Key Budgetary Changes Affecting Small Businesses - FY 20-21 to FY 21-22

Agency: Department of Health

Program: Residential Health Care Facilities

2020-21 Budget: Not Applicable

2021-22 Budget: Residential Health Care Facilities (RHCF) in New York State are now required to spend at least 40% of their operating revenue on direct care staffing and 70% of their operating revenue on direct care services (including the staffing costs). Those facilities that meet these required spending levels will be eligible to receive financial assistance to increase their direct care staffing hours per resident day (HPRD), thereby improving their quality of patient care. In addition, their profit margin is capped at 5%.

- **40% / 70% / 5% requirements:** These spending requirements and profit margin cap will go into effect on 1/1/2022 and will be evaluated on an annual basis. The State DOH will evaluate RHCF based upon their submitted and audited cost reports (RHCF-IV), which will be available in the middle of the following year. If a RHCF has not fulfilled the requirement based upon this evaluation, the facility will be required to pay a penalty to the State DOH equal to the deficient spending or surplus profit margin, which will be deposited into the Nursing Home Quality Pool.

- **Appropriation:** There is a $64 million gross annual appropriation for both FY 2022 and FY 2023, totaling $128 million gross that will be allocated to RHCF to assist the facility in increasing their HPRD to the required levels. This funding will be used for those facilities that will need to spend more than the required 40% of revenue on direct care staffing, in order to fulfill the minimum HPRD requirements as defined in separately passed legislation (A7119/S6346).

Summary: These reforms will increase the amount of direct care spending in RHCF and creates a funding source to assist facilities in increasing their HPRD and improve patient care. It will have an impact on those facilities that spend an insufficient amount of revenue on direct care or generate a profit margin of more than 5% and ensure an amount equal to the insufficient spending is directed into a Nursing Home Quality Pool. It will assist those facilities that are spending enough revenue on direct care staffing but have insufficient revenue to fulfill the minimum HPRD requirements.

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Agency: Department of Health

Program: Medicaid Pharmacy

2020-21 Budget: The FY 2021 Enacted Budget included a proposal to carve out the pharmacy benefit out of the Managed Care Organizations (MCO) benefit package to Medicaid fee-for-service (FFS). The Carveout Proposal was scored as resulting in $87 million in non-federal savings when implemented in FY 2022 as a result of: (1) lower pricing for prescription drugs including drugs dispensed under 340B program; (2) better leverage manufacturer rebates by combining the purchasing power that is now fragmented over many MCOs; and (3) reduced administrative costs.

The Transition of the Pharmacy Benefit from Managed Care to FFS was projected to save the Medicaid program a minimum of $87.3M (state share) annually beginning in FY 2022.

In recognition of concerns raised by 340B providers, the Enacted Budget allocated a portion of the Pharmacy Carveout savings, ($102 million in FY 2022, $55.5M in FY 2023, $9.2M in FY 2024 and thereafter) to be shared (or "reinvested") directly to 340B entities impacted by the carveout. This shared savings will be based on an allocation method that ensures continued financial support of the programmatic activities that providers report funding with pharmacy reimbursement from managed care plans on 340B claims.

2021-22 Budget: The updated savings for the pharmacy carve out exceeded $140 million (state share). As such, the proposed executive budget increased the investment to 340B entities impacted by the pharmacy transition through a dedicated funding pool for 340B providers that would be permanent. Ultimately this proposal was dropped by the executive and the FY 2022 Enacted Budget delayed the transition of the Medicaid pharmacy benefit by two years, until April 1, 2023.

Summary: This initiative will remove pharmacy benefit managers (PBMs) from the Medicaid pharmacy program while increasing reimbursement to pharmacies for dispensing medications to Medicaid patients. Because PBMs reimburse pharmacies below cost for dispensing the drug, the delay of the transition will negatively impact independent pharmacies throughout NYS, particularly those serving a high volume of Medicaid patients, who may choose to close operations.

