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**Testimony of the Consumer Directed Personal  
Assistance Association of New York State**

**on**

**2015-2016 State Fiscal Year Executive Budget**

**Submitted to:**

**The Senate Committee on Finance**

**and**

**The Assembly Committee on Ways and Means**

**Submitted by:**

**Anthony Caputo,**

**President, CDPAANYS**

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Hello Chairman DeFransisco, Chairman Farrell, Chairman Hannon, Chairman Gottfried and all of the Senators and Assembly Members here today. My name is Anthony Caputo, President of the Consumer Directed Personal Assistance Association of New York State, and I appreciate this opportunity to address you today about the impact of the Governor's budget proposal on fiscal intermediaries and consumers running and using consumer directed personal assistance.

The Consumer Directed Personal Assistance Association of New York State, or CDPAANYS, is the only statewide organization representing fiscal intermediaries and consumers that utilize the consumer directed personal assistance program. Our 17 members represent approximately 70% of the estimated 14,000 consumers in the program.

The consumer directed personal assistance program is a form of community-based long term care that allows consumers to take control of their care from an agency. It empowers the consumer to take control of their health related services by putting them in charge of recruiting, training, hiring, supervising, and , if necessary, terminating their own workers. Fiscal intermediaries provide support for purposes of payroll, taxes, insurances and more. They also provide critical support to the consumer in his or her efforts to run their program, as needed.

We have analyzed Governor Cuomo's proposed budget for the 2015-16 State Fiscal Year (SFY) based on its impact on Consumer Directed Personal Assistance (CDPA), fiscal intermediaries, consumers and personal assistants, or the workers. We have done so with a focus on how it will impact consumers' ability to access and use the program.

In particular, we looked at the budget from two perspectives:

1. how it will affect the program's ability to continue to effectively meet the needs of those seniors and people with disabilities who rely on it; and
2. how it will affect the state, who has continues to rely more and more on the significant savings the program offers over traditional services.

What we concluded is that, in both instances, this budget offers the potential for long-term solutions that can build a stronger program in years to come; but, no immediate bridge to ensure program viability.

Particularly, there is no recognition in the Health Budget of the effect that the minimum wage increase, both those previously enacted as well as those proposed this year, will have on health providers such as Fiscal Intermediaries. Further, there is no recognition of the fact that reimbursements that have failed to represent significant cost increases in the cost of doing business over the course of a decade has resulted in stagnant wages that have not kept pace with other industries. This has led to an inability of consumers to recruit and retain a high quality workforce, as they are competing with other, simpler jobs such as McDonalds and Wal-Mart.

In 2010, approximately 10,285 consumers used CDPA.<sup>1</sup> There has been no encounter data reported by the Department of Health since then to provide a concrete number using the plan now; however, based on anecdotal growth information from our members we conservatively estimate the number to be 14,000.

The average consumer in CDPA uses 1,734 hours of service per year.<sup>2</sup> Further, the program saves the state \$2.16/hour over traditional personal care.<sup>3</sup> Using these calculations, conservative estimates would indicate that CDPA saves taxpayers \$52.5 million. This does not account for additional savings that have resulted from increased wage disparities emerging from wage parity and additional programmatic savings over certified home health and skilled nursing services, among other items. When these factors are taken into consideration, it is not unreasonable to suggest that CDPA results in savings to the state that approach \$100 million.

CDPA programmatic design builds many of these savings into the model. Instead of a PCA, HHA and nurse having to visit a person's home, the personal assistant performs all of the tasks. Combine with this the fact that the personal assistant generally makes significantly less than the lowest paid member of this team and the State realizes dramatic savings in terms of salary.

Instead of having the agency hire a multitude of people to hire, train, schedule and supervise an army of staff, the consumer recruits, hires, trains and supervises his or her own staff, minimizing the administrative overhead associated with the model. This means that the traditional 28% A&G allowed and charged by traditional agencies is dramatically reduced. Fiscal intermediaries typically have administrative costs of about 12%, meaning more money from each Medicaid dollar goes directly to consumer services in the form of salary for personal assistants.

