The Arc®
New York

A family-based organization for people with intellectual and developmental disabilities

Chief Executive Officer Erik Geizer's Testimony

Joint Legislative Hearing of Senate Finance and Assembly Ways and Means Committees on FY 2021-22 State Budget

February 2021

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February 5, 2021

Chairwomen Krueger and Weinstein, Senator Brouk and Senator Mannion, Assemblyman Abinanti and Assemblywoman Gunther, and other members of the Senate and Assembly, thank you for the opportunity to provide feedback on the proposed Executive Budget and its impact on our field and the people we support.

I am Erik Geizer, Chief Executive Officer of The Arc New York. The Arc New York is a family-led organization that advocates and provides supports and services to people with intellectual, developmental, and other disabilities, emphasizing choice and community engagement. With 37 operating Chapters across New York state, our organization supports more than 60,000 individuals and families and employs more than 30,000 people statewide.

The parents who created our organization were among the earliest advocates for quality services and opportunities for people with intellectual and developmental disabilities (I/DD). In the more than 70 years since our founding, we have witnessed – and at many times driven – massive transformation and progress in our field. Over those seven decades, New York has developed a robust system of exceptional, comprehensive individualized services and programs that aid independence, support families, and emphasize inclusion in communities.

New York has a legal and ethical obligation to provide essential services, quality care and integration for its citizens with I/DD. Our shared responsibility to the people we support is nonnegotiable. However, decades of fiscal pressures, compounded by the current COVID-19 pandemic have severely destabilized the system we have built to fulfill that responsibility. We must take decisive action to preserve it.

COVID-19 Financial Impact

Any discussion of budget priorities must start with a baseline retrospective of the financial impact of COVID-19.

Beyond the obvious health challenges caused by the pandemic, providers have leapt into action with a quick and effective response that best ensures the health and safety of the vulnerable people we support, our dedicated front-line staff, and our larger community. In the midst of this public health crisis, providers are also faced with an unprecedented financial crisis with an estimated $327.6 million in provider program revenue loss in 2020 alone. This revenue loss is compounded by cuts made to New York's voluntary provider network resulting in an estimated loss of $5 billion to this system of essential services over the past decade. In that time, provider organizations have received only one cost-of-living adjustment (COLA) increase – of just 0.02 percent. This year is no different. We estimate another $89.7 million will be lost to the system due to another COLA deferral in the FY2022 Executive Budget. Last year we testified before this committee that a third of providers have been forced to reduce services or cut programs completely in the previous three years due to funding constraints. Now we are faced with an even deeper erosion of programs and services, coupled with the devastating extraordinary costs of the pandemic. Once these services disappear, they are difficult, if not impossible, to resurrect.

From the start of the pandemic, our sector struggled to be recognized as a critical component of the public health system -- even our certified residential providers who are responsible for keeping our particularly vulnerable population safe and out of hospitals. As such, we failed to receive hazard pay for our employees, or to be designated a priority in the distribution of and access to PPE.

Providers statewide are experiencing extensive staffing vacancies, and have implemented "enhanced compensation" strategies to ensure coverage in our 24/7 operations. This additional cost is currently estimated to be $130.8 million, yet even that has not been enough to stabilize our workforce crisis. Furthermore, we were forced to privately negotiate and procure PPE at rates far exceeding standard norms, with absolutely no upfront financial assistance and very little logistical support from the state. That out-of-pocket cost required to ensure the health and safety of our staff and individuals stands at $34.1 million across the field, with no indication that rates will be adjusted accordingly.

As we struggle to manage the extraordinary costs of the largest health crisis in a generation, our field is facing other forms of financial uncertainty. On May 27, 2020, in the midst of the COVID-19 pandemic and without any discussion or notice to the provider community or to the families they support, the Department of Health (DOH) announced proposed cuts in reimbursement for group homes (IRAs) and other homes for the medically frail (ICFs) by eliminating bridge payments providers would receive while engaged in the often lengthy process of filling a residential placement vacancy. In addition, reimbursement was slashed by 50% for retainer and therapeutic leave days, payments providers receive to maintain continued overhead costs while residents are temporarily in the hospital or visiting family. The proposal also would have imposed an annual "cap" of 96 therapeutic leave days, after which reimbursement would be reduced to zero. If implemented, this action would remove over $230 million from providers already reeling with losses from the pandemic. Even more importantly, it would force families into the untenable position of recognizing that, by choosing to spend time with their loved ones, they are stripping critical funding from the voluntary provider network on which they rely. Fortunately, an announcement was made last week that this action would be deferred until May of this year and will not be subject to retroactive recoupment. While this is a momentary reprieve, we cannot underscore enough the destabilization these types of actions create. Not only has it caused undue stress to our providers during the pandemic, but to the families of individuals we serve and support.

All told, the total net impact of the COIVID-19 pandemic on New York's voluntary providers is over half a billion dollars ($513.3 million). We have weathered financial crises in the past, working with state partners and stakeholders to preserve vital services and supports. However, the COVID-19 pandemic has presented an unprecedented challenge. Our operational costs have unexpectedly increased in response to the pandemic, we face further reductions in state funding, and federal funding allocated to the state has not made its way to providers. Essentially, we are burning the candle at both ends without a clear path forward for how to maintain services.