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Agency: Department of Health

Program: Telehealth Services

2020-21 Budget: Not Applicable

2022 Budget: The FY 2022 Enacted Budget provided additional flexibility in the provision of telehealth services. These flexibilities include expanding the distant site definition to include any site within the United States or United States' territories; removing originating site limitations, allowing the patient to be located anywhere while receiving telehealth services, subject to federal approval; and adding Office of Mental Health (OMH) and Office of Addiction Services and Supports (OASAS) certified peer recovery advocate services providers to the definition of "telehealth providers." This budget action improves consumer access to care, while resulting in Medicaid savings of $39.5 million State-share in FY 2022 and $58 million State-share in FY 2023 through avoided and sometimes more costly services.

Summary: COVID-19 changed not only the way we live but the way healthcare providers support their patients. During the crisis, dozens of laws and regulations were changed to allow doctors and patients to provide telehealth care using video and telephone, ensuring New Yorkers could have access to care throughout the emergency. Actions included issuing Executive Orders permitting audio-only telehealth visits, allowing providers to treat patients from their homes, permitting Certified Peers to deliver telehealth services, and allowing out of state licensed practitioners to provide care in New York.

New Yorkers enthusiastically embraced these telehealth innovations – not only because of the need to socially distance but also because telehealth made it easier to access high-quality care without the time and cost of traveling to a doctor. Nonetheless, many barriers to the widespread adoption of telehealth still remain or will remain after the COVID-19 executive orders expire including unfavorable reimbursement incentives, technical unease among both patients and providers, access to technology, and simple inertia. This budget action was based on the recommendations to advance a series of reforms to fortify and sustain telehealth as a high-quality, cost effective, and consumer-oriented form of care delivery. It could impact small businesses in that providers will have more flexibility in providing telehealth services.

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Agency: Department of Health

Program: Young Adult Special Populations Demonstration

2022 Budget: Effective August 17, 2021, through August 16, 2023, the FY 2022 Enacted Budget establishes a demonstration program for two eligible pediatric residential health care facilities (RHCFs) to construct a new facility or repurpose part of an existing facility to operate as a young adult residential health care facility for the purpose of improving the quality of care for young adults with medical fragility. The State is making an investment of $8.75 million State-share annually in FY 2022 and FY 2023 for this demonstration program.

The demonstration allows any child with medical fragility who has resided for at least 30 consecutive days in either of the two eligible pediatrics RHCFs and who has reached the age of 21 while a resident, may continue residing at such facility and receiving such services from the facility, provided that such young adult with medical fragility remains eligible for nursing home care, and provided further that the eligible pediatric RHCF has prepared, applied for, and submitted to the commissioner, a proposal for a new RHCF for the provision of extensive nursing, medical, psychological and counseling support services to young adults with medical fragility. A young adult facility may admit, from the community-at-large or upon referral from an unrelated facility, young adults with medical fragility who prior to reaching age 21 were children with medical fragility, and who are eligible for nursing home care and in need of extensive support services, provided that the young adult facility undertakes transitioning young adults with medical fragility from the pediatric residential health care facility or unit operated by the entity and ensures sufficient capacity to admit such young adults as they approach or attain 21 years of age.

For inpatient services provided to any young adults with medical fragility residing at any eligible pediatric RHCF or young adult facility, the operating component of rates of reimbursement will be the same as the methodology used to establish the operating component of the rates for pediatric RHCFs with an increase or decrease adjustment as appropriate to account for any discrete expenses associated with caring for young adults with medical fragility, including addressing their distinct needs as young adults for psychological and counseling support services.

Within one year of the expiration of the demonstration program, Department of Health (DOH) is required to submit a report to the governor and the legislature regarding the results of the demonstration program including a recommendation regarding the expansion of the demonstration program and other metrics to define the need for and cost of services for the population of young adults with medical fragility.

Summary: This initiative will create a young adult program in two NYS nursing homes. It will have an impact on small business by creating new jobs for individuals needed to provide care for the new young adult population.

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Agency: Department of Health

Program: Consumer Directed Personal Assistance Program

2021 Budget: N/A

2022 Budget: The FY 2022 Enacted Budget included additional selection criteria and requirements for awards under the Consumer Directed Personal Assistance Program (CDPAP) Fiscal Intermediary (FI) Request for Offers (RFO). These new criteria and requirements are as follows: county location; MWBE status; experience serving individuals with intellectual or developmental disabilities; experience serving racial, ethnic, and religious minorities; continuous operation since 2012; and not-for-profit status.

