Joint Legislative Public Hearing on 2017-2018 Executive Budget
Social Services
Wednesday, February 8, 2017

My name is Michelle Jackson, Deputy Director and General Counsel for the Human Services Council of New York; thank you for providing me this opportunity to testify.

HSC is a membership association comprising almost 200 of New York State's leading human services organizations – direct service providers as well as umbrella and advocacy groups. Our members are involved in such realms as early childhood education, youth development, health, mental health, employment and services to seniors and immigrants. To operate these programs, our members partner extensively with all levels of government and hold a significant number of contracts with the State.

HSC serves our membership as a convener, a coordinating body and an intermediary to government, and we focus on such matters as procurement practices, disaster preparedness and recovery, budgetary issues, and public policies that impact the sector. The human services sector employs 15 percent of New York's workforce and is a bridge to opportunity for so many New Yorkers. The State spends $10 billion dollars on 9,000 contracts with 5,000 nonprofits. The partnership between human services organizations and the State is vital to the economic health of New York.

New York State relies on nonprofits to deliver services that support the wellbeing of New Yorkers ranging from providing early childhood education to sheltering people experiencing homelessness. With nonprofit program budgets being slashed and a lack of investment in human services, programs cannot continue to operate at their current level.

HSC is a member of the Restore Opportunity Now Campaign, a statewide effort to bring together human services organizations from across New York State to demonstrate the need for crucial investments in the nonprofit sector. This campaign calls for increased investment and systems changes needed to ensure nonprofits can continue to effectively serve our communities. Over 350 organizations have signed on to the campaign, and the experience of providers across the State are remarkably similar; they operate on tight budgets to meet increased need and more and more their contracts with the State pay less of the services required. In New York City, 18 percent of human services providers are insolvent, and almost 60 percent do not expect to be able to meet the needs of their communities this year. The sector has been conveying the urgency of appropriately funding our workforce, contracts, and programs, but the FY18 Executive Budget does not lay out a plan to address the chronic underfunding of the sector.

The FY18 budget needs to include crucial investments in the nonprofit sector, including:

- Funding the recent minimum wage increase and exempt threshold increases for nonprofit human services workers;
- Reinstating the statutory cost-of-living adjustment for human services workers covered by State contracts;
- Funding the Nonprofit Infrastructure Capital Investment Program;
- Establishing and funding a minimum indirect cost rate of 15 percent for all contracts between government agencies and nonprofit service providers; and
- Providing funding to enable nonprofit human services providers that address social determinants of health to participate effectively in the value-based payment health care model.

The budget does include some investments designed to alleviate the financial stress of the middle class.[1] For example, extension of the Millionaires Tax, the groundbreaking proposal for free tuition at state colleges and universities, and the child care tax credit will have a substantial impact on working families that have faced stagnant wages for years. We also look forward to working with the State to address operational issues that impact nonprofits' business operations. HSC commends the Governor for these important commitments, but we believe that the Governor can—and must—do more to promote equitable development.

The Human Services Workforce

Conspicuously absent from the Executive Budget is any significant investment in the nonprofit human services workforce. There is no funding to enable nonprofit organizations that deliver services on behalf of government to comply with the newly increased minimum wage,[2] nor is there funding to help these service providers comply with the recently increased salary thresholds for overtime eligibility. Furthermore, the Executive Budget eliminates the planned 0.8 percent human services cost-of-living adjustment (COLA) and discontinues the "underutilized" COLA enacted in 2015 to certain direct care workers and direct service providers. This COLA was underutilized not for lack of need, but because the Department of Health and State Office for the Aging could not figure out how to administer it. It is

[1] The middle class tax cut, while important, is not new. It was enacted in last year's budget.
[2] Direct care: http://blog.timesunion.com/capitol/archives/271325/direct-care-group-decries-bupkis-budget-allocation/

disingenuous to label this COLA underutilized, and it is plainly insulting to celebrate the resulting "savings" of $4 million.

For a sector that has faced chronic underinvestment, skyrocketing demand, and a regulatory avalanche since the Great Recession, the lack of meaningful support in the FY 2018 budget will have dire consequences, including closure of longstanding organizations and reduction of critically needed services. The human services workforce is comprised mostly of people of color and is predominantly female. These workers, who were denied COLAs for six consecutive years, provide a wide range of services in diverse communities across the State, helping individuals and families live healthy, safe, productive lives. Raising the minimum wage and expanding overtime eligibility were the right things to do for workers, but when the government outsources work to human services organizations, it must ensure that those organizations can meet the new mandates without compromising their financial and operational integrity.

