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Testimony of the New York State Association of Health Care Providers, Inc.
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Committee Chairs Senators Rachel May, Gustavo Rivera and Jessica Ramos Presiding
Public Hearing Homecare Workforce – Challenges and Solutions
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Presented by Kathy Febraio, CAE
President and CEO

Introduction

On behalf of the New York State Association of Health Care Providers, Inc. (HCP), which represents the spectrum of home care providers across New York State, thank you for holding this hearing and for your efforts to address the workforce crisis faced by the home care system. I am Kathy Febraio, HCP's President and CEO. The home care sector employs hundreds of thousands of home care workers in New York State. Workforce issues and concerns related to them are not new to home care providers. These issues have become more acute due to a number of factors, including COVID-19, the high incidence of unemployment, inadequate reimbursement rates, lack of rate transparency, unreimbursed training costs and personal protective equipment expenses, and the list goes on.

According to the United States Department of Labor, the growth in the need for home care workers is projected to grow significantly in the coming years. Tools are needed to significantly increase home care worker recruitment and retention.

HCP and its members are so pleased that you are holding this hearing. Given this year's significant investment of Federal Medical Assistance Program (FMAP) funding, New York policymakers have the once-in-a-generation opportunity to make significant improvements to the state's home care delivery system. I note that several other states have increased reimbursement rates for home care providers even before the additional FMAP funds were a reality. These states recognized the added provider expenses due to COVID-19. Unfortunately, New York has not taken any such steps to assist home care providers nor the workers they employ.

As we sit here today, it is welcome news to the home care industry that the Biden administration has made investing in home and community-based services (HCBS) a core value of its infrastructure plan.

HCP makes the following recommendations with respect to recruiting and retaining home care's vitally essential work force.

DOH Initial Spending Plan for HCBS

In the Department of Health's (DOH/the Department) initial spending plan for implementation of the American Rescue Plan Act (the Act) which provided additional support for Medicaid HCBS, DOH included proposals targeted to the home care workforce among its home care-related proposals. In particular, the initial spending plan included proposals to: 1) transform the Long-Term Care Workforce and Achieve Value-Based Payment (VBP) Readiness and 2) provide a Home Care Workforce Transportation Incentive.

HCP is aware that many legislators, led by Senator May and Assemblymember Gottfried and including those participating today, have urged DOH to use the additional FMAP funding to increase wages for the home care workforce. HCP strongly agrees that increasing the pay for home care workers is of the utmost importance. Moreover, having the fiscal means to do so because of the additional funds provided to the state by the Act, makes this a tempting option. Nobody knows more than home care providers that these vitally essential workers deserve more--more pay, more respect from society. Providers value their workers, patients value their workers, it's time that the state's Medicaid system stops undervaluing these workers.

Of grave concern regarding increasing wages with this FMAP money is that there is no certainty that these increased federal funds will be available in future budget years. This will create a wage cliff that the State will not likely be able to afford, creating the untenable situation where providers will be unable in the future to pay these enhanced wages. Such a dynamic is certain to create more disturbance in the home care workforce at a time when the need for care will be on a growth trajectory.

Reflecting on the home care provider experience of the last several state fiscal years, you'll see that funding has been cut, expenses have increased and policy initiatives have sought to contract the home care system rather than expand it. Therefore, HCP has some difficulty pinning the sustainability of increased wages on the hope of future federal funds.

HCP recommends that the increased federal funds be used to ensure flexibility to meet the unique needs of all providers and the needs of their workforce across the state. Moreover, HCP recommends that the funds be provided to home care agencies via a direct or directed payment mechanism to ensure that the maximum amount of funds are made available to workers.

Examples of such uses are:

1) to allow home care agencies to pay recruited workers a bonus for their time during the initial aide training. This time is not currently reimbursed by the state, making it nearly impossible to pay for new hires' time in the initial training program;
2) to allow home care agencies to pay hazard pay bonuses for aides that worked during the pandemic and continue to do so,
3) to allow home care agencies to pay retention bonuses to recognize their workers' commitment to their home care patients, and
4) to allow home care agencies to invest in proven strategies like HCP's Creating a Legacy of Care Mentorship Program©, which has shown great promise in increasing retention rates among agencies that participated in the program.

Whatever steps are taken to enhance pay for home care workers, it is monumentally important to ensure that licensed home care services agencies are provided sufficient reimbursement to cover not just the increased wages, but the increase in wage-related costs, including taxes, unemployment, workers' compensation, PPE.

Fair Pay Proposal

During this most recent budget season, HCP was proud to join with other stakeholders, Senator May and Assemblymember Gottfried in support of the Fair Pay for Home Care Workers Act. HCP and its members are so grateful to the bill's sponsors for their efforts to craft a proposal establishing a fair wage for home care workers while addressing the struggles that home care agencies experience with grossly inadequate reimbursement rates from managed long term care (MLTC) companies.

