

Center for Disability Rights, Inc.

January 29, 2015

Re: Testimony of Center for Disability Rights before the Joint Legislative Budget Hearing for Transportation

Good afternoon, and thank you to the Joint Committee for this opportunity to speak. My name is Adam Prizio and I am the Manager of Government Affairs at the Center for Disability Rights. The Center for Disability Rights (CDR) is a disability led, not-for-profit organization headquartered in Rochester, New York. CDR advocates for the full integration, independence, and civil rights of people with disabilities. CDR provides services to people with disabilities and seniors within the framework of an Independent Living Model, which promotes independence of people with all types of disabilities, enabling choice in living setting, full access to the community, and control of their life. CDR works for national, state, and local systemic change to advance the rights of people with disabilities by supporting direct action, coalition building, community organizing, policy analysis, litigation, training for advocates, and community education.

This year's State of the State calls for the creation of four new Metro-North stops in the Bronx, the creation of an "Air-Train" to LaGuardia Airport, and linking Metro-North directly to Penn Station. CDR strongly supports both of these items to improve transportation options in New York City, so long as these improvements are made accessible to all people with disabilities, and in consultation with the Disability Community.

The Americans with Disabilities Act prohibits State and Local governments from discriminating against people with disabilities in any service, program, or activity: these infrastructure improvements must, under the ADA, be accessible to people with disabilities. Discrimination happens not only on the basis of a legal action such as a denial of benefits but also on the basis of decisions made that create the infrastructure that enables us to enjoy and participate in all that New York has to offer. A single stair, for instance, can keep a person who uses a wheelchair from being able to enter or exit a train station.

For these reasons, CDR supports the creation of accessible improvements to the transportation infrastructure. Both disabled visitors and disabled residents of New York City rely on public

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transportation and all will benefit from improvements to the transportation systems, so long as accessibility is included in the improvements. The best way to make sure a project is accessible is to include people with disabilities in the project.

Many travelers with disabilities choose to travel to JFK Airport, even when flights to LaGuardia are cheaper or have better travel times, because public transportation to and from JFK is more accessible. Extending an "Air-Train" to LaGuardia that is fully accessible will provide more travel options for people with disabilities. Additionally, transportation options for people with disabilities in the Bronx are limited due to minimal accessible metro stations. Creating four metro stations in the Bronx that are fully accessible, and creating an accessible link to Penn Station, will greatly improve transportation options and community living options for disabled people in New York City and in the entire region. CDR supports these initiatives, but to ensure that they are truly accessible to people with disabilities, we ask that people with disabilities be explicitly invited and included in the process of planning these improvements.

I'd also like to talk about two policies taking form elsewhere in the state that are going to drive up demand for accessible transportation. First, Governor Cuomo's Olmstead Cabinet, which was tasked with creating a plan to increase community living for disabled people, produced in 2013 the Olmstead Plan, which includes a number of goals for state agencies to accomplish. One of the goals requires the Department of Health to transition 10% of the long term nursing facility population into home and community based settings – not institutions – over the next 5 years. This goal alone represents approximately 1,800 individuals per year coming out of institutions and into the community. The success of this goal depends, in no small part, on the availability of accessible transportation. People who cannot reliably get to the store, or to work, or to their health care provider, are at risk of being re-institutionalized against their will and in violation of their civil rights. Re-institutionalization is also more costly to the state, on average, than providing services and supports to people in home and community settings. In this way, a lack of reliable, accessible transportation costs the State money.

The second policy I want to talk about compounds the costs of a lack of reliable, accessible transportation options for people with disabilities. The State is nearing implementation of the Community First Choice Option, a Medicaid funding mechanism that will bring in additional money for the state on the basis of money the state spends on services keeping people in home and community based settings. My organization has analyzed the Medicaid budget, and estimates that Community First Choice will bring in between \$299 million and \$439 million per year. The more people live in the community, the more the State will receive through Community First Choice. We are in a fortunate position; supporting the civil rights of people with disabilities is not only the right thing to do from a moral standpoint, it's also the right thing to do from a fiscal standpoint. A lack of reliable, accessible transportation, however, can prevent people with disabilities from being able to live in our communities, and when that happens, not only are our civil rights violated, and not only does the State have to pay for services in an institutional setting, but the State also loses out on matching funds through CFC.

