



**TESTIMONY SUBMITTED TO THE
NEW YORK STATE LEGISLATURE**

**Joint Hearing of the
Senate Finance and Assembly Ways and Means Committees**

**2023-2024 Executive Budget
Mental Hygiene**

**Presented by
Cerebral Palsy Associations of NYS**

Cerebral Palsy Associations of NYS (CP State) is a statewide, family-founded organization with more than 75 years of advocating for and supporting people with CP and other significant developmental disabilities across the State. Our Affiliates employ almost 20,000 people, but most importantly we support close to 100,000 people with I/DD and their families through OPWDD, SED, DOH, OMH, and OCFS programs. The family of CP Affiliates have filled a niche time and again – when services were unavailable, our Affiliates stepped up. When there were no clinical services or therapies, CP worked with families to establish clinical services in every part of the state; when Willowbrook closed, CP was the leading agency to ensure the State safely transitioned people to homes in our Affiliates and we even began a new residential program in NYC to meet the need. Today, our Affiliates are the leaders in providing complex care to medically fragile New Yorkers as well as nationally and internationally recognized innovators in supporting autism spectrum disorders and medical complexity.

With that history, we appreciate the Legislature’s support in providing a much-needed COLA in last year’s budget – an important first step in correcting a course of under-funding that threatens the supports and services available for New Yorkers with intellectual and developmental disabilities (I/DD). We come back this year to ask that you take the next step in that correction and, **as you negotiate the 2023-2024 budget, we urge the Legislature to work with the Governor to:**

- **Include an 8.5% COLA to address significant inflationary increases and cost of operations.**
- **Provide an annual funding allocation of \$4,000 per eligible employee to be used for the purpose of enhancing the hourly rate of pay for all staff that have direct care/support responsibilities for individuals with I/DD.**
- **Increase the current Article 16 rates by 10% and Article 28 clinic rates for patients with disabilities (code 95 or 81) by an additional 30% to cover the true cost of providing services.**
- **Include the cost for the service, and equipment, when necessary, in the rate for all OPWDD certified residences and develop a method to allow billing of this service at a level sufficient to cover the full cost of the service for those individuals living in the community and other non-certified settings.**

8.5% COLA

Because of the inadequate state funding or investment, CP State Affiliates and all I/DD provider agencies have been unable to offer the competitive wages needed to recruit and retain the skilled Direct Support Professionals (DSPs) required to provide critical supports and services. Where DSPs used to be paid 30% to 50% above minimum wage, the lack of investment has resulted in starting salaries that are at or slightly above minimum wage and has resulted in an increasing workforce crisis.

While we appreciate the crucial investment of the 5.4% Cost of Living Adjustment (COLA) that you included in the SFY 2023 Enacted Budget, this was only an initial investment that must be continued. Due to inflationary growth, operating costs have increased significantly over the past decade and year while average wages remain barely above minimum wage. Significant cost increases, related to mandated fringe benefits, repairs and maintenance, utilities, food, supplies, transportation, and insurance over the past decade, when combined with the past 2 months, have resulted in intense financial pressure on the nonprofit agencies that provide services to more than 85% of New Yorkers with I/DD. Additionally, since these provider agencies are almost exclusively

Medicaid funded, they are unable to increase reimbursement for services to compensate for increased costs of operations. The Governor's proposed 2.5% COLA does not provide the needed investment in this field, and the Enacted SFY 2024 Budget must include an 8.5% COLA.

Direct Support Wage Enhancement

DSPs are highly skilled professionals dedicated to the essential care of people with I/DD. DSPs take on numerous critical responsibilities to ensure the health, safety, independence, and well-being of individuals they support. DSP responsibilities include medication administration, meal preparation and transportation, first aid, CPR as well as attending to the comprehensive social, emotional, and psychological needs for the people they support. Through their fundamental support and services, DSPs are integral pillars of support for New York's I/DD community and are crucial in ensuring that over 130,000 New Yorkers with I/DD can live a life that most of us take for granted. To directly address the need for a permanent investment in the salaries for this dedicated workforce, CP State joined our New York Disability Advocates (NYDA) colleagues this past fall in proposing a Direct Support Wage Enhancement (DSWE) to OPWDD and the Executive Chamber. The proposed DSWE would provide \$4,000 per eligible employee to be used for the purpose of enhancing the hourly pay rate for all direct care staff. The proposed DSWE would increase hourly pay by approximately \$2.19/hour for all eligible staff. This increase was modeled after the SFY23 13% wage increase that New York State provided for staff who work in state operated programs while nothing was provided for nonprofit staff and DSPs that do the exact same job. While we believe the State workforce, providing the same services the voluntary workforce provides, should receive a living wage for that work, we simply do not understand the logic and inequality of the Executive SFY 24 budget which recommends an additional \$50 million increase for state operated staff wages to add an additional \$4,000 per state operated staff upstate and \$6,000 per state operated staff downstate and provides \$0 increase or investment for the staff who do the same work in nonprofits.

