NY Coalition of Downstate
Union Home Care Agencies

Testimony of the New York Coalition of Downstate Union Home Care Agencies

Submitted to the Joint Legislative Public Hearing

on the

SFY 2023-2024 Executive Budget Proposal: Topic Health/Medicaid

February 28, 2023

The New York Coalition of Downstate Union Home Care Agencies (Coalition) represents the State's largest downstate licensed home care services agencies (LHCSAs). Together, we provide Medicaid-eligible older adults, individuals with disabilities, and people who are chronically ill, with long-term services and supports in their home or community. Our home care agencies deliver care in the five boroughs and surrounding counties for tens of thousands of individuals, and we employ tens of thousands home health aides and personal care assistants who are members of 1199SEIU or other unions.

The Coalition members are dealing with a significant crisis in home care. Home health aides and personal care assistants are leaving community-based home care for better paying jobs, and agencies are struggling to meet the needs of their remaining workforce, and the Medicaid clients they continue to serve, all with diminished funding which was further eroded by the pandemic.

The SFY 2022-2023 budget recognized the crisis in the home care sector. Investments were made to begin to address the challenges in meeting growing demands for home care services—driven in part by an aging population and an overwhelming preference of individuals to remain at home as they age or live with a physical disability. Home care workers, including both home health aides and personal care assistants, were recognized as essential health care workers and wages were increased. This investment sent a powerful message about the value of home care in New York's health care continuum, and while refinements to the funding mechanism remain and additional investments are necessary, it seemed we were starting on a path toward recognizing the importance of the home care workers and the services they provide.

Given this incremental progress, the Coalition was disheartened to learn this month, that numerous initiatives in Governor Hochul's Executive Budget proposal would dramatically undermine last year's investments and exacerbate the ongoing and deepening crisis in home care. It is imperative that we prevent an erosion of last year's work and continue to invest in and refine policies to support home care. As you consider the Governor's SFY 2023-2024 health initiatives and prepare your budget proposals, the Coalition strongly urges you to:

Ensure that home care agencies and fiscal intermediaries (FIs) receive adequate funding to pay mandated wages and service delivery costs in the SFY 2023-2024 budget.

While the increase in base wage for home health aides and personal care assistants was an important first step in last year's Budget, it only partially accomplished "Fair Pay for Home Care." It is critical that we achieve a solution to the home care agency rate setting mechanism in this budget—enactment of the Fair Pay for Home Care bill would provide a transparent, predictable, and adequate rate-setting, payment mechanism.

The Fair Pay for Home Care bill recognizes that home care worker wages and adequate reimbursement for employers are ***inextricably linked and inseparable***. If fully enacted, it will accomplish two important objectives:

- **A higher base wage** to ensure home care workers are fairly compensated for their essential service to individuals in need and to the overall health care system.
- **Sustainable minimum reimbursement rates based on actual provider costs**. Rates would be calculated each year from audited provider cost reports. They would cover worker wages and benefits as well as the costs associated with efficient and necessary provider operations. The State would be required to include this rate in its managed care capitated rate development, and managed care plans would be required to pay providers this rate (at minimum).

What passed in the SFY 2022-2023 budget was a $3 per hour increase in minimum wage for home care workers ($2 October 2022, $1 October 2023), but no requirements that the State, through its capitation of managed care plans (primarily MLTCs), nor the managed care plans themselves, fully fund the costs of delivering home care services.

In the weeks leading up to the $2 wage increase on October 1, 2022, there was significant confusion and conflict among the State, managed care plans and home care providers over adequate payments. Despite appeals by providers, managed care plans by and large either were not negotiating with providers or provided rates far below what DOH put into the managed care rates. While some managed care plans did pass along adequate funds, many did not.

Among the issues that must be addressed to solve for the persistent and growing instability in home care include:

- Persistent underfunding of home care providers
- Lack of transparency in managed care/MLTC rate development, including cost transparency for providers and plans
- Delays in timely rate development and communication to providers and plans
- Lack of clear DOH expectations of plans to ensure adequate funding of providers
- No mechanism for accountability for insufficient provider rates from managed care plans

With an additional home care wage increase October 1, 2023, general costs rising, home care utilization increasing, and the possibility of an indexed statewide minimum wage, it is imperative that a fair and transparent process that ensures home care agencies can sustainably provide services to aging and disabled New York State residents be enacted. This includes:

- **Establishing a benchmark base rate or formula that reflects the true costs of home care.** This would include all wage-related costs as well as reasonable operational and administrative costs, and margins to allow for ongoing investment in programs. The information necessary to determine these rates is available. DOH already establishes county-based LHCSA rates and also requires all LHCSAs and Fiscal Intermediaries to submit annual cost reports.