In the context of these two policies, which create great incentive for the State to continue supporting community living for people with disabilities, and in light of the importance of accessible transportation to the success of people living in our communities, I wish to draw the Committee's attention to the fact that accessibility is not mentioned in the Article VII Transportation Budget. Nowhere. Not once. The word does not appear. Neither does the word "disability."

The Transportation Budget contains multiple, hundred-million-dollar projects to build wonderful new train stations and repair bridges. Although it may be assumed that the ADA will ensure that these buildings are accessible to all New Yorkers, including people with disabilities, we have learned not to assume this. There are still many, many gaps in accessible transportation in New York. There is no accessible bus or taxi service going to the Syracuse Airport: instead, a person who uses a wheelchair must pay \$70 for a medical taxi, which is intended for people who need medical care, not a law student flying to D.C. for a job interview. We should not have to rely on the medical transportation system to perform ordinary errands.

Accessible transportation in upstate cities is based on paratransit, which in turn is tied to the regular bus routes. Transit operators provide paratransit because they have to under the ADA, but the economic incentives cause them to provide as few rides, using as few drivers and vehicles, as possible. It is not uncommon to wait over 45 minutes on hold to call to try to book a paratransit ride in Rochester, NY, and have to book a ride that arrives three hours before our appointment because that is what works for the operator. How is a person with a disability supposed to get a job if she has to wait on the phone for 45 minutes just to get to work the next day, and if the only ride she can book forces her to sit idle for three hours? Because paratransit is tied to the regular bus route, operators can make strategic decisions to cut paratransit costs by changing the bus route. When a bus route is cut, a person who relied on paratransit to get to work, to the grocery store, to their health care provider, becomes stranded in their home. They lose their job, or they have to find another place to live that is accessible and is near a regular bus route and hope that that bus route will not change, either. Many of us cannot move to another accessible house because there is a great shortage of accessible housing.

We ask the Joint Committee, therefore, to include accessibility as an explicit priority in transportation. When he signed the ADA, President George H.W. Bush stated that this new civil rights legislation would “ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream.” It is nearly 25 years since the ADA became law, and still our people are denied these basic guarantees. We are not able to blend fully and equally into the rich mosaic of the American mainstream if we are not even able to get on the bus, on the train, into or out of the bus station or train station, into the taxi, and go to where our brothers and sisters go. New York State has had 25 years to make accessibility a priority in transportation, and although the State has made improvements, these improvements are not enough. Many of us are still stranded in our homes, when we are even fortunate enough to live in our homes and not in institutions.

Finally, CDR also supports two other initiatives are related to transportation but are in the Health and Mental Hygiene Budget, with the condition, again, that people with disabilities be included in the planning of these initiatives in order to ensure that they are truly accessible. The first of these initiatives is the creation of the Olmstead Mobility Management Project in the Department of Health.¹ This project will assess the mobility and transportation needs of people with disabilities, identify barriers to community integration, and coordinate medical and non-medical transportation services in a pilot project to increase community integration through transportation services. We applaud the beginning of a process for regional planning to provide transportation options for disabled people living in the community, but this process must explicitly include consultation with people with disabilities.

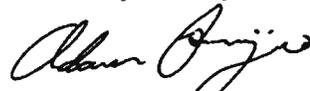
¹ HMH Budget, p. 45

Second, the Governor's budget allows the Department of Health, rather than local social service agencies, to manage Medicaid Transportation Services.² This change in management has potential to help people with disabilities by locating the management, contracting, and reimbursement, of these services under the oversight of the Department of Health, where the State can standardize a high level of service. If implemented correctly, this can broaden the scope of places where people can live as they transition out of institutions and nursing facilities. Consistent transportation to medical services is a key factor for the success of people transitioning into the community, and at present there is a wide variety in the level of service that people receive, depending on where in the state they happen to live.

However, CDR is concerned about the blanket authority that the Commissioner of Health will have to determine what local entities will be the providers of Medicaid Transportation services. In planning and managing these vital services, again, CDR asks for this process to explicitly include input from community stakeholders, including people with disabilities, in order to ensure that this service operates at its full potential.

In sum, then, people with disabilities are coming into the community in greater and greater numbers, and a lack of accessible transportation must not keep us from full participation in everything that New York has to offer.

Thank you for your time,



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² HMH Budget, p. 86.