The current starting wage for State OPWDD workers following the FY 2023 increase is \$21.13 for upstate and \$22.59 downstate. The new increase will bring starting wages for State workers to slightly over \$23/hour upstate and \$25/hour downstate. Meanwhile, the staff providing the same services to the same people with I/DD, but employed by a nonprofit provider agency, are starting at \$16.07/hour on average. This represents a wage difference of 35.5% upstate 43.5% downstate. This inequity must be addressed, and, minimally, the \$4,000 increase must be provided to nonprofit workers, who support more than 85% of all New Yorkers with I/DD.

Provide Financial Stability for Clinics that Serve People with Developmental Disabilities

For more than forty years, New York State has counted on clinics that support patients with significant disabilities to fill an essential gap in the service delivery system, one which otherwise would lead to expensive and unnecessary services delivered in emergency room and acute care settings. Over time, the CP State Affiliates and voluntary agencies supporting people with disabilities have stepped up to ensure access to health services across the State through their Article 28, FQHC and Article 16 clinics. These clinics have evolved to become true specialty service providers, serving patients with the highest needs and often at a financial loss. With rate rationalization removing any OPWDD surpluses, to help providers to subsidize these clinics, the insufficient funding of clinical disability services has been glaringly exposed. A CP State 2022 survey of clinic operations shows a 20-35% loss on operations for clinics across the State. These losses can no longer be sustained, and Boards statewide are facing tough decisions about the future of a variety of disability services.

To date, when Boards choose to close disability clinics, patients, in most instances, have no good option. In the absence of primary care, patients show up in the ER and operator procedures are required for issues that easily could have been avoided with timelier primary and preventive care. Clinic visits are replaced with ER visits for untreated conditions that may not require, but almost always generate, MRIs and other expensive diagnostic tests because the patient is unable to communicate and has no previous relationship with the ER physicians. This scenario would lead us in exactly the opposite direction from the one that New York State has been moving toward.

The CP State report on health equity and a full list of recommendations to improve access to care for people with I/DD can be found at www.cpstate.org/health-equity. However, in order for these clinics to continue to serve people with developmental disabilities and complex needs, the current Article 16 rates must be increased by 10% and the Article 28 clinic rates must be increased by an additional 30% in order to cover the true cost of providing services.

Provide Permanent Reimbursement for Triage/On call Telehealth Services for People with Developmental Disabilities

Individuals with I/DD have traditionally utilized the ER/Urgent Care/Hospitals at much higher rates than the general public. This is due, in part, to the complex health issues many individuals with I/DD have, coupled with OPWDD regulations for certified residences.

CP State is in the 4th year of a telemedicine triage grant (provided through Statewide Health Care Transformation Program 2) which provides real time virtual visits 24/7 365, with an ER physician trained in treating individuals with I/DD, for any and all urgent issues. The grant began in March 2020, right at the start of the pandemic, and, to date, has saved the Medicaid system more than \$90 million dollars by avoiding trips to the ER/Urgent Care/Hospitals for approximately 8,300 individuals. All of these individuals live in OPWDD certified residences.

The service allows direct support professionals to reach out (via an app on a tablet) to the physician who can then virtually examine the individual, using a high-resolution camera, pulse oximeter, stethoscope, and other equipment to determine the next step in the health care for the individual. In 94% of virtual visits, the physician can take care of the individual in place, so trips to the ER/Urgent Care/Hospital are avoided. This program not only saves significant Medicaid dollars, but also provides better health care to the individual with IDD and a better quality of life.

The grant ends in April 2024 and it appears it will take significant time to establish reimbursement for this program. Therefore, in order to ensure over 8,300 people with I/DD continue to receive this service, and that this program continues save the Medicaid system significant dollars while providing individuals with I/DD better health care and quality of life, we ask that a two-year program be initiated to continue the coordination and provision of this service until a permanent reimbursement mechanism can be approved by CMS through the input of OPWDD and NYS DOH. For FY 2024, the cost would be for one month, with the expectation that the program be funded through FY 2025 and FY 2026 budgets at the rate of \$250,000 per month (\$29.75 per person/per month). The annual cost of this is approximately \$3 million with an annual savings of more than \$31 million a year. This is a win-win – saving more than \$10 for every \$1 spent and providing better health care and quality of life for the most vulnerable New Yorkers.

CP State and all our Affiliates across the state would like to thank the Legislature for all your years of support and we look forward to working with you to provide equity for our staff and individuals with developmentally disabilities.

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