

July 27, 2021

The Honorable Rachel May
Chair, Joint Senate Standing Committee on Aging
The New York State Senate
172 State Street, Capitol Building
Room
Albany, NY 12247

The Honorable Gustavo Rivera
Chair, Senate Standing Committee on Health
New York State Senate
172 State Street, Capitol Building
Room
Albany, NY 12248

The Honorable Jessica Ramos
Chair, Senate Standing Committee on Labor
The New York State Senate
172 State Street, Capitol Building
Room
Albany NY 12247

Re: Joint Public Hearing: Homecare Workforce – Challenges and Solutions

Dear Chairwoman May, Chairman Rivera, Chairwoman Ramos, and Distinguished Members of the Committees:

My name is Veronica Charles and I am the Director of Government Affairs at Maxim Healthcare Services, Inc. (Maxim). Maxim is a national provider of home healthcare, homecare, and additional in-home service options with seven offices caring for over 1,700 individuals throughout New York, primarily offering private duty nursing (PDN) services as a licensed home care services agency (LHCSA) and Fiscal Intermediary (FI) in the Consumer Directed Personal Assistance Program (CDPAP). Private duty nursing is continuous skilled nursing care provided in the home for medically-complex and vulnerable pediatric and adult patient populations under Medicaid, many of whom require assistive technology such as ventilators and tracheostomies to sustain life. Our nurses and caregivers are committed to providing quality care and enriching the lives of each of our patients and Maxim is committed to supporting our clinicians in their life changing work.

Private Duty Nursing and the Skilled Workforce

Our PDN nurses serve the most medically fragile individuals in the state—including children with complex special healthcare needs (CSHCN), children with complex chronic conditions (CCC), and older adult patients who require similar services. These individuals require skilled nursing services performed in the home by a registered nurse (RN) or licensed practical nurse (LPN) under the supervision of an RN between 4 to 24 hours per day each day in order to manage their chronic condition and keep them safe in their homes. Our goal is to keep these individuals in the setting that promotes their highest quality of life and allows them the opportunity to engage in their New York communities.

Unfortunately, many New York children with special healthcare needs are either not receiving enough nursing services in the home or not able to access these lifesaving services due to the lack of available nurses – stemming in part from low Medicaid reimbursement rates from Medicaid and managed care organizations (MCOs) and importantly, insufficient forward-looking recruitment and retention strategies. This has been

especially true during the COVID-19 public health emergency (PHE). The pandemic has made the delivery of PDN services more difficult for nurses and costly for agencies, and while the state has made valiant attempts to assist PDN providers and patients, neither our agencies nor our clinicians have received enough financial support from the state to offset hardships associated with the PHE. Medicaid providers have been on the front lines of the pandemic and the lack of additional reimbursement and recruitment/retention funding has jeopardized our ability to plan for future outbreaks and continue to provide necessary healthcare services. PDN services are critical to the population we serve, and they are a cornerstone of maintaining New York's commitment to care for the elderly and medically fragile population.

Offering additional funding to support PDN wages will allow providers to compete in the labor market and create innovative opportunities to attract talented nurses. In turn, this will assist homecare providers in improving quality while containing healthcare costs. The cost of 16 hours of PDN services is approximately one-third the cost of a day in the hospital. Through the resulting reductions in avoidable hospital utilization, homecare providers are able keep people in their homes and communities—where they overwhelmingly prefer to be—and with appropriate skilled care support. This provides cost savings by rebalancing the state's long-term care financing toward home and community-based services (HCBS) rather than more costly facilities or institutional settings – none of which are suitable environments for caring for our fragile pediatric patient population.

Non-competitive wages, both pre-and-post COVID-19, and caregiver burnout exacerbate New York's ever-growing recruitment and training challenges and result in increased turnover in our nursing staff—a problem that can be the difference between life and death for a child or older adult. We appreciate the work that the state of New York has done in the past few years to work towards more equitable Medicaid rates for PDN, but the current rates are still not enough to meet providers' operational expenses, nor do they allow for providers to adequately compete in the labor market. Furthermore, the lack of a PDN rate floor in New York makes it possible for MCOs to pay less than the state's Medicaid reimbursement fee schedule – forcing clinicians and agencies to cut costs when reimbursed less than what is guaranteed by Medicaid. By increasing Medicaid reimbursement rates and establishing a PDN rate-floor for MCOs, the state will allow providers to recruit and retain quality employees by providing more competitive wages to attract the most qualified caregivers for complex and high-acuity children and adults.

