NY Coalition of Downstate
Union Home Care Agencies

Testimony Presented before the Joint Public Hearing: Nursing Home, Assisted Living, and Homecare Workforce – Challenges and Solutions

Tuesday, July 27, 2021

The NY Coalition of Downstate Union Home Health Agencies is comprised of six of the largest Licensed Home Care Service Agencies (LHCSAs) serving New York City and its suburbs that employ union-represented home health aides: Premier Home Health Care Services, Inc., People Care, Cooperative Home Care Associates, VNSNY Partners in Care, Bestcare, & AccentCare of New York. Together, we care for tens of thousands frail and medically compromised Medicaid beneficiaries in the five boroughs and surrounding counties, and we employ tens of thousands of home health aides who are members of SEIU 1199.

We invest in training, technology and career growth for our essential home health workforce to ensure our patients receive the highest quality care, support State policy efforts to promote patient-centeredness and systemic sustainability, and endeavor to collaborate regularly with our union partners on issues and initiatives that impact our workforce.

We offer testimony today to provide perspective on the workforce challenges faced by downstate LHCSAs – as well as suggestions to address those challenges.

Without question, home care workers are the backbone of this health care sector—they are the eyes, ears and hands in the home and contribute significantly to controlling health care costs and improving the quality of patients' lives.

- Home care saves the health care system by keeping people stable for longer.
- Home care saves the health care system by keeping people out of higher cost congregate care settings. Home care saves the health care system by preventing avoidable hospitalizations and Emergency Department visits.
- Home care delivers high quality care to all ages but plays a particularly significant role in caring for seniors and those with disabilities.
- Home care workers and the agencies that employ them are critical contributors to the health care system.

But now, the home care sector faces a workforce and infrastructure crisis—a dual crisis due largely to lack of public investment. Even before the pandemic, the home care sector's ability to engage in innovative efforts was challenged by well-intentioned, but unfunded, mandates and chronic rate reductions.

Given the realities of changing demographics resulting in an increasing need for long term care service options, and a post-pandemic desire for access to home care rather than congregate care settings, it is imperative that State and Federal governments commit to making investments in this sector and supporting the home care workforce.

Significant Issues Confronting Downstate LHCSAs

A Major Home Care Workforce Shortage.

The home care workforce shortage has been a systemic challenge well before the Covid-19 pandemic began. Workforce shortages have been growing for many years and while the increase in minimum wage has led to raises for home care workers, in some areas of the State, the wages do not keep up with other sectors and contribute to difficulties recruiting and retaining an adequate home care workforce. In the downstate region, worker wage parity has never been fully funded and we have not consistently been reimbursed for recent minimum wage increases.

The workforce shortage has been further exacerbated by the pandemic. At the height of the pandemic, thousands upon thousands of home health aides left the workforce. Some were unable to work for periods of time as a result of covid-19 protocols and others chose to leave the workplace to care for and/or protect themselves and families. Generous unemployment insurance and sick pay benefits helped make these decisions possible, and it was important that those options were available. But, those variables also created intense home care workforce and financial challenges that have not been addressed and continue today.

Providers still have hundreds of home care workers on unemployment and others have left the industry for other settings. New York offered no funding to support pandemic-related costs. Covid sick pay, overtime, and PPE costs totaled in the millions. Now, as the demand for workers grows, there are no financial resources to bring people back into the system.

Workforce challenges will only continue to grow every year. The research and data that many providing testimony today are sharing, demonstrate the demand and need for services will far exceed our current and future workforce capabilities. It will require significant creativity to recruit and retain home care workers, but creative solutions will not work unless there are real, lasting and sustainable financial investments into supporting home care workers, their employers, and recipients of long term care services.

Financially Unstable throughout the Home Care Industry

By and large, the home care industry entered the pandemic financially unstable with an ever-growing list of underfunded mandates and reductions in overall Medicaid funding for long term care services. The New York State Medicaid Program has not sufficiently accounted for home care costs when setting rates for Managed Long Term Care Plans (MLTCs) and in turn, MLTCs do not reimburse LHCSAs sufficiently to cover their costs, let alone investments into the workforce and service delivery enhancements to implement emerging best practices and quality initiatives.

The problem has worsened in recent years as NYS has cut spending on managed long-term care services but costs, including annual minimum wage adjustments and related costs, have increased. Additionally, the home care sector has not received any trend factor increases or administrative cost adjustments to address rising base costs that occur in every sector of the economy. The result has been major financial losses and instability in the home care sector just as demand and need is growing.

It will likely come as no surprise, that this general instability was further exacerbated by the Covid-19 pandemic and myriad variables that LHCSAs had to contend with and are still addressing, including the cost of PPE, overtime, Covid sick pay, technology, training, vaccines, and countless others. Keeping the workforce and patients safe was and continues to be the absolute priority, but there have and continue to be costs to making that happen. New York State has provided no funding to LHCSAs, either directly or through MLTCs, to support the provider community in these efforts. New York differs significantly in this regard with other states, which provided support for many of these costs and added funding to rates to support wage increases for home care aides during the pandemic.

The State's home care infrastructure – a system designed to keep individuals out of congregate settings – has been neglected and is fraying as a result of all of the above. The home care sector needs your help to make sure that we can attract and support a workforce to meet the growing need for services.

