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State Case Study:

**Medicaid and the 2003-05 Budget Crisis—
A Look At How New York Responded**

Prepared by

Teresa A. Coughlin
The Urban Institute

August 2005

kaiser commission medicaid and the uninsured

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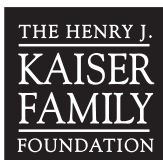
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Preface and Acknowledgments

This report is part of a Kaiser Commission on Medicaid and the Uninsured project that examined how eight states from around the nation responded to their budget crises during the 2003-05 time period, with a special focus on Medicaid and the State Children's Health Insurance Program. The state case studies review budget decisions made by state policymakers in Alabama, California, Colorado, Massachusetts, Michigan, New York, Texas, and Washington. An Overview that summarizes these eight states' experiences was published in *Health Affairs* as a web exclusive in August 2005.

This study would not have been possible without the many state officials and representatives of provider and consumer groups in the study state who gave so freely of their time and insights. We also wish to thank Erin Barringer who did a terrific job doing background research. Finally, we thank Barbara Lyons, Molly O'Malley, David Rousseau and Robin Rudowitz of the Kaiser Commission on Medicaid and the Uninsured for their help throughout the project.

Medicaid and the 2003-05 Budget Crisis: A Look at How New York Responded

Abstract

Medicaid weathered New York's 2003-05 budget problems without sustaining significant cuts. Although New York experienced major budget problems, the state made it through the crises without deep cuts to its programs. Instead the state relied on a range of revenue measures, including one-time strategies, raising fees and surcharges, borrowing and using reserve funds. In addition, and in contrast with the other study states, New York temporarily increased its income and sales tax to deal with its fiscal 2004 budget deficit, which totaled \$11.5 billion.

Prior to the September 11, 2001 terrorist attacks, New York's financial situation was better than it had been for quite a while. Since 1995, when Republican Governor George Pataki began his first term, the state had enjoyed strong revenue collections, especially in the late 1990s when personal income tax receipts grew by double digits. During this same period, New York implemented a multi-year tax reduction plan. While cutting taxes, New York managed to also build its "rainy day" reserve fund and produce budget surpluses.

Also beginning in the mid-1990s New York undertook several major health program initiatives, building on the state's long-standing history of funding a comprehensive health care system for its low-income population. Some of the more important initiatives were the expansion of the Child Health Plus program as part of the federal State Children Health Insurance Program (SCHIP) and the establishment of the Family Health Plus Program that provides Medicaid coverage to nearly 500,000 low-income parents and childless adults by the middle of 2004. Reflecting its large network of public health programs, New York's Medicaid program covered about 25.7 percent of children and 10 percent of adults in the state in 2003 whereas national Medicaid coverage rates for children and adults were 21.5 and 6.1 percent, respectively.

Like many other states, beginning in late 2001 New York's economic picture began to dim owing to the emerging national recession and the World Trade Center attacks. Within a short

period, state tax revenue declined dramatically. A particular issue for New York was the drop in the net amount of capital gains on personal income tax returns, which went from \$62 billion to \$28 billion between 2000 and 2001. At the start of the state fiscal year 2002-03, which began on April 1, 2002, New York faced a budget deficit of \$6.8 billion, accounting for about 17 percent of the state's \$40 billion general fund budget. Although New York's economic picture has improved in the last couple years, the state continues to deal with a sizable budget deficit, which is estimated to be about \$4 billion for the upcoming state fiscal year 2006.

In this brief we examine key budget decisions made by New York policymakers over the last three fiscal years—specifically state fiscal years 2003 to 2005. With a special focus on Medicaid, we highlight what was proposed by the governor, and what was ultimately adopted. We also discuss some of the major policy debates that developed in crafting the budgets over the 2003-05 study period. We collected information on New York budget activities from state websites, newspapers and public documents. We then conducted interviews at various intervals over the three-year period with state government officials, representatives of consumer organizations and state budget observers using an open-ended structure protocol.