- **Hold DOH and managed care plans accountable for adequate home care payments.** The cost-based benchmark rate or formula should be established as the basis of financing Medicaid home care services, including the development of actuarially sound managed care rates, and the negotiated rates from managed care plans. Each stage of the process—cost-based benchmark rate or formula development, managed care capitated rate development, State funding of managed care plans, managed care funding of providers—must be open and transparent.

Reject the language in the Governor's Education Labor and Family Assistance (ELFA) Article VII bill that would de-link from the State minimum wage the base wage for home health aides and personal care aides.

For two years, the Legislature has fought tirelessly to support the home care workforce to ensure that the skills, experience, and dedication of home care aides and personal care assistants were recognized as deserving pay above the minimum wage.

Last year, the Legislature and Governor agreed to raise the base wage for home health aides and personal care assistants to $3.00 above the minimum wage. The agreement included a provision that if the State minimum wage increased, the mandatory base wage for home health aides and personal care assistants would increase so that their wage would remain $3.00 above the minimum wage.

The proposal in the Governor's SFY 2023-2024 Budget would apply an annual inflation index to the Statewide minimum wage, but clearly de-links the home care wage increase from this additional adjustment. The end result will be relegating home care jobs back to minimum wage and undoing all the forward progress achieved in last year's Budget.

Reject proposed mechanism to limit the number of LHCSAs and FIs.

The Governor included language to require Medicaid managed long-term care (MLTC) plans to have increased accountability and higher performance levels, or risk having to participate in a competitive procurement process to continue operating in the State. The Coalition is in favor of this recommendation.

Additionally, the Coalition understands the goal of narrowing plans' LHCSA and FI networks, but believes this goal should be achieved using more discriminating means than simply directing plans to contract with as few LHCSAs and fiscal intermediaries (FI) as possible. The Coalition sees this approach as disconnected from quality care delivery, and potentially adverse to the availability of culturally appropriate or specialized care for certain beneficiary populations. Instead of addressing this matter via the compressed timeline of this year's budget process, the Coalition recommends the Legislature work with appropriate industry, labor and consumer groups to pass legislation that results in well thought out long term care consolidation and reform at both the plan and provider levels.

Reject the proposal that would reverse years of negotiated agreement with the Legislature regarding the consumer directed personal assistance services (CDPAS) program and FIs.

Starting with Governor Cuomo's Administration, there have been multiple efforts to restructure the CDPAS program, of which, and as recently as last session, the legislature has expended considerable time moderating those efforts.

Notwithstanding last year's agreement between the Legislature and Governor to limit the impact of the Department of Health's (DOH) FI procurement process, the Governor now proposes to upend that agreement and place the Request for Offers (RFO) process and contract awarding in the hands of DOH—with no process or criteria provided.

The Coalition appreciates the Legislature's moderation and desire to utilize a more considered approach to rationalization of the number of CDPAS FI serving New York State. As with the matter of broader long term care restructuring, the Coalition believe that instead of addressing this issue via the compressed timeline of this year's budget, the Legislature should reject this proposal and include the matter of CDPAS FI rationalization within the framework of broader LTSS legislation and work with appropriate industry, labor and consumer groups to pass legislation that results in well thought out CDPA FI consolidation.

Reject the proposal to remove CDPAS personal care assistants from home care worker wage parity law.

This proposal will reduce wages paid to CDPAS personal care assistants or eliminate the current benefits they receive, which will have a negative impact on Consumers' ability to hire and retain their personal care assistants. The wage parity law was amended by the Legislature to create equality in compensation and benefits for caregivers that are performing virtually identical work. This proposal will return the State to an inequitable system of compensation for caregivers and result in significant wage reductions for personal care assistants.

Thank you for the opportunity to submit testimony. The Coalition members remain available to discuss perspectives presented in this testimony and support the Legislature's efforts to enact a SFY 2023-2024 Budget that reflects its support of home and community-based care.