But, it is not as if the State is offering cut rate services to consumers. CDPA has been repeatedly found to offer the same or higher quality service as agency based home care, reducing unmet need and resulting in significantly fewer health problems.<sup>4</sup> Other studies have found that workers receive significant on the job training from consumers and are actually better equipped to deal with the needs of a particular consumer than those with formal training in an agency model.<sup>5</sup>

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<sup>1</sup> New York State Department of Health. *Long Term Care Waivers and State Plan Services*. Report to the MRT Managed Long Term Care Implementation and Waiver Redesign Workgroup. July 8, 2011.

<sup>2</sup> Ibid.

<sup>3</sup> New York State Department of Health. "Consumer Directed Personal Assistance Program (Regulatory Impact Statement)." April 20, 2011. Obtained on January 27, 2015.

[http://www.health.ny.gov/regulations/recently\\_adopted/docs/2011-04-20\\_consumer\\_directed\\_personal\\_assistance\\_program.pdf](http://www.health.ny.gov/regulations/recently_adopted/docs/2011-04-20_consumer_directed_personal_assistance_program.pdf).

<sup>4</sup> *Choosing Independence: A summary of the Cash and Counseling Model of Self-Directed Personal Assistance Services*. Robert Wood Johnson Foundation. 2007.

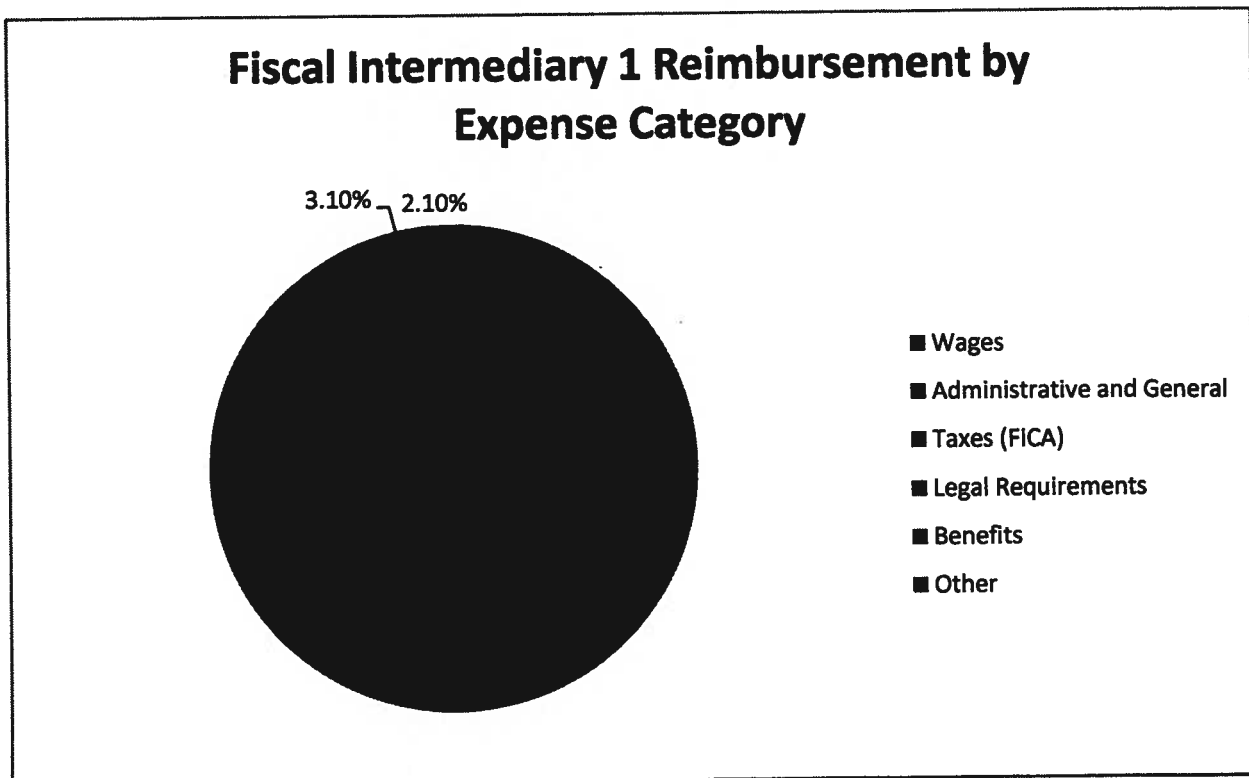
<sup>5</sup> Benjamin, A.E., et al. "Comparing consumer-directed and agency models for providing supportive services at home." *Health Services Research*. 35(1), Part II (April, 2000). 351-66.

