

EXECUTIVE ORDERS

Executive Order No. 38: Limits on State-Funded Administrative Costs & Executive Compensation.

WHEREAS, State Government in New York directly or indirectly funds, or authorizes reimbursements with other taxpayer dollars to, a large number of tax exempt organizations and for-profit entities that provide critical services to New Yorkers in need; and

WHEREAS, State Government in New York has an ongoing obligation to ensure that taxpayers' dollars are used properly, efficiently and effectively to improve the lives of New Yorkers and our communities; and

WHEREAS, in certain instances providers of services that receive State funds or State-authorized payments have used such funds to pay for excessive administrative costs and outsized compensation for their senior executives, rather than devoting a greater proportion of such funds to providing direct care or services to their clients; and

WHEREAS, such abuses involving public funds harm both the people of New York who are paying for such services, and those persons who must depend upon such services to be available and well-funded; and

WHEREAS, to curb such abuses in executive compensation and administrative costs and ensure that taxpayer dollars are used first and foremost to help New Yorkers in need;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

1. Within ninety days of this Executive Order, the commissioner of each Executive State agency that provides State financial assistance or State-authorized payments to providers of services, including but not limited to the Office for People with Developmental Disabilities, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Office of Children and Family Services, Office of Temporary and Disability Assistance, Department of Health, Office for the Aging, Division of Criminal Justice Services, and Office of Victim Services shall promulgate regulations, and take any other actions within the agency's authority including amending agreements with such providers to address the extent and nature of a provider's administrative costs and executive compensation that shall be eligible to be reimbursed with State financial assistance or State-authorized payments for operating expenses.
2. Each such agency's regulations shall include but not be limited to requirements that providers of services that receive reimbursements directly or indirectly from such agency must comply with the following restrictions:
 - a. No less than seventy-five percent of the State financial assistance or State-authorized payments to a provider for operating expenses shall be directed to provide direct care or services rather than to support administrative costs, as these terms are defined by the applicable State agency in implementing these requirements. This percentage shall increase by five percent each year until it shall, no later than April 1, 2015, remain at no less than eighty-five percent thereafter.
 - b. To the extent practicable, reimbursement with State financial assistance or State-authorized payments shall not be provided for compensation paid or given to any executive by such provider in an amount greater than \$199,000 per annum,

provided, however, that the commissioner of each agency shall have discretion to adjust this figure annually based on appropriate factors and subject to the approval of the Director of the Budget, but in no event shall such figure exceed Level I of the federal government's Rates of Basic Pay for the Executive Schedule promulgated by the United States Office of Personnel Management.

3. A provider's failure to comply with such regulations established by the applicable state agency shall, in the commissioner's sole discretion, form the basis for termination or non-renewal of the agency's contract with or continued support of the provider. Each agency's regulations shall provide that, under appropriate circumstances and upon a showing of good cause, a provider may be granted a waiver from compliance with these or other related requirements in whole or in part subject to the approval of the applicable State agency and the Director of the Budget.
4. The commissioner for each such agency shall regularly obtain the data from providers that is needed to monitor the providers' compliance with these requirements and shall report to the Director of the Budget on an annual basis the impact of these requirements on the use of public funds to support excessive executive compensation and administrative costs among providers.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this eighteenth day of January in the year two thousand twelve.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor

