NYS Association of Health Care Providers
Representing Home & Community-Based Care

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On behalf of the New York State Association of Health Care Providers, Inc. (HCP), thank you for this opportunity to submit testimony on the 2023 – 2024 Executive Budget Proposal and the state of the home care industry.

HCP supports the home care industry through advocacy, information, and education. We promote adaptation and sound policy, and strive to influence the standards for quality, cost-effective care – because patients do better at home.

Introduction

Time and again, news reports at the state and federal level stress the importance of meeting the needs of an expected wave of aging citizens. In response to this growing population subset, Governor Hochul announced Executive Order 23, establishing New York's first Master Plan for Aging (the Master Plan), "heralding a new era of support for older adults and people of all ages to succeed."

The following statistics are cited in the EO:

- New York already has the fourth-largest population of older adults in the US, with 3.2 million New Yorkers (16 percent of the population) over 65.
- The older adult population is growing faster than any other age group in the state;
- New York's population of those over the age of 60 is projected to grow to 5.3 million by 2030 with those over eighty years of age exceeding 1.2 million;
- By 2030, it is projected that 25 percent of the population in more than 51 counties will be 60 and older with at least 30 percent of the population in 18 counties 60 or older.

Additionally, according to the Centers for Disease Control and Prevention (CDC), over 3.2 million adult New Yorkers have a disability.

Even considering overlap, together disabled and aged New Yorkers account for an astounding percentage of New York's population.

Clearly, these vulnerable groups deserve to live with dignity in their own communities. This cannot be accomplished without state-supported funding for programs and benefits in home and community-based care services (HCBS). And yet, the Executive Budget Proposal virtually ignores home care, even as it proposes tremendous investments in every other sector of health care, including hospitals and nursing homes. Those institutions are the very settings that the availability of home care allows people to avoid or delay.

Despite home being the overwhelming setting of choice for aging New Yorkers, the Executive Budget Proposal sets the stage for home care industry-wide contraction and continued work force shortages in the HCBS sector.

Home Care Worker Wages

The home care sector employs hundreds of thousands of direct-care workers in New York State. Without these caregivers, many aging and disabled people would be forced to leave their homes and instead live in congregate settings such as assisted living facilities and nursing homes. Those types of care are often more expensive, and are always more restrictive than care at home. It is certainly not the environment of choice for most New Yorkers.

Home care workers are highly skilled, well trained, and in very high demand. Yet nearly half (49%) of them live in or near poverty and 57% rely on public assistance to make ends meet. Employers would like nothing better than to increase wages and close the worker shortfall that limits access to care. However, home care is primarily funded through the state's Medicaid program, and reimbursements are inadequate to cover increased wages.

In last year's state budget, through the home care minimum wage increase, the Governor and the legislature recognized the critical work that home health aides, personal care aides, and personal assistants provide. This modest increase was not the industry-supported Fair Pay for Home Care wage (150% of minimum wage), but it was a first step towards raising home care workers out of poverty. The home care worker wage increase provided a monetary recognition of their important role on the health care team. The new, higher home care minimum wage also made an authoritative declaration of principle: Lawmakers believed that home care workers deserve more.

However, this increase did little to solve the home care worker wage problem, because it was not coupled with an increase in reimbursements to the agencies that employ them, as was proposed in the Fair Pay for Home Care bill. The end result has been a mandated wage increase that is being taken on by the agencies – agencies who were already in dire financial straights following years of low Medicaid reimbursement rates and the burdens of a pandemic that came with little to no economic relief from the state.

Additionally, home care workers were the only group specifically excluded from the Governor's health care worker bonus program. While on one hand stressing the value of this sector by implementing a wage hike, the simultaneous lack of bonuses indicated a disregard for the importance of the home care worker and the often heroic work they have performed throughout the darkest days of the pandemic. This contradiction is difficult to reconcile for these dedicated caregivers who showed up day after day during a deadly pandemic to care for vulnerable individuals in their homes and communities.

This year's budget proposal takes that contradiction even one step further. By freezing the home care minimum wage and allowing the general minimum wage to "catch up", the Governor is reversing both the economic and status improvements for caregivers which she wholly supported just a year ago. It does not make sense to the industry, and certainly not to these crucial health care workers.