Key Budget Debates and Decisions in Fiscal 2003

Despite facing a bleak financial situation, New York's 2002-03 budget debate was described by study interviewees as relatively painless with limited policy action. Governor Pataki and leading state legislators negotiated a budget that used a broad array of revenue measures--rather than service cuts--to close the state's \$6.8 billion general fund gap. The overall strategy to balance the deficit was to rely on the state's reserve funds, borrowing and one-time

revenue actions. These revenues enabled New York policymakers to avoid making deep cuts to services.

While Governor Pataki and legislative leaders expressed satisfaction with the enacted budget, others were critical charging that it relied too heavily on one-shot revenues and borrowing, and did not squarely deal with New York's structural budget problems. Many interviewees attributed the limited service cuts in the 2002-03 budget to the fact that 2002 was an election year for both Governor Pataki and the entire New York legislature.

Key revenue actions included allocating most of the state's reserve funds as well as balances from existing dedicated funds such as the Environmental Protection Fund and TANF reserves to cover general fund spending. Revenue measures also entailed increasing or imposing taxes and fees on a range of items--for example, cigarettes, cellular telephones, alcoholic beverages, and motor vehicle licenses and registration. In addition, New York's budget balancing involved accounting strategies, including moving some spending "off" the general fund to dedicated state fund accounts.

On the spending side, the budget provided for an overall increase of about \$600 million across the major budget sectors—school aid, higher education, state operations, and health programs. Spending levels for most budget sectors were kept at about the same level as 2001-02 or received modest increases. For example, local aid for schools received a 1.5 percent spending increase over 2001-02. State spending on Medicaid for 2002-03 was estimated at nearly \$6 billion, about a \$360 million decline from the previous year. However, the reduction was offset by an increase in taxes on nursing homes, increased use of intergovernmental transfers and upper payment limit payments to get extra federal Medicaid matching dollars, and shifting selected Medicaid spending categories from the general fund to dedicated funds.

Key Budget Debates and Decisions in Fiscal 2004

By January 2003, New York's budget picture had worsened and the state faced an estimated budget gap totaling \$11.5 billion--\$9.3 billion for 2003-04 and \$2.2 billion that was carried over from 2002-03. Put another way, New York needed to find a way to fill a 25 percent shortfall in its general fund.

In distinct contrast with the previous year, the 2003-04 budget process was a major political struggle between Governor Pataki and the legislature. At the heart of the debate was whether to close the gap through service cuts or raising taxes. Governor Pataki's proposed budget strategy relied heavily on cutting services. Service cutbacks totaling more than \$5.6 billion were proposed for virtually all the major budget categories, including state aid to local schools (\$1.3 billion), state operations (\$1 billion), Medicaid (\$1 billion) and higher education (\$580 million).

For Medicaid a laundry list of service cuts was put forth that affected all key stakeholders (beneficiaries, providers and health plans). Some of the most important proposed cuts were reducing Family Health Plus eligibility, establishing a prescription drug formulary and freezing hospital and nursing home reimbursement. In addition to Medicaid programmatic changes, the governor's budget proposal called for increasing taxes on hospitals and home care providers, and delaying Medicaid payments to the next fiscal year so they would not count as fiscal 2003-04 expenditures.

Governor Pataki's 2003-04 budget plan contemplated several revenue actions. About \$1.4 billion worth of fee increases, surcharges and other revenue enhancement strategies to be imposed on individuals and businesses (such as elimination of tax exemptions on clothing items less than \$110 and closing corporate tax loopholes) were included. In addition, the budget called

for using one-time revenue strategies, including securitizing a share of New York's tobacco settlement money. While the governor's budget contained some tax measures (such as doing away with tax exemptions), raising broad-based taxes (such as income taxes) were not included.

The popular press as well as many study interviewees acknowledged that Governor Pataki's budget proposal was not well received by the legislators in either political party. Democrats did not like the heavy reliance on service cutbacks while some conservative Republicans complained that the proposal relied too much on accounting gimmicks and taxes in disguise. Beyond legislators, important players in the budget process—including labor unions, health care providers and state residents—were unhappy with the budget proposal. Labor unions and health care providers were unhappy with cutbacks in Medicaid reimbursement, whereas citizens feared that with the proposed cutbacks in local school aid and Medicaid, communities would have to raise local property taxes to make up the shortfall or experience declines in education and health programs.