Foundational Elements to Any Workforce Solution

To that end, we are grateful to the Legislature for its leadership in proposing solutions to address these critical issues and working collaboratively to identify ways to solve the home care workforce challenges and support the provider community.

Early this year, the Legislature considered legislation to establish Fair Pay for Home Care and lengthy budget discussions about increasing home care worker wages. Our group is supportive of increasing wages, other funding mechanisms to increase the amount of pay home care workers take home (bonuses, recruitment incentives), and fair reimbursement for home care providers. We joined with other like-minded organizations to support key provisions of the Fair Pay for Home Care Act, provided it was fully funded and protected LHCSAs and FIs from financial losses, and believe the best way to accomplish this is via development of regional base rates.

The following outlines additional provisions necessary to implement the wage increase successfully by ensuring adequate funding flows to LHCSAs and FIs that employ or facilitate employment of home care workers. These provisions reflect necessary concepts that were included in the Fair Pay for Home Care legislation (S. 5374-May/A. 6329-Gottfried.

- **Minimum hourly reimbursement rates that include wages, benefits and provider costs:** For Medicaid and other State-funded programs, regional minimum rates of reimbursement must be established and adjusted annually to reflect costs. Annual adjustments would be based on information gathered from provider cost reports, statistical reports and other industry stakeholder input.

- **Rates must reflect costs in the region and cover the cost of employing home care workers and operating a LHCSA in New York, including:**

    - direct service, inclusive of overtime, all benefits, and payroll taxes, including but not limited to FICA, Medicare, FUTA, SUI, Disability, WC, 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.

- **Minimum reimbursement for all payers:** MMC, MLTC, and other State Programs that offer like services should utilize the applicable minimum base reimbursement rate and for non-State funded services (such as Medicare home health care and hospice), the Fair Pay for Home Care Fund should be established as an annual budget line and available to providers to support unreimbursed expenses related to such wage and benefit increases. NYS should take all necessary steps to require (where it has authority) or advise (where it does not) non-state payers of home care services to pay the minimum base reimbursement rate.

- **Actuarily sound managed care rates that fully fund minimum reimbursement rates:** Premium rates for Medicaid managed care, MLTC, and all other Medicaid managed care products should fully account for the cost of minimum hourly rates.

- **Federal approval:** The State Department of Health should submit any and all necessary requests for waivers and approvals to the U.S. Centers for Medicare and Medicaid Services to secure approval to establish base rates and make State-directed payments to providers for the purposes of supporting adequate minimum base wage and increases.

- **Wage compliance:** Providers should continue to submit attestations that they remain in compliance with WWP, minimum wage laws under Fair Pay for Home Care, and other wage and hour laws.

- **Continuation of important home care investments:** Healthcare workforce recruitment and retention, Quality Incentive Vital Access Provider Program (QIVAPP), quality incentives, and other quality and value-based purchasing initiatives should continue to be funded to support ongoing policy initiatives.

For decades, home care reimbursement was based on a cost-based reimbursement system that sought to fairly cover administrative costs and recognize increasing costs through trend factors. While not perfect, it was a system that recognized that there are costs inherent in paying people and that as wages increased, costs increased for payroll taxes, insurances, in-service hours, travel time, overtime, holiday pay, spread of hours pay, etc.—and rates reflected those expenses.

Since the transition to MLTC, home care rates are now set/negotiated with MLTCs and they have not kept pace with increasing costs—most of them labor expenses. As home care agencies, we fully recognize the value of our workforce and the need for their compensation to increase, but currently, it is a struggle to secure rates to cover statutory minimum wage increases, let alone compensation for holiday pay or other workforce costs. Pandemic related costs as basic as PPE have not been addressed. It is critical that all of these dynamics be taken into consideration when attempting to raise worker wages. A minimum base rate set with cost report data is a good place to start.

Funding Must Remain the Focus

There are myriad other approaches to improving aspects of home care workforce recruitment and retention challenges, including training flexibility, social determinant supports for workers, positive recognition, and enhanced training and career ladders, among other things. Our agencies have invested in some of these approaches and continue to look for other solutions. In the end, however, the real investment that must be made to stabilize the home care sector, ensure access to quality services, and recruit additional workers is a sustained financial commitment to increasing wages and benefits and ensuring that the funding covers costs and seamlessly makes it the worker. The State Legislature and Executive must decide how much of an investment the State will make to address the home care workforce challenges and how accessible the State wants to make home care services to its citizens.

Fortunately, thanks to the Biden Administration and Congress, we now have a major opportunity to secure long-term Federal funding to support our home care workforce and the overall system. The American Rescue Plan provisions that increase HCBS Federal matching funds for HCBS Medicaid spending by 10% are expected to generate between $2.2 and $5.4 billion over the next two years. Unfortunately – even if invested wisely – these dollars will only provide temporary financial support to our workforce. We will be supporting efforts in Congress to include and fully funds the Better Care Better Jobs Act, which will provide ongoing HCBS Medicaid funding specifically to boost worker wages and support the provider community.

We appreciate the opportunity to testify today and are available to try to answer any questions you may have.