

January 23, 2024

**Testimony to the Joint Legislative Health Budget Hearing
on the 2024-25 Executive Budget proposal**

Hello and thank you for the opportunity to provide testimony on behalf of the New York Association on Independent Living (NYAIL). NYAIL represents Independent Living Centers (ILCs) and the people with disabilities they serve. NYAIL leads statewide ILC efforts to eliminate physical, communications, attitudinal, and other barriers to full participation in community life. We continue to advocate for the transition of people out of and prevent transfer of people into institutional settings, carrying on the work and spirit of the independent living movement begun in the 1960s and 70s.

Institutionalizing people in congregate care settings has become an even greater concern as community based long term care services have once again been identified as “unsustainable” and have been targeted for cuts due to the continuation of the artificial and arbitrary Medicaid Global cap.

The State has an obligation under the 1999 Supreme Court decision, *Olmstead V. L.C.*, to provide people with disabilities with supports and services in the most integrated setting, their home communities. Never has it been more important for the State to commit to the principles of *Olmstead*. NYAIL supports the \$250,000 included for the Most Integrated Setting Coordinating Council to issue an *Olmstead* Plan. That Plan will need a New York State Budget that will advance and support it-- not undermine it. Investing in the below priorities would show real leadership from the State. We urge the Legislature to take action in the 2024-25 budget as outlined below toward the full integration of New Yorkers with disabilities and older adults.

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

The Medicaid Global Cap, adopted in 2011 and later adjusted as a mechanism for limiting growth in the Medicaid program has allowed the administration to justify significant cuts to community-based long-term care which will ultimately lead to institutionalization and worse health outcomes for many older New Yorkers and people with disabilities. NYAIL believes the cap should be replaced with intelligent budgeting which would allow the State to make necessary investments and adjustments reflective of real-world needs and conditions. If the cap is kept in place, the State should be required to report monthly on Medicaid spending rather than quarterly. NYAIL joins

Medicaid Matters in calling for plain language summaries to accompany Division of the Budget cap reports and public webinars with live Q&A or other similar opportunities for transparent information sharing about the Medicaid budget. The public must have more opportunities to weigh in on the impact of these cuts.

- **NYAIL opposes the Governor’s proposal to cut \$200 m. from the Medicaid budget by eliminating the CDPA program from Wage Parity.**

There is now a home care aide shortage in all parts of the State, making it difficult for people to obtain home care and making the Consumer Directed Personal Assistance Program even more critical to the precarious home care system.

The Executive Budget once again proposes to eliminate wage parity for Consumer Directed personal assistants in NYC, Long Island, and Westchester. This is what it means to these valuable essential workers in dollars and cents.

CDPA Wages and Benefits in NYC, Long Island, and Westchester			
Year	CDPA wage	CDPA supplemental wages and benefits	Total CDPA wages and benefits
1/1/2022	\$15.00	\$4.09	\$19.09
10/1/2022	\$17.00	\$4.09	\$21.09
1/1/2024	\$18.55	\$2.54	\$21.09
4/1/2024	\$18.55	\$0.00	\$18.55

These kinds of wage cuts at a time when other employers are offering substantially higher wages will make it even more difficult for people with disabilities to remain in the community.

- **NYAIL supports increasing wages for home care workers, as outlined by Fair Pay for Home Care.**

To effectively address the increasing home care crisis New York State must include Fair Pay for Home Care in the final budget. Many older adults and people with disabilities need home care which they cannot find because the workforce is not there. Even when people needing home care get adequate hours authorized, cases go unstaffed. Workers who provide their services need to be paid a living wage to be able to continue providing them. Fair Pay for Home Care also ensures providers paying home care workers would get adequate reimbursement rates, which has been a challenge with previous increases.

- **NYAIL is concerned about the Governor's proposals to identify unallocated additional cuts in the Medicaid program.**

Besides the \$200 m. cut to CDPA wages, the Executive Budget proposes working with long term care stakeholders to identify at least another \$200 million in recurring State share savings across New York's long term care programs, while ensuring services are available for the most vulnerable populations. It is unclear how cuts of this magnitude will be accomplished without further harming people who need long term care.

Another \$200 m. in state share reduction is to be achieved outside of long term care through unspecified cuts developed in consultation with the health care industry and other stakeholders.

- **NYAIL supports the Homecare Savings and Reinvestment Act (S. 7800/A. 8470).**

In 2011, the State gave control of its Medicaid home care program to private insurance companies – arguing that privatization would improve care through the use of care management. While the insurance companies receive billions of dollars per year in profit and administrative fees, the promise of care management, and the associated higher quality of care, has not materialized. Since this privatization, the State has also been legally unable to regulate or dictate how much State funding is actually spent on payment for home care services. People who use home care have had to rely on the due process afforded them by the fair hearing process to get adequate hours of care from MLTCs to avoid institutionalization.