During budget discussions HCP and other stakeholders made clear, and we reemphasize this in the strongest terms possible today, that any such proposal to increase wages must include minimum hourly reimbursement rates that include wages, benefits and provider costs.

These recommendations include:

- At a minimum, separate minimum hourly reimbursement rates must be established in statute for the following geographic regions: New York City; Nassau, Suffolk, and Westchester; Rest of the State.
- Regional base hourly minimum reimbursement rates would be effective with the Fair Pay wage increase and adjusted annually by DOH based on cost report data to reflect costs or additional requirements.
- Minimum hourly rates must reflect regional costs for:
    - direct service, inclusive of overtime, all benefits, and payroll taxes, including but not limited to FICA, Medicare, FUTA, SUI, Disability, Workers' Compensation, MTA Tax, and related increases tied to base wages;

- reasonable administrative costs for LHCSAs and the per member per month for FIs;
- development of profits or reserves as allowable by law or regulations of the Commissioner;
- allowances for capital costs; and
- any additional supplemental payments such as a rural rate add-on, transportation expenses, and wage parity in wage parity regions.

These inclusions guarantee adequate reimbursement to employers to cover the living wage and its associated costs. State payments to MLTCs and in turn, MLTC payments to providers must be wholly transparent to ensure efficient, fair use of taxpayer money.

Creating a Legacy of Care© Mentorship Program

Another very promising solution to home care workforce recruitment and retention is our Creating a Legacy of Care© Mentorship Program. HCP, along with its affiliate, Community Health Care Services Foundation, Inc. (CHC) implemented a peer-to-peer mentoring program pilot at several home care agencies throughout New York state. The pilot program began on June 1, 2020 and concluded on May 31, 2021.

The peer-to-peer mentoring program was designed to promote personal and professional growth opportunities by partnering experienced caregivers who want to share their knowledge and skills with newly hired caregivers. The goal was to decrease caregiver turnover rates in the first 90 days of employment—the time frame with the highest level of turnover in home care.

Key Findings

The pilot program found that caregiver turnover rates of employment (pilot vs. non-pilot agencies) show that non-pilot agencies, those without mentorship programs, had a **170% higher caregiver turnover rate** in the first 90 days of employment as compared with pilot agencies during the research period.

What Does This Mean?

This program shines a bright light on a recruitment and retention tool that proves mentorship makes a difference for the dedicated and compassionate workers in the home care system.

The Creating a Legacy of Care© Mentorship Program increases caregiver satisfaction. The mentorship program improved the cohesiveness between the home office and the aides, as well as improved the connections among and between home care workers who often feel isolated in their work.

HCP is pleased to share with you the results of the program via the following link: Creating a Legacy of Care Mentorship© Program.

Federal Activity

In addition to these recommendations, HCP is working with the New York Congressional Delegation and national associations to advocate for a permanent investment in HCBS and other tools that help provide long term care to an aging population. We urge members of the New York State legislature to work on these measures with your colleagues in Washington, D.C.

Well-Being Insurance for Seniors to be at Home (*WISH*) *Act*, H.R. 4289

The WISH Act would make long-term care insurance more readily available to consumers.

The Better Care Better Jobs Act, S. 2210

The Better Care, Better Jobs Act would implement President Biden's proposal to enhance HCBS via workforce investment. While there are some areas that need to be better understood, this bill provides a good framework for sustained investment in HCBS.

One-pager
House Bill
Senate Background

Other Obstacles for Home Care Providers

I would be remiss if I did not call attention to some of the other significant policy initiatives that are impacting home care today. HCP repeats, as it has during all of its advocacy this year, that home care providers were experiencing significant fiscal stress leading up to the COVID crisis. Given this fragile condition pre-COVID, we expect the current and future economic impact of the COVID-19 pandemic on the home care industry to be increasingly debilitating without serious fiscal and policy support from policy makers.

Safety-Net Benefit Needs of Home Care Workers

An additional situation facing home care workers and the agencies employing them, is that in many cases workers themselves are recipients of Medicaid benefits. This can have the effect of limiting the income a home care worker can earn in order to maintain his or her Medicaid benefits. This is an important symptom of a problem facing New York and its home care system, especially as it relates to increasing wages.

In this circumstance, when wages are increased it can have the effect of home care workers decreasing the hours they work in order for them to maintain their own eligibility for Medicaid and other safety net benefits. This in turn results in the need for additional workers at a time when the system is facing a recruitment and retention crisis.

This is not to say that home care workers should not be paid well. Quite the opposite. This means that policy makers must take a comprehensive look at the home care, Medicaid, state safety net benefits, appropriate reimbursement rates rather than looking at each in isolation.

CDPAP RFO

As we sit here today, home care agencies are grappling with the fallout of the long-awaited, and inexplicably often delayed, Department of Health announcement of contract awards for Fiscal Intermediaries (FI) working in the Consumer Directed Personal Assistance Program (CDPAP).