CDPA offers the State these substantial savings; however, years of stagnant reimbursement and frozen wages are turning the program into the tree in Shel Silverstein's *The Giving Tree*. In this famous story, a tree delights in the gifts it can provide to a boy; however, as this boy turns into a man, he takes everything from the tree, leaving just a stump. In the story, the older man is happy with the stump, because he can have a place to rest and the tree is happy because he made the man happy.

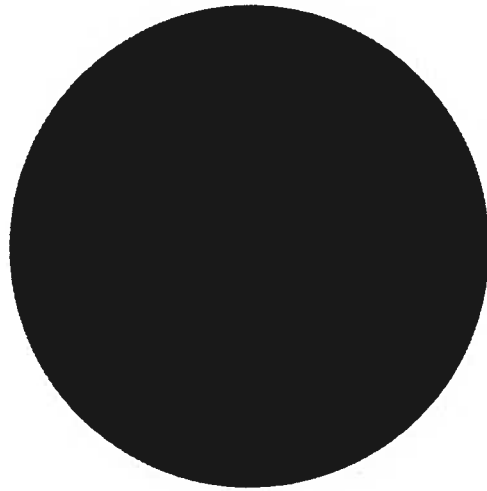
Unlike the story, those who rely on this service cannot allow it to continue to offer its benefits to the State until there is just a stump. A program that is nothing more than a stump is of no use to the 14,000 and growing population of consumers who rely on the program to meet their needs for long term supports and services. It is of no use to the State, who is increasingly relying on this service to meet the needs of a costly population in a managed care environment.

Indeed, when DOH issued capitated rates for 2014, they based them in part on increased efficiencies in personal care, while stressing that these should not be obtained through cuts in hours. The only way to accomplish that dual goal is more usage of CDPA.

But their reliance on the program is not linked to a strategy that allows it to blossom. As the charts below outlining expenses by category of two fiscal intermediaries demonstrates, 85.6% and 92.1% of each hour of reimbursement respectively goes to costs associated with the personal assistant. Of that, 67.8% and 60.6% are salary related. This does not reflect recent increases in the minimum wage. While the workers get paid above minimum wage, the rise has had an impact because, as personal assistants salaries lose ground in relation to it, requirements that overtime be reimbursed at time and a half of the minimum wage do change the rate of pay.