This legislation would replace the Managed Long Term Care (MLTC) model with a managed fee-for-service program that works for consumers, providers, and home care workers alike and will save New York State millions of dollars which need to be reinvested in the long term care system for adequate hours of care and adequate worker wages. As shown to work in Connecticut, Washington State, and Alabama, a care management entity would be paid for the job of developing a care plan and authorizing services. This model is truly conflict-free, unlike the MLTC model in which the MLTC plan has a conflict of interest with its own members that leads it to deny crucial services. The care management entities should have extensive experience in serving populations needing home care. Independent Living Centers could be ideal care management entities. Providers would bill Medicaid for services on a fee-for-service basis. Medicaid would pay for the services actually provided, instead of an inflated premium to an insurance plan that is much higher than the few services actually provided. Managed Fee for Service will also promote accountability and transparency.

- **NYAIL strongly supports repealing cuts to eligibility for Medicaid community-based long-term services and supports.**

The 2020-2021 budget adopted a Medicaid Redesign Team proposal which would greatly restrict eligibility for community based long term services and supports (LTSS). Under current law, people must require assistance with physical maneuvering with at least three activities of daily living (ADLs) to qualify. If they have a dementia or Alzheimer’s diagnosis they are assessed as requiring supervision with at least two ADLs. The entire cut is directly contrary to Community First Choice Option funds that the State is taking advantage of, especially OPWDD, which prohibits the discrimination of people by diagnosis. The eligibility cuts effectively eliminate level I home care, which provides many people with vital assistance with Instrumental Activities of Daily Living (IADLs) to remain in their homes.

Examples of IADLs are included in the table below and include: cooking, cleaning, grocery shopping, sorting mail, etc. It also sets up a discriminatory standard basing eligibility in part on diagnosis. This policy, if enacted, would put many people at risk of unemployment, injury, hospitalization, and institutionalization. NYAIL urges the State to repeal this policy.

CURRENT ELIGIBILITY REQUIRES ANY ASSISTANCE WITH 1 +:	PROPOSED ELIGIBILITY REQUIRE PHYSICAL MANEUVERING ASSISTANCE WITH 3+:
<ol style="list-style-type: none"> 1. Making and changing beds; 2. Dusting and vacuuming the rooms which the patient uses; 3. Light cleaning of the kitchen, bedroom and bathroom; 4. Dishwashing; 5. Listing needed supplies; 6. Shopping for the patient If no other arrangements are possible; 7. Patient’s laundering, including necessary ironing and mending; 8. Payment of bills and other essential errands; 9. Preparing meals, including simple modified diets; 10. Bathing of the patient in the bed, the tub or in the shower; 11. Dressing; 12. Grooming, including care of hair, shaving, and ordinary care of nails, teeth, and mouth; 13. Toileting, this may include assisting the patient on and off the bedpan, commode, or toilet; 14. Walking, beyond that provided by durable medical equipment, within the home and outside the home; 15. Transferring from bed to chair or wheelchair; 16. Turning and positioning; 17. Preparing of meals in accordance with modified diets, including low sugar, low fat, low salt, and low residue diets; 	<ol style="list-style-type: none"> 1. Bathing; 2. Dressing Upper body; 3. Dressing Lower body; 4. Locomotion; 5. Transfer to toilet; 6. Toilet use: and 7. Eating

<p>18. Feeding;</p> <p>19. Administration of medication by the patient, including prompting the patient as to time, Identifying the medication for the patient, bringing the medication and any necessary supplies or equipment to the patient, opening the container for the patient, positioning the patient for medication and administration, disposing of used supplies and materials and storing the medication properly;</p> <p>20. Providing routine skin care;</p> <p>21. Using medical supplies and equipment such as walkers and wheelchairs; and</p> <p>22. Changing of simple dressings.</p>	
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The Maintenance of Effort (MOE) requirements of the Public Health Emergency (PHE) prevented New York from implementing this reckless attempt to cut back on home care, but with the PHE coming to an end, it is essential that the previous eligibility standards be restored in this budget.

- **NYAIL strongly opposes eliminating provider prevails.**

The State must ensure qualified prescribers are able to continue to use their best professional judgement regarding which medication their patients require. The Executive Budget proposes repealing an important patient protection in the Medicaid program known as “prescriber prevails” for prescription drugs. A prescriber, with clinical expertise and knowledge of his or her individual patient, should be able to override a preferred drug. Different individuals can have very different responses to different drugs in the same class. Sometimes only a particular drug is effective or alternative drugs may have unacceptable and dangerous side effects. Prescribers are in the best position to make decisions about what drug therapies are best for their patients. NYAIL urges the legislature to recognize the importance of specific prescription drug combinations and protect provider prevails.

If you have any questions, please contact Heidi Siegfried at hsiegfried@ilny.org, or at 518-465-4650.

Respectfully submitted,

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