HCP has continually urged the Department to delay any action until after the pandemic has resolved. Doing so would humanely provide certainty and stability for consumers, their families, personal assistants and providers. A decision was expected to be announced on July 1, 2020. However, the Department delayed the announcement. Then alarmingly and without notice, DOH announced its decision on February 11, 2021. Since then, during this year's budget the legislature reopened the contracting process because it was dissatisfied with the results. The process continues today with no certainty nor end in sight.

This seemingly uncoordinated, opaque, piece-meal policy-making negatively affects untold numbers of consumers, personal assistants, and Fiscal Intermediaries, further fueling a crisis of the Department's own making. These policies leave the industry facing continued uncertainty and instability at a time when it can least be afforded!

LHCSA RFO

Not unlike the CDPAP RFO, last year's budget authorized the Department of Health to launch a LHCSA RFO process. It is important to point out that such a process was scored in the budget as saving the state nothing.

The doubts, instability and uncertainty experienced throughout the CDPAP RFO process discussed above, is the strongest predicter and source of concern about what a LHCSA RFO process will be. That is to say, not good. HCP in the strongest terms possible urges the repeal of the LHCSA RFO process from statute.

Even ignoring what providers have been facing over the past year, it makes little sense to pursue a LHCSA RFO process. LHCSAs must be licensed by the Department of Health before serving patients and are highly regulated. If the Department is intent on consolidating the LHCSA marketplace it must announce a clear procedure for that to happen. Instead, the Department has prevented consolidation by taking inconsistent approaches with respect to how providers can merge with or acquire other agencies.

Moreover, the Department has at its disposal a trove of data from Cost Reports, Statistical Reports, LHCSA registrations, and provider compliance surveys to make decisions about responsible and efficient home care providers. Using this data is likely a fairer and more objective way to determine which providers should continue as Medicaid participants. In comparison, they are embarking on yet another application process which will create more havoc and uncertainty in an already under resourced and overburdened industry.

These issues, and others like them, continue to put undue stress and hardship on the state's home care providers. It is evident that it is the State's unspoken goal to dismantle the home care industry in its entirety. This is truly unfortunate, because HCP is willing and able to engage in conversation, but has not been met with any meaningful, effective opportunity to do so.

At this moment in history, home care is there. It is focused on providing care to those it serves while navigating COVID concerns. At a time when Washington policy makers are looking to expand and bolster the home care system, we call on New York to take the opportunity to lead the nation in this regard.

HCP urges the legislature to join us in working to stop such a dismantling of this severely under resourced, but sorely needed industry.

Conclusion

Our members could not be prouder of the work they and their staff do on a daily basis to help our frail, elderly and disabled citizens.

Home Care and those who depend on it cannot, should not, and will not be overlooked.

The time is long past due to invest in, bolster and plan for the future of home care in New York. Now is the time to match the efforts happening in Washington, D.C., not the time to add more upheaval and uncertainty to the home care industry, as the state is on a course to do with ambiguous policy changes and regulations.

Individuals with disabilities, those with chronic illness and the elderly want access to be cared for in their homes. Many of the difficulties experienced by home care agencies cannot be resolved without State investment to address critical work force issues. Moreover, investments in home care must include meaningful and demonstrable steps to show this essential workforce how very valuable it is.

One thing is clear: home care is the setting of choice for those needing services. COVID has shown this more acutely with residents in congregate care settings leaving to go home or wishing to do so, if only they had the appropriate resources to provide the support of the home care industry. Data from certain counties indicates that the COVID mortality rate for home care recipients is a small fraction of what it is for nursing homes, or even private residences, and less than half of what it is for assisted living facilities. Patients do better at home.

The home care industry is continually asked to reinvent itself without the benefit of consultation by, or knowing the goals of, the State. It is troubling that no conclusive results from past policies have been released publicly or shared with the industry, yet new policies continue to be imposed that have great potential to harm the industry and reduce access to crucial care New Yorkers need.

HCP emphasizes that home care providers have not had an increase in their basic costs or a trend factor in ten years or more. Reimbursement rates for the living wage and minimum wage increases do not cover all of the expenses of paying for these mandatory labor costs. The industry is financially unsustainable without State measures to preserve it.

Rather than developing and implementing policies that create obstacles and restrict access to home care, state policymakers charting a course for the future of long-term care in New York must feature home care prominently as the crown jewel of such a system.

HCP recommends a comprehensive look at issues related to providing a career path for home care aides, while at the same time providing enhanced reimbursement for home care worker advancement, longevity, and training. The State might also examine how comprehensive immigration reform would impact and may benefit the home care system.

Thank you for this opportunity to comment on the state of home care. HCP looks forward to working with the State Legislature to address the critical needs of the home care industry across the State, in order to ensure access to high quality home care services.

New York has a once- in-a-generation opportunity to invest in home care. This investment must be fair, transparent, and focused on the workers who are the foundation of the home care system.