

February 4, 2022

## **Testimony to the Joint Legislative Health Budget Hearing on the 2022-23 Executive Budget proposal**

Thank you for the opportunity to provide testimony on behalf of the New York Association on Independent Living (NYAIL). NYAIL leads Independent Living Center (ILC) efforts to eliminate physical and attitudinal barriers to all aspects of life and to fight for the civil rights and full independence of all people with disabilities. ILCs help people with disabilities to navigate the complex service systems and connect individuals to services that will assist them in living independently in the community. NYAIL and the network of Independent Living Centers are at the frontlines, assisting people to live at home as independently as possible with appropriate supports and services. At the statewide level, NYAIL coordinates the Money Follows the Person-funded Open Doors Transition Center, which staffs transition specialists in ILCs across the State to assist people to transition back into the community.

This is now the second budget since the beginning of the pandemic which tragically took the lives of over 15,000 people living in nursing homes and other congregate care settings. Yet, little has been done to date to ensure all people are able to access the services they need to live in the community and stay out of unsafe institutions. The proposed Executive Budget fails to meet the moment and include a plan that will achieve this important aim. Investing in the below priorities is essential to strengthen the home care workforce and ensure people can access the supports and services they need to live in the community. We urge the Legislature to act in the 2022-23 budget as outlined below toward the full integration of New Yorkers with disabilities.

- **Address the home care crisis by increasing wages for home care workers to 150% of the State's minimum wage, as outlined in the Fair Pay for Home Care Act.**

New York State has a worst-in-the-nation home care crisis with acute shortages of vital workers in every county in the State. Open Doors staff have affirmed at this point, The home care crisis is by far the primary barrier to transitioning people from nursing homes back into the community.

The State has an obligation under the Supreme Court decision, *Olmstead V. L.C.*, to provide disabled people with supports and services in the most integrated setting, their home communities. Yet the lack of available home care means that the State is failing to live up to their responsibility and seniors and disabled people are going without critical care. A 2021 report by the Consumer Directed Personal Assistance Association of New York State (CDPAANYS) found that more than half of the

consumers whose workers quit cited low pay as the given reason, and 35% lost staff they are unable to replace since the beginning of the COVID-19 pandemic. These findings demonstrate the State's policy of paying home care workers poverty wages has destroyed the home care sector and is preventing people from accessing the long-term supports & services (LTSS) the State is obligated to provide. New York has a legal and moral obligation to address this crisis.

The home care crisis is primarily due to falling wages and disparate treatment of women and people of color who comprise most of the home care workers. In 2006, home care workers earned 150% of minimum wage, a time when people were more readily able to access the hours they were approved for. Yet, these wages remained stagnant while wages increased in other sectors. Now, home care workers earn less than they could working in a fast-food restaurant, which is exacerbating this crisis. Currently, the median wage for home care workers in New York State is just under \$15 per hour, nearly half (49%) of this workforce lives in or near poverty, and more than half (57%) rely on public assistance to make ends meet. Fair Pay for Home Care would effectively address this crisis, ensuring seniors and people with disabilities are able to obtain home care, while the (mostly) women of color who provide their services can get paid a living wage, raising them out of poverty and off public assistance.

Governor Hochul outlined a plan to rebuild and grow the health care workforce by 20% over the next five years with a program designed to strengthen home care, improve the career pipeline, and recruit healthcare workers, among other things. Yet, we do not see evidence of a five-year plan to address the home care crisis and what is proposed is insufficient. Worker bonuses and a modest Medicaid rate increase is welcome, but permanent wage increases are critical to address the home care crisis.

- **Bonuses for home care workers** – The proposed Executive Budget allocates the Federal funding earmarked for expanding and strengthening Home and Community-Based Services (HCBS) by funding one-time bonuses for workers. Home care workers certainly deserve a bonus, particularly as they worked through the pandemic while being underpaid and kept many safe in the process. Yet, bonuses alone will do little to address the home care crisis. The structure of these bonuses means that not everyone who provides home care will receive a bonus since you must work at least 20 hours to receive anything and must work full time to receive the full \$3,000. These bonuses do not come close to giving these workers what they both need and deserve for their hard work and dedication.

Further, even the full \$3,000 bonuses when annualized still fails to bring salaries for these workers up to \$15 an hour. In addition, these bonuses could put workers over the benefits cliff, rendering them ineligible for public benefits, even though these bonuses are temporary.