Lastly, it is important to note that LHCSAs have a harder time recruiting and retaining nurses for patients who are over the age of 23 due to the wage cliff created by the Medicaid pediatric rate enhancement for medically fragile children. While we recognize that this wage cliff created by the state was likely unintentional, it has had real impacts on the caregiving workforce as nurses that continue to care for their patients past their 23rd birthday lose roughly 30% of their pay due to the lack of enhancement funding for patients over the age of 23.¹ In order to protect patients from losing their lifelong nurses and in an effort to help support the ongoing workforce shortage, we urge the legislature to consider extending the enhancement rate for medically fragile individuals over the age of 23.

¹ [Should Nurses Take a 30% Pay Cut When Their Patient Turns 23?](#) *The New York Times*, April 30, 2021

Consumer Directed Personal Assistance Program (CDPAP) and the Unskilled Workforce

While Maxim appreciates the thoughtful consideration of recruitment and retention efforts to help support PDN and HCBS as well as the skilled caregiver workforce, we also ask that the state continue to prioritize overall rates for the unskilled workforce like personal care assistants (PCA). PCA caregivers are currently paid less than other workers in less-skilled settings in the retail and food service industries. Arguably, the duties of a PCA are not unskilled, and we urge New York to consider raising PCA rates to help fight the current caregiver crisis currently impacting New York and the rest of country. Raising these rates would help keep New Yorkers gainfully employed, improve the lives of caregivers in the CDPAP program and ensure continued access to the program.

Maxim has been a CDPAP provider in New York state since 2007, and has an internal team dedicated solely to the success of its FI program that is available for consumers and caregivers 24 hours a day seven days a week. In order to reduce fraud, waste, and abuse in the program, Maxim's internal compliance team audits the program each year to ensure that the company is compliant with all regulations and statutes affecting the program. Our company also shares in New York State's commitment to diversity and inclusive excellence by staffing our internal teams with bi-lingual staff members who also have access to a comprehensive language hotline that can provide support in over 200 languages.

The CDPAP program has increased access to care for approximately 75,000 New Yorkers statewide, and the importance of this program was further emphasized during the pandemic as it enabled the continuation of care in the home. Fiscal Intermediaries like Maxim play a critical managerial role by contracting with a county Medicaid office, or a managed care insurance plan, to provide wage and benefit processing for consumer directed personal assistants as well as other responsibilities such as: monitoring for the completion and submission of required employment documents; managing the worker's compensation process, insurance and tax burden; submitting claims to Medicaid; and coordinating payment for insurance and other health benefits for the caregivers. As a responsible participant in the state's Medicaid program, Maxim also takes aggressive actions beyond the requirements of the program to prevent waste, fraud, and abuse. We conduct site visits to a consumer's home to ensure consumers and caregivers are in full compliance and that the authorized hours and services are being delivered. Any potential concerns are recorded using a Maxim-developed detailed site visit form and flagged immediately to the county Medicaid office or the managed care plan.

Given the work that Maxim and other FIs have put into running a successful operation within CDPAP, we would be remiss if we did not voice our concern regarding the ongoing RFO process that has threatened to drastically reduce access to FIs and take away job opportunities from numerous personal care workers. While the cost of the CDPAP program has seen a considerable increase in recent years due to a number of factors including increases to the minimum wage, the alternative for many consumers is even more costly. In order to increase the unskilled workforce in home and community based services, we urge the Legislature to preserve this program by allowing good-faith FIs to continue to operate in this program, with specific attention to FIs that practice areas of excellence and promote easier access to job opportunities for personal care workers.

Thank you for your continued commitment to improving patient access to care and improving home health and private duty nursing services in the state of New York. If you have any questions, please feel free to contact me directly at 530-721-1950 or at vecharle@maxhealth.com. We would also appreciate the opportunity to extend an invite to yourself and other distinguished members the legislature to accompany one of our caregivers on a

homecare visit, virtually, so that you may learn more about the delivery of Medicaid homecare services in your respective districts.

Sincerely,

A handwritten signature in black ink, appearing to read "Veronica Charles".

Veronica Charles, MPA
Director of Government Affairs
Maxim Healthcare Services
vecharle@maxhealth.com

cc: Members, Senate Standing Committee on Finance
Members, Assembly Standing Committee on Ways & Means