The concern about the budget's potential impact on local property taxes was cited by interviewees as being a driving force behind the formation of an unusual political alliance between the Republican-led Senate and the Democrat-led Assembly. The budget crafted by the legislature—and what ultimately became the New York budget for 2003-04-- restored many of the service cuts proposed by Governor Pataki, and, in distinct contrast to most other states, raised income and sales taxes to pay for the restoration. Specifically, a temporary three-year increase in the personal income tax on higher-income residents was imposed and the state sales tax was increased by one-quarter of a percentage point. In addition to these tax measures, the legislature adopted all of Governor Pataki's proposed revenue actions, including fee increases, eliminating corporate tax loopholes, and securitizing tobacco settlement money.

Charging that the revenue sources identified by the legislature were not sufficient to fully finance the restoration of the service cuts, Governor Pataki cast 119 line item vetoes to the legislature's submitted budget. On the very next day, with the broad support of Democrats and Republicans, the Assembly and the Senate overrode all 119 vetoes, the first time in more than 20 years the New York legislature has reversed a vetoed budget plan.

While the legislature restored many of the governor's proposed cuts, virtually all budget categories sustained some reductions. For example, on a school-year basis, general fund spending for school aid declined by about 1 percent compared to 2002 levels while spending for higher education was cut by an estimated 8 percent. About \$1 billion was cut in the state operations general budget, representing a 13 percent reduction compared to fiscal 2002-03.

For Medicaid, the legislature restored about two-thirds of the governor's proposed \$1 billion cuts to the program. Importantly, no eligibility or benefit changes were enacted; instead, Medicaid spending reductions were targeted primarily at providers by reducing reimbursement rates. Cutbacks were spread across a range of providers and services, thereby making the scope of cuts to any one group relatively modest.

The fiscal relief provisions contained in the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 passed just after New York had enacted its 2003-04 budget. The provisions provided New York with a total of \$1.4 billion through the Medicaid match rate increase and \$645 million in revenue sharing. According to study respondents, the revenue sharing funds were deposited in the general fund to cover existing general state expenses. Similarly, the temporary increase in federal Medicaid match went to cover general program expenses. With the infusion of federal dollars, both from the revenue sharing and the increase in

the match, the Pataki Administration felt that 2003-04 budget became balanced; previously, the administration claimed that the enacted budget had a \$900 million shortfall.

Key Budget Decisions and Debates in Fiscal 2005

In fiscal 2004-05 New York's financial picture had improved measurably. The state began the year with \$300 million surplus from fiscal 2003-04, and the general fund shortfall was estimated to be around \$5 billion, less than half the size of the previous year's budget deficit. Respondents attributed the improvement to increasing tax revenues and funding provided through the federal relief package.

Study respondents noted that several factors that influenced New York's fiscal 2004-05 budget debate. A key one noted by respondents was fewer revenue strategies were available to them this year to help close the budget as the state had very nearly exhausted many of the one-time strategies such as using TANF reserves or tobacco securitization. Another important factor was that all members of the legislature (but not the governor) were up for election in November 2004, making service cuts politically difficult. Finally, in response to a court mandate the state had to devise a plan--including financing details--that ensured all children in New York City receive a "sound basic education" by July 30, 2004.

In what was described as a "conciliatory" budget to avoid conflicts similar to those in the 2003-04 budget year, Governor Pataki proposed a total funds budget of \$99.8 billion and a general fund budget of \$41.9 billion, a slight reduction (less than 1 percent) from fiscal 2003-04. Overall, the governor's budget relied on \$2.6 billion in spending cuts, including \$600 million in tightening by state agencies as well as pension and broad Medicaid reforms. The budget also called for nearly \$1 billion in revenue actions (including increasing provider taxes on hospitals,

nursing homes and home health care providers) but no additional broad-based tax increases were proposed.