We appreciate that the State will work with nonprofit umbrella groups to develop models for a career ladder program for low-wage nonprofit workers, and we look forward to working with the Department of Labor on this initiative. We note, however, that until a reasonable *wage* ladder is established, there will be little incentives for skilled and experienced workers to remain in the nonprofit sector.

Nonprofit Infrastructure

In last year's budget, the Governor and the Legislature made an unprecedented investment in nonprofit infrastructure. The $100 million Nonprofit Infrastructure Capital Investment Program (NICIP) will enable 237 nonprofit human services providers across the State to repair, reinforce, expand, and update their physical and technological infrastructure. HSC is profoundly grateful for this history-making investment, and we are excited to see the funded projects come to fruition. We are also grateful to the Dormitory Authority for revising the eligibility requirements to allow more organizations to apply for funding. The need for capital funding far exceeds the initial $100 million appropriation, however. More than 600 organizations responded to the NICIP request for applications. Last year, we urged the Governor to expand the NICIP by making it an annually recurring investment. We echo that call this year.

Nonprofit Indirect Costs

For the past two years, HSC has advocated for full implementation of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards issued by the federal Office of Management and Budget ("Guidance") on December 26, 2013.[3] This Guidance requires that agencies receiving and redistributing federal funds to nonprofit organizations pay an indirect cost rate of no less than 10 percent on contracts supported by federal dollars. The State has indicated that it is carrying out a pilot program related to this

[3] 2 C.F.R. §§ 200.400-200.475. Available at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

mandate, but it has not released any details or updates regarding the program. Now, given the rapidly escalating cost of doing business and the long-term underinvestment in the nonprofit sector, we ask that the State adopt an across-the-board indirect cost reimbursement floor of 15 percent for all state-funded contracts.

Low indirect cost reimbursement rates have compromised the operation of human services organizations. Our members report receiving indirect cost rates as low as 2.3 percent,[4] which is unquestionably a factor contributing to the fragility of the sector. Stigma around indirect costs, along with the common misperception that philanthropy will cover these critical expenses, is crippling the sector. Without adequate indirect cost reimbursement, organizations cannot:

- Acquire, maintain, or modernize mission-critical facilities and equipment;
- Harness the power of technology to realize efficiencies;
- Provide training for staff to ensure high-quality service delivery;
- Pay living wages and provide career ladder opportunities to attract and retain qualified staff;
- Invest in strategic planning or innovation to ensure sustainability; or
- Expand services to meet growing need as inequality becomes amplified.

Research shows that funding these costs is absolutely necessary to strengthen the nonprofit human services sector.

Health Care Reform

The Executive Budget includes $334 million in continuing funding "to support critical health care providers through the State's Vital Access Provider program and Value Based Payment Quality Improvement (VBP QIP) programs." It provides no funding for the community-based organizations that will be indispensable in achieving better health outcomes at a lower cost. Human services organizations operate programs that address social determinants of health. A growing body of research shows that these determinants are key factors in the sustainability of positive health outcomes. Nonprofits will need financial support in order to make the transition to VBP. Specifically, they will need funding to:

- Conduct risk assessments;
- Demonstrate that their services have an impact on social determinants of health;
- Transition to a more entrepreneurial approach in which they can make value-based propositions;
- Make technology upgrades to comply with new information management requirements; and
- Invest in and use evaluation systems.

[4] On some contracts, indirect costs are not reimbursable at all.

There is an urgent need for training, technical assistance, and coordination among government, Managed Care Organizations (MCOs), Performing Provider Systems (PPSs), and human services organizations to ensure that the health-improving and cost-saving potential of VBP is realized. In addition, we echo Medicaid Matters' request that that the performing provider systems be required to invest in nonprofit community-based organizations and that the State press CMS to allow for reallocation of unspent funds. Without adequate support, nonprofits will not be able to function in a value-based payment environment.

We hope that State legislators will recognize that nonprofit human services providers are integral to the strength of our communities, in achieving equity, and in building the economy. We look forward to working with the State during this legislative session to ensure smart, equitable investment in this important sector for the benefit of all New Yorkers.

Thank you for the opportunity to testify.

Michelle Jackson
Deputy Director & General Counsel
Human Services Council of New York
130 East 59th Street, NY, NY 10022
Phone: (212) 836-1588
jacksonm@humanservicescouncil.org
www.humanservicescouncil.org