Recommendation: Fix the Funding

The language in last year's Fair Pay for Home Care proposal would have ensured that state and federal dollars allocated for this workforce had a clearly defined pathway from the state to the Medicaid managed long-term care (MLTC) insurance plans to those that pay the wages and on to workers. Because this language was ignored in the home care worker minimum wage increase, its implementation has not only **not** had the intended effect of bolstering this workforce, it has further destabilized the industry.

While insurance companies have reaped the benefit of the increased spending for wages in the state's Medicaid program, there was no direction given to the insurance companies to pass the money along to the home care agencies. Thus, employers are shouldering this increased payroll expense without commensurate income. Agencies cannot hire at the increased wage without the income to cover the cost. Instead of hiring more workers and reducing wait lists for care, employers are unable to take new cases. Many are barely surviving under the burden of the increased wage costs, especially with overtime and paid sick leave expenses. This has left vulnerable New Yorkers unable to access the care they need to remain at home.

Rather than investigating the MLTCs regarding the continued inadequate reimbursements and lack of funding pass through, the Department of Health (DOH/the Department) called upon the home care associations to collect data (see addendum A) in an effort to illustrate the problem. Data was provided, often down to the plan level, and still no action was taken to ensure Medicaid funds are being disbursed fairly and responsibly by the plans.

Home care worker wages and adequate reimbursement rates for their employers are inextricably linked and inseparable. The legislature must ensure that the state's final budget includes protections for employers by requiring transparent pass through of taxpayer dollars intended for wages. Fair Pay for Home Care, reintroduced this session by Senator May (S3189), includes the language necessary to define a clear path to reimburse providers for the cost of care, including worker wages.

Those home care agencies that are not reimbursed through the Medicaid program also need relief from the increased wage costs. A tax credit for these businesses can be included in the state budget, easing the costs of providing care, much like the 340b prescription drug program does for hospitals and pharmacies in underserved areas.

Stop Wage Cuts for Personal Assistants

Adding to the insult of the wage freeze for home care workers outlined in the Governor's budget proposal, an additional proposal, if enacted, ***will actually cut the income for many personal assistants in the Consumer Directed Personal Assistance Program (CDPAP).***

Currently, Wage Parity funds may be paid as salary, benefits, or a combination of both. Many providers administer Wage Parity in the form of increased wages. The Executive Budget Proposal eliminates Wage Parity in CDPAP entirely, replacing it instead with a subsidy to assist workers in obtaining health insurance through the New York State of Health (NYSOH).

This proposal, if implemented, will directly and negatively affect the many home care workers who receive Wage Parity funds in their paycheck. ***The proposal effectuates a direct pay cut for those workers.*** Additionally, it discriminates against personal assistants who will not benefit at all from the NYSOH subsidy (for example, those who receive benefits through a spouse, parent, or other payor).

Finally, it sets personal assistants in a separate, lower, pay structure from personal care aides who work for an agency. The result would be the collapse of the CDPAP program, leaving many beneficiaries without the caregiver they have trained and trust.

MLTC Reform

The Executive Budget Proposal does not present a plan to comprehensively address systemic and decades-long underinvestment in home and community-based services. Rather, Governor Hochul's intended reforms to the state's Medicaid MLTC insurance program threaten to eliminate hundreds of licensed home care services agencies (LHCSA) and fiscal intermediaries (FI). By rewarding MLTC insurance plans who contract with the smallest number of LHCSAs, insurance companies will decide the future of home care, squeezing out small businesses and providers in remote areas of the state.

The Executive Budget Proposal establishes performance categories for MLTCs with the primary goal of having each MLTC contract with "the minimum number of LHCSAs and FIs" necessary to provide care to the greatest number of enrollees. Currently, fewer than ten MLTCs would meet the governor's criteria based on the number of members. Furthermore, it is unclear what "the minimum number…" means or who defines that number; this runs contrary to improving transparency in the managed care program.

Were this proposal to pass, MLTCs will be rewarded for contracting with fewer LHCSAs and FIs, leaving the viability of those providers up to the discretion of the plans. The state would be leaving the very fate of the industry up to the for-profit payors in the program. Fair rate negotiations, which can already hardly be considered "fair negotiations", would be non-existent as competition among both plans and agencies is nullified through industry contraction. Small businesses would be *out of business*, and remote areas of the state would be left without home care services.