In contrast with fiscal 2003-04, where the governor proposed fairly significant cuts to K-12 education appropriations, the fiscal 2004-05 budget called for increasing education general fund spending by \$147 million to \$14.6 billion. To address the court order to develop “a sound basic education” plan, Pataki proposed to set aside revenues from existing video gambling machines and from to-be-established machines. Together, these strategies were estimated to bring in \$2 billion per year when fully implemented. Also in contrast with 2003-04, spending for higher education was not cut. However, in what became a controversial proposal, the governor’s plan entailed partially delaying payments for a means tested scholarship program until students graduate from college.

Spending for the state workforce was largely left untouched. While the governor maintained the long-standing hiring freeze and proposed raising health insurance co-payments for state employees, New York had recently signed a multi-year contract with the state employees union giving them a cost-of-living adjustment of at least two percent for the next four years.

By contrast, the governor proposed a wide range of Medicaid cutbacks and reforms, which was predicted to save about \$800 million in general fund dollars. The proposed cuts were largely targeted at the beneficiaries (especially Family Health Plus enrollees and beneficiaries of long-term care services) though providers were also affected. According to respondents, the Pataki administration targeted Family Health Plus as it was perceived that benefits were too comprehensive, and that some higher income residents may be inappropriately enrolling in the program. There was also a concern about the possibility that Family Health Plus was causing

“crowd out”; that is, employers stop providing health insurance because of the availability of alternative publicly-sponsored coverage. Eligibility for long-term care services was another budget target because these services are a major cost driver in New York’s Medicaid program.

Some of the key cutbacks proposed by Pataki:

Outreach and Enrollment. Eliminating presumptive eligibility for children applying to Medicaid; moving children with incomes between 100 and 133 percent of the federal poverty line from Medicaid to Child Health Plus, which has a less comprehensive benefit package

Eligibility. Imposing an assets test and lengthening the look-back period in Family Health Plus; increasing the institutional look-back period for asset transfer; imposing a penalty for asset transfer for home and personal care; eliminating the ability of spouses to refuse contributing to the care of their spouses

Coverage. Eliminating selected optional services (podiatry and services provided by private duty nurses and dentists and psychologists in private practice) for adult Medicaid beneficiaries; eliminating dental and vision benefits for Family Health Plus enrollees; increasing or establishing co-payments for Family Health Plus; creating a preferred drug program

Providers. Reducing pharmacy and nursing home reimbursement; increasing taxes on nursing homes, hospitals and home health providers

In addition to these measures, the governor also proposed shifting some of the Medicaid local share to the state. Specifically, Pataki’s plan called for the state to assume over time full financial responsibility for long-term care costs for the elderly and the disabled; counties would continue to share in acute care costs. Unlike most other states, New York requires that counties contribute to the state Medicaid share—in particular, they contribute 10 percent of long-term care costs and 25 percent of all other costs.

According to interviewees, the governor’s budget package on balance was not well received by many of the state’s key stakeholders. Legislators believed that more revenues were available than the Pataki budget stated, and thus many of the proposed service cuts were not necessary. At the same time, study respondents acknowledged that many factors played into the 2004-05 budget debate. Key among them was that both income and sales taxes were increased in

2003-04 and thus raising them again in 2004-05 was not politically realistic. Another factor that loomed large in the 2004-05 budget debate was how the state was going to respond to the court mandate to reform New York's education system, which was perceived as having major budgetary implications.

For Medicaid, a couple of other factors played into the 2004-05 budget discussions. One was that New York counties of all stripes were engaged in a massive lobbying campaign to get the state to take over the local share of Medicaid. While this has been a long-standing issue in New York politics, it recently gained significant traction and formed the backbone of this year's Medicaid debate. Finally, advocates acknowledged that Medicaid went largely untouched in 2003-04 and knew that some program cuts were inevitable in the 2005 budget. The issue was how much to cut, and whether cuts should be targeted at beneficiaries or providers.