These bonuses will not help with recruiting new workers into the field, nor do they make up for an actual wage increase. Only by enacting Fair Pay for Home Care will New York be able to address our home care crisis, get people out of expensive and unsafe institutions, and pay workers what they deserve.

- **NYAIL calls for repealing cuts to eligibility for Medicaid advanced during the Medicaid Redesign Team (MRT) II which makes it more difficult for people to receive vital community-based long-term supports and services (LTSS).**

Governor Hochul failed to include in her budget proposal the repeal of the harmful policy passed through the Medicaid Redesign Team II (MRT) process which will severely limit eligibility for home care for new applicants. Despite the MRT II's directive to advance policies that would achieve Medicaid savings without impacting access to services, multiple proposals were advanced which would make it much more difficult for certain people to receive community based LTSS. In particular, the State raised the eligibility threshold for qualifying for LTSS. Now, people must require assistance with physical maneuvering with at least three activities of daily living (ADLs) to qualify, or they must have a dementia or Alzheimer's diagnosis and be assessed as requiring supervision for at least two ADLs. This effectively eliminates level I home care, which provided many people with vital assistance with activities such as cooking and cleaning (also known as Instrumental Activities of Daily Living, or IADLs) to remain in their homes, but who did not require assistance with ADLs. It also sets up a discriminatory eligibility standard which bases eligibility in part on diagnosis. This policy, if enacted, would put many people at risk of injury and hospitalization and institutionalization. We call on the legislature to include it in their one house budget proposals!

- **NYAIL strongly supports creating equity in Medicaid eligibility for seniors and people with disabilities.**

NYAIL applauds Governor Hochul for addressing inequities in Medicaid eligibility for seniors and people with disabilities. Without this necessary change, eligibility rules for seniors and disabled people are much more stringent than for other Medicaid applicants. The Affordable Care Act (ACA) made it easier for working families and low-income individuals under 65 to qualify for Medicaid by raising the income eligibility to 138% of the Federal Poverty Level (FPL). However, the ACA did not increase income eligibility for disabled people and seniors, and as a result, the income eligibility limit for these groups is merely 84% of FPL. This means that single non-disabled individuals under age 65 can earn up to \$1,482 monthly and qualify for Medicaid, while seniors and people with disabilities can only qualify if their income is at or below \$884 monthly. In addition, only seniors and disabled people are subject to asset tests when applying for Medicaid.

Access to Medicaid is critical for seniors and people with disabilities, especially as it is the only insurer who covers comprehensive community-based long-term supports and services (LTSS). Other states like California have addressed this inequity which

disproportionately impacts people of color by eliminating the asset test for these populations and raising income eligibility limits. We welcome this progressive change to Medicaid eligibility and urge the legislature to support this critical proposal in the final budget.

- **NYAIL opposes extending the Medicaid Global Cap, which has led to harmful cuts and limited eligibility for essential community-based services.**

For years, NYAIL and others have been calling to eliminate the Medicaid Global Cap and to take factors such as growth in the program and an aging population into consideration. We acknowledge the Governor's proposal does this by changing the metric for establishing the spending cap to the 5-year rolling average of Medicaid spending projections within the national health expenditure accounts by office of the actuary in CMS and extends the cap through 2024. In essence, this cap is a big improvement from the previous metric and will allow for more growth in the program. Yet even though this metric is an improvement, Medicaid budgeting should be done within the context of budget negotiations and should not be subject to a spending cap.

Too often under the previous administration, the State has sought to cut long-term care and limit eligibility to deal with a "budget shortfall" in its Medicaid program. Much of the reason for the so-called budget shortfall is due to spending simply exceeding a self-imposed Medicaid Global Cap. Essential programs and services have already faced significant cuts in recent years because of the cap. We are now dealing with a crumbling home care industry due to the failure of the State to increase wages for these workers since the cap has been in place. The cap has been used to gut the programs disabled people and seniors need to live in the community. Any cap, even if it is a more responsive cap, will ultimately continue this harmful policy of underfunding vital programs and enacting harmful cuts in the name of balancing the budget.

Thank you once again for the opportunity to provide testimony. I am happy to answer any questions.

Respectfully submitted,

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