Summary: On December 18, 2019, the Department of Health (DOH) issued RFO #20039: New York State Fiscal Intermediaries (FI) for the Consumer Directed Personal Assistance Program. The RFO sought competitive responses from potentially qualified entities to enter into contracts with DOH to provide FI services under CDPAP for persons enrolled in fee for service Medicaid and the Medicaid managed care program. In February 2021, awards were announced for 68 qualified offerors, which enabled these entities to contract to serve as FIs across or in specific counties of New York State.

Following announcement of these awards, the FY 2022 Enacted Budget included new authority for DOH to make additional awards under the RFO, based on survey responses to certain additional criteria. This Survey and the resulting additional awards are a continuation of RFO #20039. These additional criteria are intended to ensure geographic coverage and service accessibility for individuals with disabilities and racial, ethnic and religious minorities. This budget action could impact small businesses by increasing the number of fiscal intermediaries allowed to operate in the State.

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Agency: Department of Health

Program: Medical Respite Pilot Programs

2021 Budget: The FY 2021 Enacted Budget authorized Department of Health (DOH) to establish three pilot programs, including a medical respite pilot program (with up to five pilot sites), in one or more counties or regions of the State for the purpose of promoting social determinant of health interventions.

2022 Budget: The FY 2022 Enacted Budget established the authority to develop medical respite pilot programs to provide care to homeless patients that are too sick to be in a traditional shelter, but not sick enough to warrant inpatient hospitalization.

Summary: Often, hospitals struggle to meet discharge needs of homeless patients, thus, homeless patients remain hospitalized for days longer than their housed counterparts. A study conducted in New York City documented homeless patients to have remained hospitalized 4.1 days beyond the date of readiness for discharge, compared to other low-income populations who are housed. On average, hospitalizations for homeless patients cost $2,559 more compared to patients who are housed. Research shows, this is largely due to increased number of days homeless patients remain in hospital even though no longer needing acute care services.

Medical respite programs provide care to homeless patients who are too sick to be on the streets or in a traditional shelter, but not sick enough to warrant inpatient hospitalization. They provide short-term residential care that allow homeless individuals the opportunity to rest in a safe environment while accessing on-site medical care and other supportive services. Medical respite programs are designed to improve the health of medically impacted homeless individuals while also decreasing costly hospital use. They also serve as a bridge to permanent supportive housing and reengagement in ongoing care. This initiative could impact small businesses in that these medical respite providers could qualify as small businesses.

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Agency: New York State Homes and Community Renewal, Office of Community Renewal, Governor's Office of Storm Recovery

Program: Hurricane Sandy Business Assistance Programs (Small Business Grant Program, Small Business Mentoring Program, Tourism and Marketing Program)

Summary:

New York State has allocated $120.27 million of the State's first and second allocations of supplemental federal Community Development Block Grant Disaster Recovery (CDBG-DR) for programs designed to assist in the recovery of small businesses impacted by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. As of Action Plan Amendment 25, approved by HUD on April 15, 2020, the Sandy Business Assistance Programs allocation was decreased by $4 million, to $120.27 million. The Small Business ($90.6 million allocation) and Business Mentoring programs ($298,735 allocation) are now closed to applicants, and the decrease in the allocations accounts for revised Program data and unmet need analysis based on actual eligible expenses and on data of Program applicants. These funds are slated to be reallocated to the NY Rising Homeowner and Rental Properties Programs as described in the Amendment.

- Small Business Recovery Grant Program: Provides grants to eligible storm-impacted businesses for working capital expenses, for the purchase or repair of damaged equipment, for the renovation of facilities that were damaged or destroyed, and to support mitigation efforts to protect the business from future storms. Grants of up to $50,000 are available to small businesses, as defined by the SBA, in one of the State's designated disaster areas (not including NYC). Businesses that have suffered physical damage and are at risk of closure or significant employment loss can have grants extended up to $250,000. Businesses must have suffered eligible uncompensated losses and/or incurred mitigation costs as a direct result of Superstorm Sandy, Hurricane Irene, or Tropical Storm Lee. The Program has been closed to applicants since May 1, 2015, and completed award determinations on all original applications as of the fall of 2016. All eligible future construction projects were completed as of December 1, 2018. As of July 2021, the Program has awarded 1,053 businesses a total of more than $52.9 million and has provided disbursements in the amount of approximately $54.4 million to 1056 businesses. Additionally, the Program has closed out 1,052, or 99.9% of the total Small Business Program applications.