The 2004-05 budget debate rapidly became dominated by trying to design a politically and financially feasible education plan in response to the court mandate. Budget negotiations deadlocked and there was lots of finger pointing on the issue. In the end, the legislature and the governor were unable to reach an agreement, and at the end of July the education reform matter was returned to the court to craft a solution. Only in August 2004 did the legislature begin to address the rest of the budget in earnest. At this point, New York was five months into the 2004-05 fiscal year and had spent more than \$60 billion, which made it difficult for decision-makers to address major policy issues. In addition, all 212 seats in the legislature were up for re-election in November 2004, making them a bit reluctant to enact significant program changes just two months before voters went to the polls.

Claiming that higher spending could be supported by higher than expected tax revenues, the legislature passed a \$101.6 billion total funds budget, about \$1.5 billion higher than Pataki's

budget plan. The legislature restored many of the services cuts proposed, including the vast majority of the Medicaid cutbacks. To pay for the restorations, the legislature added several borrowing measures as well as using surplus reserves. Shortly after receiving the budget, the governor charged that the legislature's budget "spends too much and reforms too little" and issued 195 vetoes, which decreased program spending by \$235 million and rejected \$1.6 billion in added borrowing. The Democratic-controlled Assembly unsuccessfully attempted to override some of the vetoes.

With the governor's line item vetoes, the total fund budget stands at \$101.3 billion. Revenue and borrowing measures under the budget included, delaying the sales tax exemption for clothing items less than \$110, increasing the corporate minimum tax, securitizing more of the state's tobacco settlement monies, maintaining a nursing home tax and issuing bonds. For spending actions, several programs received increases. Particularly noteworthy, K-12 education received an increase of \$751 million (about 5 percent) over the previous year's budget. On the whole, spending for higher education was maintained and the governor's proposal to delay scholarship funds until graduation was rejected. Grants to local governments increased by \$1.9 billion (7.2 percent) over last year's budget, and state operations (which is dominated by payroll for state employees) spending increased by more than 6 percent. Mentioned earlier, state employees had recently negotiated a new, four-year contract, which provided them with a pay raise each year as well as an \$800 million lump sum retroactive increase for last year's missed increase. In addition, the legislature rejected increasing health insurance co-payments for state employees, adding to state spending.

The legislature rejected the bulk of the proposed Medicaid cuts, including increasing taxes on nursing homes and imposing new taxes on hospitals and home care providers. The

legislature also rejected placing restrictions Medicaid eligibility for long-term care services, eliminating some Medicaid and Family Health Plus services, implementing a preferred drug program and requiring prior authorization for certain drugs.

According to respondents, key health care stakeholders (for example, industry representatives from drug companies, nursing homes, hospitals and home care providers as well as consumer advocates) vigorously lobbied the legislature to block the proposed Medicaid cuts while stressing the importance of the program. Study informants noted that although there was bipartisan support for developing a preferred drug list (which has the potential for significant savings), the drug companies and consumer groups (especially those representing the mental health community) fought the initiative. Likewise, the political will to enact some of the long-term care eligibility measures was present but elderly groups prevailed on the issue.

Although many of the Medicaid cost containment measures were not enacted some did pass. Most notable were the changes made to the Family Health Plus program. Among other things, an asset test and co-payments for selected services will be imposed on enrollees. In addition, in lieu of taking over the local share of long-term care costs, beginning on January 1, 2005 the state assumed 75 percent of non-federal share of Family Health Plus; previously the state bore 50 percent of costs. In 2006, the state will pay the entire state Medicaid share of Family Health Plus.

Another important policy change was dropping the Medicaid income eligibility standard from 133 to 100 percent of the federal poverty line for children aged 6 to 19. These children will now be served under Child Health Plus program, New York's SCHIP. The enacted budget also reduced facilitated enrollment funding for both Family Health Plus and Child Health Plus.

Summary and Outlook for Fiscal 2006

Over the study period, which ran from fiscal 2002-03 to 2004-05 (roughly April 2002 to December 2004), New York encountered major budget problems. Overall, the state managed to make it through the crises without deep cuts to its programs. Instead the state relied on a range of revenue measures, including one-time strategies, raising fees and surcharges, borrowing and using reserve funds. In addition, and in contrast with many other states, New York temporarily increased its income and sales tax to address revenue shortfalls. Finally, the federal relief provided in 2003 and 2004 was noted as supplying much needed funding, and went a long way in helping the state weather the recession.