The governor's so-called reforms in managed long-term care would come at a great cost to the home care industry, and more importantly, to the New Yorkers that rely on it to stay at home.

Recommendations for MLTC Reform

The path to transparency in the managed care system starts with Fair Pay for Home Care, with its benchmarked reimbursement rates and clear, directed pass through of tax dollars allocated for wages.

Additionally, the Department of Health must hold plans accountable to their contract to provide sufficient services to maintain health and keep our vulnerable citizens safely at home.

Finally, the state must improve MLTC data integrity and transparency, including that for Medical Loss Ratio (MLR) reporting, which is a key indicator of MLTC spending on direct care. While the governor's proposal includes increasing the MLR to ensure more dollars are spent on direct patient care, it is incumbent that DOH ensure that the MLR data provided by MLTCs is timely and accurate. Allowable administrative costs for home care must be better defined and brought into alignment with the cost methodology for other health care sectors.

Additional Concerns for Legislative Budget Considerations

Emergency Response Initiatives for Home Care Providers

Governor Hochul has announced her application for federal emergency relief funds related to the most recent weather emergencies. Home care provider agencies must have emergency financial relief to defray the increases in costs experienced during emergencies. The costs of wages and transportation incurred during this year's blizzard in Western NY and the North Country, for example, were crippling for home care agencies in those areas. Many workers stayed with their clients throughout the storm for days, and agencies paid out overtime costs to those workers. After municipal transportation closed down, aides had to rely on ride share services in order to get home and from patient to patient. Financial relief must be allocated for the home care industry just as it is for hospitals and other sectors of health care.

New York Independent Assessor Program (NYIA)

NYIA (Maximus) must demonstrate significantly improved customer service (call center operations), and improvement in quality of assessment and input of data in the UAS-NY assessment tool. DOH must increase training and oversight in the NYIA program.

DOH must ensure timely provision of services for those needing home care, for example, by allowing for conflict free assessments to take place while Medicaid applications are pending.

The state must require, and make public, accurate data on NYIA performance, including overall wait times for assessments, wait times for in-person assessments, quality of assessments and input in the UAS-NY tool.

Finally, consider ending the NYIA contract if significant improvements cannot be achieved quickly.

Repeal the LHCSA RFO

Reintroduce and pass legislation to repeal section 3605-c of the Public Health Law requiring authorization for a licensed home care services agency to enroll as a provider under the medical assistance program. The RFO threatens the survival of the industry, especially with regards to specialty and niche providers who have compliantly served their communities.

Unemployment Insurance Trust Fund

Use rainy day funds to offset some of the federal debt NYS owes, lowering premiums for all businesses in NYS.

Clean Slate Act

Ensure that the Clean Slate Act S211 (Myrie) / A1029 (Cruz) maintains its exemption for entities like home care provider agencies required by state/federal law to ask for fingerprint criminal background checks are allowed to pierce the seal on felony and misdemeanor convictions.

Conclusion

HCP implores the legislature to uphold the Governor's mission as outlined in New York's Master Plan for Aging. In order to "…ensure that all New Yorkers can age with dignity and independence through policies that promote the value of healthy, meaningful aging…", the 2023-24 NYS Budget must support funding and policies to bolster, not stifle, home and community-based care. This support starts with home care. And it starts with recognizing, and paying, home care workers appropriately.

Adopt Fair Pay for Home Care in law, and let New York set the example for the nation by raising our home care workers out of poverty by maintaining a higher than minimum wage, and requiring adequate reimbursements to those who employ them.

Home care providers must – and do - meet statutory wage obligations and pay home care workers – whether or not payors distribute funds as instructed by DOH. Absent the required pass-through wage funds, the majority of home care providers do not have the financial resources to pay for the wage increases, and ultimately will reduce or eliminate services, grossly limiting access to care for aged and disabled New Yorkers.

Home care worker wages and adequate reimbursement rates for their employers are inextricably linked and inseparable. The state must support HCBS by adopting Fair Pay for Home Care as introduced by Senator May, and thus ensure that state and federal Medicaid dollars are disbursed responsibly by requiring transparent pass through of wage funds.

Reject pay cuts for personal assistants in CDPAP. These caregivers are as valuable as the personal care aides employed by LHCSAs, and as such, their compensation must align across all provider types.