    - Coastal Fishing Industry Businesses: Provides additional grant assistance of up to $50,000 to affected businesses or individuals qualified as a Coastal Fishing Industry that are eligible for assistance under the Small Business Recovery Grant Program. Businesses that are eligible for additional assistance under the Coastal Fishing Industry Program are not eligible for additional assistance under the Seasonal Tourism Industry Program.

    - Seasonal Tourism Industry Businesses: Provides additional grant assistance of up to $50,000 to eligible seasonal tourism businesses that are eligible for assistance under the Small Business Recovery Grant Program. Businesses that are eligible for additional assistance under the Seasonal Tourism Industry Program are not eligible for additional assistance under the Coastal Fishing Industry Program.

- Economic Hardship: Provides additional grant assistance of up to $50,000 for eligible small businesses that experienced documented losses of at least 30% in gross revenues in the year following the applicable storm.

- Mitigation: Provides additional grant assistance of up to $100,000 for eligible small businesses that experienced documented physical damage from any of the storms and requested assistance for activities that are determined to act as mitigation against future storm damage, such as elevating buildings or utilities above the projected flood level, or upgrading materials or otherwise flood-proofing building elements to better withstand future damage.

- Small Business Mentoring Program: Provides a web-based platform for small businesses to connect with larger, mentor businesses and/or business professionals. This $298,735 program was implemented by NY Empire State Development (ESD) to provide eligible technical or legal assistance and business coaching to assist businesses in rebuilding their businesses and become more resilient in the face of future disaster events. Consultants and business coaches were made available to small businesses, as defined by the SBA, to discuss business development and recovery issues. Although the use of Sandy CDBG-DR funding was terminated as of November 2015, ESD continues to operate the innovative Program independently, and as of August 2019, more than 7,123 small businesses and 1,668 mentors had participated, having held 4,249 engagements and providing one-on-one counsel and guidance for establishments in need.

- Tourism and Marketing Program: Provided up to $30 million in assistance to NY ESD to implement a tourism and marketing program designed to promote the storm-impacted areas of New York State.

Agency: Department of Labor

Program: Empire State Apprenticeship Tax Credit Program

2020-21 Budget: As of January 1, 2018, the Empire State Apprenticeship Tax Credit Program is providing up to $10 Million annually through 2022 to offer tax incentives to certified businesses for employing qualified apprentices in demand occupations or industries or regional growth sectors. These include, but are not limited to, those trades identified by the regional Economic Development Councils such as clean energy, healthcare, advanced manufacturing and conservation. Qualified apprentices must be employed full-time for at least six months of a calendar year and must have been enrolled as an apprentice on or after January 1, 2018.

Apprenticeship tax credits will be available for apprentices for up to five years with enhanced tax credits for disadvantaged youth aged 16-24 and additional tax credits for programs where apprentices are trained by a mentor for the full calendar year.

2021-22 Budget: As of January 1, 2018, the Empire State Apprenticeship Tax Credit Program is providing up to $10 Million annually through 2022 to offer tax incentives to certified businesses for employing qualified apprentices in demand occupations or industries or regional growth sectors. These include, but are not limited to, those trades identified by the regional Economic Development Councils such as clean energy, healthcare, advanced manufacturing, and conservation. Qualified apprentices must be employed full-time for at least six months of a calendar year and must have been enrolled as an apprentice on or after January 1, 2018. With the impact of COVID-19 on the economy, including small businesses, the Empire State Apprenticeship Tax Program offers incentives to aid businesses looking to rebuild their workforce again post-COVID. Also available is the Apprenticeship Expansion Grant-2 RFA which, when braided together with this tax credit, offers a significant incentive to businesses.