While the state on balance used revenue strategies to fill its budget gaps, cuts were made. While K-12 education and the state workforce were largely spared, higher education and Medicaid did incur some cutbacks. Appropriations for higher education were cut by 8 percent in fiscal year 2003-04, when New York faced a budget gap totaling nearly \$15 billion or about 25 percent of its general fund. Further cuts in higher education were proposed in 2004-05 but most were avoided.

Cuts to Medicaid were largely avoided until fiscal 2004-05 when the program sustained reductions that affected both beneficiaries and providers. For beneficiaries, there was rollback in eligibility levels for children; however, children were transitioned into Child Health Plus, which has a less comprehensive benefit package. Funding for enrollment assistance for Child Health Plus was also reduced. Important cutbacks to Family Health Plus were made, including imposing an assets test and establishing co-payments for drugs, doctor visits and inpatient care as well as reducing funding for enrollment help.

Looking forward, the Pataki administration projects the budget shortfall for upcoming 2005-06 budget year at about \$4 billion, about \$1 billion less than the 2004-05 budget gap. Some study informants maintain that this overstates the budget gap as revenues have improved considerably in the last few months. Indeed, Pataki officials acknowledged that revenues are better than expected and that there is more “upside” potential for revenues in 2005-06 compared to last year. The level of revenue acknowledged by stakeholders will directly shape New York’s policy debate this year.

Without exception, interviewees believe that there will be considerable policy action this year since it is not an election year. Respondents also agree that education reform will again dominate the budget debates. In November 2004, the court appointed special masters’ panel recommended that New York City schools need an additional \$5.6 billion in operating aid over four years and another \$9.2 billion for facilities. For the 2005-06 school year, the panel proposed that the city’s public schools receive \$1.4 billion. Pataki and legislative officials concede that meeting these recommendations is going to pose a significant budget challenge for the state, even with the improving revenue picture.

Providing more fiscal relief to counties will be another issue that is expected to drive the 2005-06 budget debate. While the state will assume full responsibility for the state share of Family Health Plus in 2005, there was consensus among respondents that counties’ desire for the state to take more responsibility for paying for Medicaid will be a significant factor in this year’s debate. Indeed, many believe this will be the overriding issue in Medicaid budget discussions. Respondents were of mixed minds about the state takeover of Medicaid. On the one hand, they feel that the state take over will provide more continuity to Medicaid, perhaps making the program more consistent across counties in terms of policy implementation and administration.

It also relieves local pressure, which may make Medicaid a less controversial program. At the same time, there is the fear that by putting more Medicaid spending into the general fund makes the program yet a bigger target for budget cuts. A special concern is Family Health Plus, now that the state will bear the entire cost of the program beginning this year. Although the program sustained several cutbacks in 2004-05, the perception held by some in the state is that the program is still too generous and needs to be brought under control.

Other health matters that New York will have to contend with in 2005 is that its Health Care Reform Act, which funds a range of programs, including Family Health Plus, Child Health Plus and the state's bad debt and charity care pool, is up for re-authorization next year. It also includes several important revenue sources for health programs, including provider taxes, tobacco settlement funds, cigarette taxes and proceeds from non-profit insurance conversions. As to the latter item, a potentially important budget concern is that there is some uncertainty about whether the monies obtained from non-profit insurance companies converting to a for-profit firm will be made available to the state.

While New York is experiencing relative improvement in its fiscal situation, the state still faces a sizable budget shortfall. It also must contend with several issues that will likely require significant new revenues—most notably, financing the court-mandated education reform. At the same time, New York counties appear to be becoming increasingly vocal about the state taking over their share of Medicaid spending, which will also have important implications for the budget, as well as for the program.

Appendix A

List of Study Respondents

New York

Laura Caruso, Gay Men's Health Crises Center
Dominic Colafati, New York State Division of the Budget
Richard Conti, New York State Assembly staff
Kathryn Haslanger, United Hospital Fund
Peter Newell, New York State Assembly staff
Frank Mauro, Fiscal Policy Institute
Michael Rainowitz, New York State Assembly staff

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