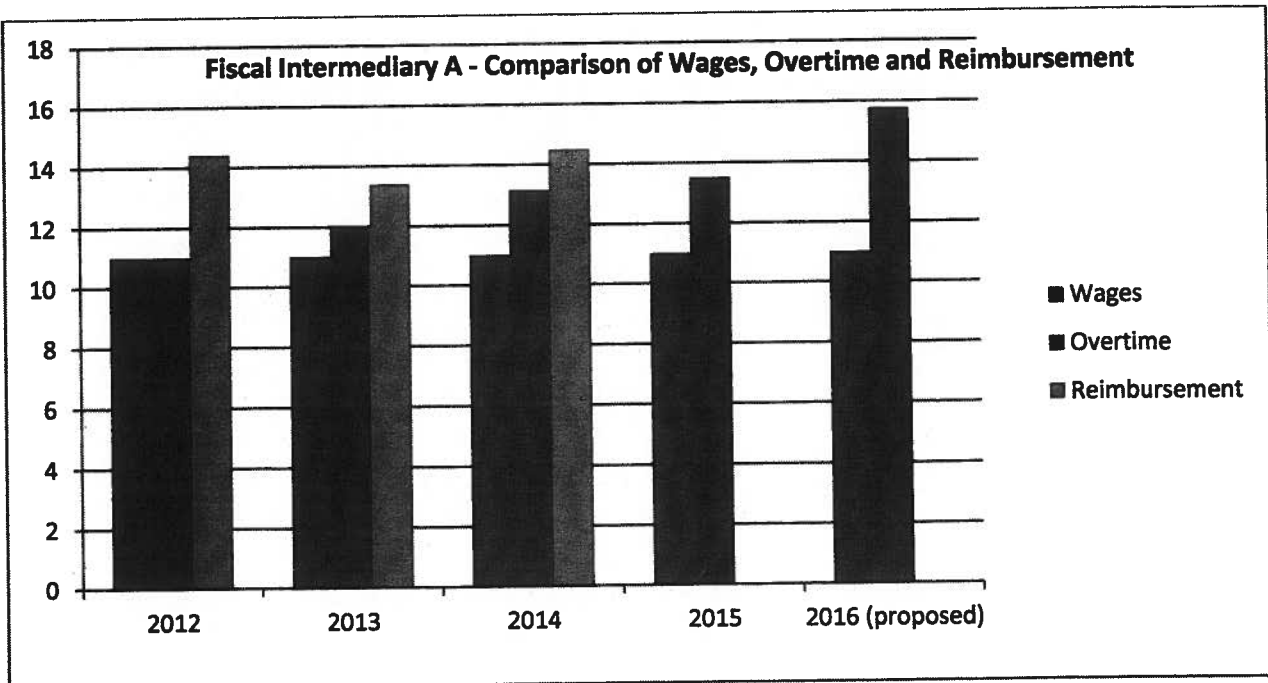


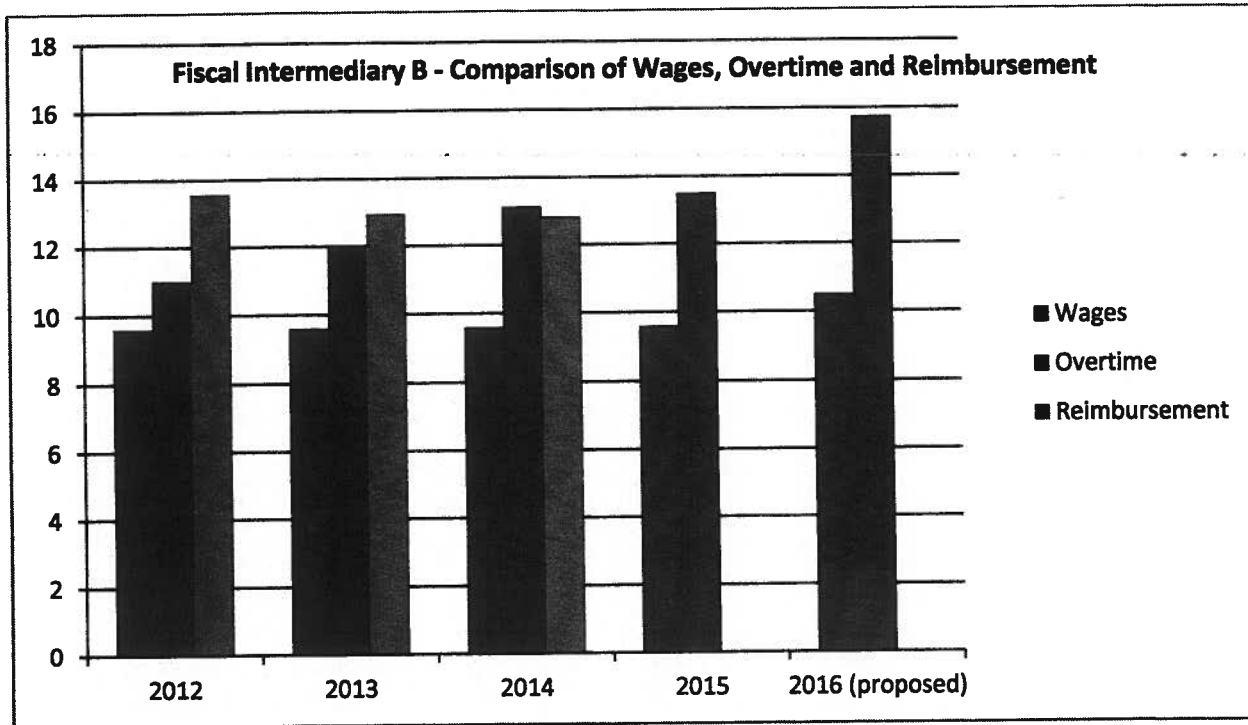
## Fiscal Intermediary 2 Reimbursement by Expense Category



- Wages
- Administrative and General
- Taxes (FICA and Commuter)
- Legal Requirements
- Benefits

To demonstrate the change, we will look at the wages from two fiscal intermediaries in different parts of the state offer consumer's workers and how they are impacted by the changes to minimum wage.





