



1 Van Tromp Street, Albany, NY 12207
Phone: (607) 329-0507
Website: www.alliance-nys.org
Email: tallen@alliance-nys.org

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Written Testimony for Legislative Hearing on the Governor's Budget Proposal.

The Alliance of Traumatic Brain Injury (TBI) and Nursing Home Diversion and Transition (NHTD) Waiver Providers represents providers authorized by the State and federal government to provide home and community-based services under 1915(c) waiver programs. These programs serve highly vulnerable people in the community, allowing them to stay in the community, where they would otherwise be relegated to institutional settings. Between the two programs, we serve about 6,000 people across New York State. Like other home and community-based services providers, the Alliance members are living the crisis in home care, watching many of their staff flee the workforce for better paying jobs, struggling to meet the needs of remaining staff and the consumers they serve, and all with dwindling funding worsened by the pandemic. While the waiver services are provided in Medicaid fee-for-service, many of the Alliance members have licensed home care service agencies and/or fiscal intermediaries as complementary lines of business that support the overall business model of waiver providers.

We want to thank the Committee members for the opportunity to share our views on the Governor's proposed budget.

While this year's proposed budget makes investments in Medicaid in a few areas, such as rate increases in some areas, we are concerned that several proposals in Governor Hochul's Executive Budget will dramatically exacerbate the home care crisis. These proposals include:

The Governor's Education Labor and Family Assistance (ELFA) Article VII bill proposes to de-link from the state minimum wage the base wage for home care workers and personal care aides. For two years, the Legislature fought tirelessly in support of the home care workforce to ensure that the skills, experience, and dedication of home care aides was recognized as being deserving of pay above the minimum wage. Last year, the Legislature and the Governor agreed to raise the base wage of home care and personal care aides to \$3 above the minimum wage. The agreement was that if the state minimum wage increases, the mandatory base wage increase for home care and personal care aides would remain \$3 above that. Less than nine months after agreeing to that, Governor Hochul wants to go back on her promise to this workforce and the Legislature.

Instead, we support the inclusion of Fair Pay for Home Care in the Assembly's One-House HMM Article VII bill to ensure that providers receive adequate funding levels to pay mandated rates. While the increase in the base wage for home care workers was an important first step, it only accomplished a piece of "Fair Pay for Home Care." The Fair Pay for Home Care bill would not only address base wages for the home care workforce, but -- **critically** -- it would establish a clear process for plans to pay providers for mandated costs.

As background, when the first \$2 of the base wage increase became effective on October 1, 2022, the workers received that increase from their employing agencies. Most agencies, however, did not receive amendments to their managed care contracts to cover these new costs. Eventually, some plans did provide adequate reimbursement, but a significant number have not. This has left the employing agencies even more fiscally compromised than they were. *It is impossible to overstate how critical it is to achieve an operational fix to this reimbursement mechanism in this budget.*

We also oppose the efforts to limit the number of licensed home care service agencies. The Governor included language to require Medicaid managed long term care plans to have more accountability and higher performance levels or risk having to participate in a competitive procurement to continue to operate in this state. While the Alliance is in favor of this, we do take issue with one element the Governor offered to demonstrate whether the MLTC is “high performing” is whether the MLTC contracts with as few LCHSAs and fiscal intermediaries as possible serving the highest number of members. This is an arbitrary measurement, is unconnected to quality, and could needlessly disincent contracting with agencies providing culturally appropriate or specialized care to certain sub-populations.

Lastly, we disagree with the proposals that would undo years of negotiated agreement with the Legislature regarding the consumer directed personal assistance services (CDPAS) program and fiscal intermediaries (Part I, Secs 7-12). Starting with Governor Cuomo’s administration there have been multiple efforts to restructure the CDPAS program, all of which the Legislature has expended considerable effort – as recently as last session – to moderating those efforts. Notwithstanding that, there was agreement between the Legislature and Governor less than a year ago to limit the impact of DOH’s fiscal intermediary procurement, the Governor now proposes to completely upend that agreement and put all decision-making authority about RFA awards in the hands of DOH – with no process or criteria provided.

Respectfully submitted,

Traci Allen

Traci Allen
Executive Director