Summary: Saves New York businesses money: This program will make the tax credit available to businesses across the state as they train New York's future skilled workforce.

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Agency: Department of Labor

Program: New York Youth Jobs Program

2020-21 Budget: As of January 1, 2020, the available credit remains at $750 per month up to six months for eligible youth hired full-time with an additional $1,500 for retaining the youth an additional six months and another $1,500 for retaining the youth a second full year. For youth hired part-time, the available credit remains at $375 per month up to six months for with an additional $750 for retaining the youth an additional six months and another $750 for retaining the youth a second full year. Number of certified youth: 46,316.

2021-22 Budget: As of January 1, 2021, the available credit remains at $750 per month up to six months for eligible youth hired full-time with an additional $1,500 for retaining the youth an additional six months and another $1,500 for retaining the youth a second full year. For youth hired part-time, the available credit remains at $375 per month up to six months for with an additional $750 for retaining the youth an additional six months and another $750 for retaining the youth a second full year.

Summary: There are no changes to the current program.

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Agency: Department of Labor

Program: Existing Employee Training Program

2020-2021 Budget: Included in the Governor's new Consolidated Funding Application Workforce Development Initiative (CFA WDI), $10 million is available to provide occupational skills training courses for employed, existing workers seeking to enter or remain in middle-skill occupations with private for-profit or not-for-profit businesses, with two or more employees

2021-2022 Budget: Included in the Governor's Consolidated Funding Application Workforce Development Initiative (CFA WDI), up to $25 million is available for all CFA WDI programs on a first-come, first-serve basis. Program funds are available to provide occupational skills training courses for employed, existing workers seeking to enter or remain in middle-skill occupations at private for-profit or not-for-profit businesses with two or more full-time employees.

Summary: The Program saves New York businesses money: Supports training programs that meet the specific needs of business; helps current workers obtain the skills needed to meet the ever-evolving demands of business to retain employment or advance to higher positions within the company.

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Agency: Department of Labor

Program: Unemployed Worker Training Program

2020-2021 Budget: Renamed the Unemployed/Underemployed Worker Training program and included in the Governor's new Consolidated Funding Application Workforce Development Initiative (CFA WDI), $9 million is available to fund private for-profit or not-for-profit businesses; public and private not-for-profit businesses, Local Workforce Development Boards (LWDBs) or private for profit or not-for-profit training providers, with two or more employees. Participating entities will provide occupational skills training courses that will qualify unemployed and/or underemployed workers, with an emphasis on priority populations, to enter employment or obtain a higher level of employment.

2021-2022 Budget: Included in the Governor's Consolidated Funding Application Workforce Development Initiative (CFA WDI), up to $25 million is available for all CFA WDI programs on a first-come, first-serve basis. Program funds are available to fund private for-profit or not-for-profit businesses; municipalities; and educational institutions, including colleges and universities with two or more full-time employees. Participating entities will provide occupational skills training courses that will qualify unemployed and/or underemployed individuals, with an emphasis on priority populations, to enter employment or obtain a higher level of employment.

Summary: The Unemployed Worker Training (UWT) Program saves New York businesses money and develops a local talent pool with relevant occupational skills that provide a competitive advantage to businesses. Supports training programs that will address the insufficient supply of workers by providing the specific occupational skills and credentials needed by local businesses.

Priority Populations: With an emphasis on serving priority populations, UWT will provide additional points in scoring to proposals that seek to train at least 50% of their intended participants from one or more of the following categories: displaced homemakers, low income individuals, Native Americans, individuals with disabilities (including youth with disabilities and recovering drug addicts), older individuals, individuals currently and formerly involved in the justice system, homeless individuals or homeless youth, youth who are in or have aged out of the foster care system, individuals who are English language learners, individuals who have low levels of literacy, individuals facing substantial cultural barriers, migrant and seasonal farm workers, single parents (including single pregnant women), long term unemployed workers, Temporary Assistance and Needy Families (TANF) recipients, Supplemental Nutrition Assistance Program (SNAP) recipients, and veterans.