Budget Actions

The 2021-22 Executive Budget is predicated on the hope of unrestricted state aid from the federal government. The tale of two budget scenarios creates a unique set of challenges when planning for the future, but these are ae unique times. The state has promised budget cuts will be restored if the $15 billion requested in federal relief is received. We ask that you enact statutory protection to ensure that all cuts to the I/DD system are restored if these federal funds are received by the state. Currently, there is no such guarantee.

The Executive Budget reflects a more conservative $6 billion in federal aid, and proposes sweeping cuts in the absence of full federal aid. The proposed 1% cut in Medicaid will result in a 1% targeted rate reduction on OPWDD supports and services, and has an estimated impact on providers of $60 million gross annually. If implemented, this cut would cause a significant additional threat to the stability of our service system. This 1% cut would also leave tens of millions of dollars of federal matching funds on the table, at a time when we should be maximizing opportunities for federal funding. We strongly reject this proposal and ask that you eliminate it in the final version of the budget.

In addition to the across-the-board cut outlined above, the Division of the Budget is continuing a 5% reduction on all current quarterly payments of non-Medicaid state aid funding. We are pleased that three-quarters of the previous 20% withhold instituted in August

2020 will be repaid by the end of FY 2021, but disappointed that the remainder will not, and now continues into FY 2022. This funding provides critical supports, including rent subsidies for individuals living in independently, family support services for families caring for a loved one at home, room and board subsidies for providers, support for children aging-out of private residential schools, among others. All told, non-Medicaid state aid funding equates to approximately $300 million annually. The 5% withhold represents a fully annualized loss of approximately $15 million.

In principle, The Arc New York supports OPWDD's Residential Program Management initiative. Individuals should live in residential settings most appropriate to their level of need, and we look forward to working with OPWDD to develop a plan to achieve that goal. Assisting individuals transitioning from out-of-state residential schools not only supports our charge of providing supports in the least restrictive setting, but also saves $22.7 million in state share expenditures, which could and should be reinvested in other OPWDD programs.

Workforce Support

We previously discussed the workforce crisis providers face as they struggle to attract and retain staff. The staffing crisis is not new, but the pandemic has exacerbated the situation to the point that it threatens the health and safety of the people we support. Our Direct Support Professionals (DSPs) are the unsung heroes of pandemic operations. Without them, none of what we do would be possible. The majority of these dedicated frontline workers are women and people of color – historically disadvantaged groups for whom the state has committed to improve equity and opportunity.

Inclusion of support for the minimum wage increase is a collective relief for all providers, but the rising minimum wage has made it ever more difficult to recruit employees for these skilled positions. We will continue to push for enhanced pandemic pay for our DSPs, and demand they be included among the list of frontline healthcare workers and treated as such. They have more than earned this recognition, putting in long hours to care for the people we support, despite high risk to themselves and their families.

To address the severe residential workforce shortage, we propose that $25 million in federal COVID-19 relief funds be made available to establish an emergency program to provide payments to community organizations and agencies providing certified residential services to individuals with developmental disabilities. These funds would be used solely for recruitment, training and retention of non-supervisory residential DSPs, with a percentage of available funds determined by a hierarchy of provider needs.

This temporary call for hazard pay highlights an even deeper workforce issue: DSPs wages must be commensurate with the skilled nature of their positions. With the minimum wage rising in all fields, unskilled jobs are often seen as easier and more attractive. Without the necessary budgetary support to improve wages, the crisis we face now will result in untold hardship both for providers and the individuals they support.

Improved Access to Services: Telehealth and Teleservices

The COVID-19 crisis expanded use of telehealth services to meet the critical medical needs of people across the state. For the first time, many residents received care at a time when meeting in person with medical professionals was difficult or prohibited. I/DD service providers have long advocated for telehealth as a flexible, efficient option to deliver quality care. We are pleased to see extensive support for telehealth and teleservices in the Executive Budget, and hopeful that more extensive use of remote service delivery models will result in both cost savings and improved flexibility and service quality.

Although the proposed telehealth reforms would allow the end user to receive services outside of the physical walls of medical settings, the same flexibility is not clear for the medical provider. We propose an amendment to Part F of the HMH Article VII bill to eliminate the current restrictions on the "distant site" where the practitioner is located.

Moving Forward

The challenges we face are real and unprecedented. The nation, state, and its people are experiencing pressure from all sides, and in all aspects of life. We have collaborated to develop solutions to problems we never thought we would face. We have mobilized to support each other and our communities. We have innovated and evolved. With every challenge comes opportunity. This crisis is not the time to cut funding for essential supports and services. It is time to invest and transform.

Our most vulnerable citizens require the state to honor the fundamental values of our constitution, and our ethical obligation to social justice for all New Yorkers. The services we deliver are a cornerstone of that commitment. We will continue to collaborate with government to identify efficiencies, fight for equity for our workforce, and sustain quality care, integration, and opportunity for New Yorkers with I/DD. To meet that goal, we must be unified in vision. We must have the clarity of direction necessary to plan thoughtfully and invest proactively in the future of our service system. We ask for your partnership and commitment in achieving this goal. Thank you.