Wal-Mart. He referred to it as "the anti-Wal-Mart proposal" and said he hoped it would compel large employers that provide limited or no health coverage to provide such coverage. "We actually had large employers send out notes saying we're not going to provide you with health insurance, sign up with the state," Mr. Pataki said.

"Hopefully the employer will step up to the plate, because they can no longer send those notices out to employees, that all they have to do is call the state," he added.

But later that day, his staff said that the program in question and five others worth \$226 million would be fully restored; the sum includes nearly \$82 million earmarked for nursing homes and \$50 million for home health workers.

The governor and his staff had said that federal financing for the programs would be suspended because the Legislature rewrote the budget in a way that was unconstitutional. Many groups had the impression that none of the \$226 million, state or federal, would be disbursed.

"We are pleasantly surprised to hear the governor is going to start funding these programs," said Jennifer Cunningham, the executive vice president of S.E.I.U./1199, the health care workers' union.

Top Legislative aides said they were hearing more about the budget from reporters than from the governor's office. "It sure is no way to run a railroad, much less a government," said John McArdle, spokesman for Senate Majority Leader [Joseph L. Bruno](#).

[Copyright 2006 The New York Times Company](#)

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [XML](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)

--