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Agency: Department of Labor

Program: Western NY Employment Strikeforce

2020-21 Budget: As of January 2020, there were 30,713 customers served by Western NY staff and 21,550 individuals have been placed into employment, a placement rate of 70%.

- Since, March 2016, there has been 218 hiring events in the region.

2021-22 Budget: As of July 2021, there were 35,904 customers served by Western NY staff and 25,658 individuals have been placed into employment, a placement rate of 71%.

- In March 2020, the Coronavirus Pandemic impacted the Program. In-person service delivery and hiring events were halted, and staff were re-deployed to assist NYSDOL's Unemployment Insurance Division with claims processing for a significant period of time. Subsequently, NYSDOL began implementing new virtual tools designed to remotely engage jobseekers and businesses with placement services, recruitment assistance, and hiring events and we look forward to serving Strikeforce customers with these new tools.

Summary: The WNY Strikeforce saves New York businesses time and money while providing a competitive advantage: The Strikeforce initiative will provide skilled jobseekers directly to hiring businesses.

- Outreach that engages members of the business community, identifies hiring businesses, develops job openings for Jobs Express and provides customized recruitment services that fill those openings with the initiative's customer's skill sets.
    - Daily outreach directly engaging businesses to connect Strikeforce customers to jobs.
    - Development of customized recruitments and job fairs: Coordinates and schedules events, posts all openings, works in conjunction with Career Center staff to ensure all openings are matched and qualified customers are referred.
    - Maintains communication with business customer and monitors matching and referral services of Career Center staff to ensure business satisfaction with quantity and quality of candidates referred.
    - Provides resumes of qualified applicants directly to hiring managers and advocates on behalf of customers with the business.

- Job placement services that match each unemployed customer to multiple job openings with the goal of job placement. Services include:
    - Work with community partners to identify customer base of jobseekers in need of assistance.
    - An initial assessment of a customer's knowledge, skills, abilities and work history.
    - A job search strategy with customer's unique employment needs in mind.
    - A job-search-ready resume.
    - Job leads and referrals to jobs.

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Program: Apprenticeship Expansion Grant (combined with the Middle Skills Jobs Gap Training Fund)

2020-2021 Budget: Continue the grant solicitation by making $2.3 million available to serve apprentices in Registered Apprenticeships (RA) in trades in high-demand occupations, with a focus on the emerging fields of Advanced Manufacturing, Healthcare, and Information Technology, as well as other in-demand occupations. RAs in the field of construction are not eligible for funding under this Request for Applications (RFA) unless the trade is to be used for the upkeep and maintenance of a facility owned by the business entity employing the apprentice. This funding will cover costs associated with training apprentices through RA, such as Related Instruction (RI), On-the-Job Training (OJT), books, and tools

20210-2022 Budget: With the impact of COVID-19 on the economy, including small businesses**,** continue the grant solicitation by making $0.7 million available to serve apprentices in RA in trades in high-demand occupations, with a focus on the emerging fields of Advanced Manufacturing, Healthcare, and Information Technology, as well as other in-demand occupations many of which have been hard hit by the COVID-19 pandemic. RAs in the field of construction are not eligible for funding under this RFA unless the trade is to be used for the upkeep and maintenance of a facility owned by the business entity employing the apprentice. This funding will cover costs associated with training apprentices through RA, such as RI, OJT, books, and tools. Also available is the Empire State Apprenticeship Tax Credit Program which, when braided together with the Apprenticeship Expansion grant, offers a significant incentive to businesses.

Summary: Saves New York businesses money while providing a competitive advantage: The Fund will ensure that New York has a pool of middle-skill workers available to meet the business needs specific to each region, and innovation-based businesses will continue to bring their employment opportunities to New York. This access to available talent will reduce recruitment costs for businesses, provide a competitive advantage and help to retain businesses in the state.

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Agency: Department of Labor

Program: Rebrand Career Centers

2020-21 Budget: Further branding in the Career Center System will continue as Centers are modernized.

2021-22 Budget: Not Applicable

Summary: Rebranding helps to unify the New York State Career Center system. The centers will be attractive and easily recognizable to businesses and as such, will aid in ease of use of the no-cost job posting services, recruitment assistance and human resource consultation services that are available.

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