While we do not yet know what reimbursement will be in 2015 or 2016, we can identify trends. Medicaid fee-for-service rates are remaining about the same, or are decreasing. In the best case scenarios, managed care rates are based on the reimbursement offered by fee-for-service. Many managed care companies are now forcing reductions of up to \$2/hour, demanding that fiscal intermediaries offer workers minimum wage.

This trend is not sustainable. And when we are forced to bring up worker salaries just to accommodate minimum wage and pay overtime at time and a half of minimum wage, not only is it unsustainable for the fiscal intermediary, it is unsustainable for consumers.

To reverse this trend, the Legislature must finally pass language that makes sure the long term viability of consumer directed personal assistance is protected. We must make sure that reimbursement meets the rising costs brought about by minimum wage increases, both addressing insufficient base wages and insufficient reimbursement for overtime.

To do this, we must require managed care companies and fee for service Medicaid to pay at rates that allow for a living wage to be paid to workers, while still addressing associated labor costs such as worker compensation and unemployment. To attract and retain high quality workers, CDPAANYS recommends that this wage be pegged to 150% of the minimum wage.

Fiscal intermediaries cannot accept any business other than Medicaid. They have no way to set their own rate. They are entirely dependent on what outside entities, be they managed care companies or the Department of Health, determines their rate to be. It is time to ensure in statute that the rate offered is actually sufficient to meet their legal obligations and pay consumers' workers enough to not have to rely on Medicaid themselves.

### **Other Budgetary Issues**

Overtime, worker wages and reimbursement, by necessity, are the primary budget points being considered by CDPAANYS this year. However, we have taken a position on other provisions in the Executive Budget, and we want to briefly address those.

The State is still awaiting approval from the Federal government on Community First Choice, a program that will allow the State to receive an extra 6% in Federal matching funds for a collection of services aimed at keeping people out of institutions. The Governor has proposed requiring that the increased reimbursement be **reinvested in services implementing the State's Olmstead Plan**. CDPAANYS **strongly supports** this as a stream of revenue that can help support worker salaries in the future, and thinks that it should be strengthened to create a dedicated account.

To help ensure that the Federal government approves the State's Community First Choice application, the Governor is again proposing to authorize a new class of home care worker called the **Advanced Home Health Aide (AHHA)**. After receiving input from the Legislature last year, the Governor convened a workgroup of stakeholders to more accurately define what the role of this new class of workers would be. CDPAANYS strongly supports the inclusion of this language, approved by all members of the workgroup, in the budget.

Governor Cuomo proposes eliminating language that provides for **emergency assistance personal care, including consumer directed personal assistance**. While this language will presumably affect very few, it is a critical protection. While presumptive eligibility applies for Medicaid recipients in hospitals and clinics, those who are in dire need of community-based long term services to stay in their homes would be forced to wait upwards of three to six months if these provisions are enacted. This is unacceptable and CDPAANYS **strongly opposes** this language.

The Governor has proposed creating a workgroup that looks at how **transportation is delivered to Medicaid recipients with disabilities and other special needs**. CDPAANYS has long maintained that those who use consumer directed personal assistance should be allowed to have their worker drive them to and from medical appointments and not have to rely on ambulettes and other costly and time consuming services. We **support** this process, with the caveat that stakeholders such as consumers and people who use consumer directed personal assistance are included – stipulations not currently present in the language.

Governor Cuomo has proposed a new **Office for Community Living**. While a great deal has to be learned about what role this office would have and what would fall within its purview, the notion of following the Federal government with their creation of an Administration for Community Living is a promising one and CDPAANYS **supports** it and looks forward to working with the administration and the Legislature as it develops.

Thank you very much for your time and I am happy to take any questions.