Ensure transparency in the managed long-term care system by holding MLTCs accountable for providing timely, sufficient care to Medicaid beneficiaries who desperately want to remain at home and in their communities. Mandate adequate reimbursements to agencies, thus securing the fiscal accountability of taxpayer dollars. Rehabilitate the cost reporting process in the home care sector to better reflect expenses, and tie reimbursements more nimbly and accurately to the cost of providing care.

Support the diversity of the home care industry by not handing over control of it to the plans as the governor has proposed. Implement strategies and policies to guarantee that all New Yorkers in need of home care have choices for their care.

Now is the time for home and community-based services (HCBS) to be treated as a highly regarded partner and a valuable part of the continuum of health care services. An investment in home care results in cost savings in the long term by reducing hospitalizations and nursing home admissions. An investment in home care workers improves the health of New Yorkers by maintaining community involvement and allowing vulnerable individuals to remain at home, where they want to be. An investment in the home care workforce boosts the economy overall by allowing family members to enter or continue working, knowing their loved ones are cared for by trained professionals.

Average Reibursement Rate Change Pre- and Post-Minimum Wage Implementation for PCA Contracts

MLTC Plan Name	Avg. Change Between 9/30/22 and 10/31/22 Across Reported Contracts	Difference from $2.66 Average Cost of Providing 1 hour of PCA	Number of Enrollees (DOH Medicaid Managed Care Enrollment Reports 10/2022)
Senior Network Health-MLTC	$0.00	-$2.66	333
iCircle MLTC	$0.37	-$2.29	3,527
Evercare MLTC	$0.73	-$1.93	873
Hamaspik MLTC	$0.92	-$1.74	1,954
Extended MLTC	$1.00	-$1.66	5,526
Elderwood Health Plan-MLTC	$1.24	-$1.42	1,064
Prime Health Choice MLTC	$1.25	-$1.41	560
Integra MLTC	$1.33	-$1.33	43,954
Empire MLTC	$1.42	-$1.24	5,426
RiverSpring MLTC	$1.84	-$0.82	15,608
MetroPlus MLTC	$1.96	-$0.70	1,325
SHP/Healthfirst-MLTC	$1.96	-$0.70	9,190
AETNA MLTC	$2.08	-$0.58	5,459
Nascentia MLTC	$2.31	-$0.35	3,575
Fidelis MLTC	$2.36	-$0.30	17,278
Elderplan MLTC (HomeFirst)	$2.40	-$0.26	15,885
Montefiore MLTC	$2.40	-$0.26	1,383
Centers Plan MLTC	$2.43	-$0.23	47,775
Kalos MLTC	$2.55	-$0.11	523
Senior Whole Health-MLTC	$2.60	-$0.06	24,107
VNS Health MLTC (Choice)	$2.62	-$0.04	22,672
Fallon Health Weinberg-MLTC	$2.64	-$0.02	829
VillageCareMAX-MLTC	$2.90	$0.24	15,533
ArchCare MLTC (Community Life)	$3.11	$0.45	5,142
AVERAGES ACROSS ALL PLANS:	**$1.85**	**-$0.81**	
TOTALED LOSSES:			249,168

313 MLTC Contracts (PCA and FI)
Members from HCP, CDPAANYS, NYAIL
All areas of state represented

Across 308 MLTC Contracts for PCA and FI:	
Number of Contracted Rates Falling Between $2.34-$2.01	46
Number of Contracted Rates Falling Between $2.00-$1.76	29
Number of Contracted Rates Falling Between $1.75-$1.51	4
Number of Contracted Rates Falling Between $1.50 and $0.01	33
Rates Adjusted by $0.00	**37**
Total:	**149**

The NYS budget included a 1% Across the Board increase for all providers. Please list by name any plans who HAVE PASSED THE 1% THROUGH TO YOU. If none have, please type NONE.

Answer	Frequency
None	42
No Answer	9
VNS	8
Fidelis	5
Nascentia	5
Village Care Max	3
I don't know or I can't tell	2
Senior Whole Health	2
All	1
Blue Cross Blue Shield	1
CDPHP	1
CentersPlan	1
ElderPlan	1
Elderwood	1
EverCare	1
Excellus uses our Medicaid rate. To date we have not received the 1% increase but expect to be paid retroactively.	1
Fallon Weinberg	1
HealthFirst	1
Independent Health	1
Kalos	1