

Testimony of
Consumer Directed Personal Assistance Association of New York State
to:
Senate and Assembly Joint Hearing on Health

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Good evening Chairwoman Young, Chairman Farrell, and all of the Legislators here this evening. The Consumer Directed Personal Association of New York State is the only organization in the State focused solely on Medicaid's Consumer Directed Personal Assistance Program (CDPA), including fiscal intermediaries that administer the program, the seniors and people with disabilities who use it, and the personal assistants who provide these critical services. On behalf of the over 55,000 New Yorkers who either use or are employed through CDPA, we appreciate the opportunity to inform you of the impact of this budget proposal on CDPA and those who rely on it.

CDPA is a Medicaid home care program that allows individuals to recruit, hire, train, supervise and terminate their own workers instead of having an agency provide workers for them. The consumers work with organizations called fiscal intermediaries to contract with Medicaid; provide payroll services; and more.

According to the Bureau of Labor Statistics, personal care is the fastest growing industry in the State. Within personal care, CDPA is the fastest growing sector of the industry. We have experienced 20% program growth each of the last five years, and there is no expectation that this will slow. Consumers who utilize the program currently employ approximately 35,000 individuals.

Fiscal intermediary agencies are some of the most effective stewards of taxpayer dollars, using on average \$0.90 of every Medicaid dollar to pay for wages, benefits and the fringe costs. This level of efficiency, combined with an exemption from the nurse practice act for those who work in the program, means that the program saves taxpayers over \$150 million per year over services delivered in more traditional personal care settings.

Governor Cuomo's proposed SFY 2017-18 budget signifies the catch-22 that those who use Consumer Directed Personal Assistance face. As Medicaid funding has decreased over the years, wages have not kept pace with inflation, and in some cases have gone down. Last year, I sat here and told you that several fiscal intermediaries in Long Island were responding to news that one managed care plan will be cutting reimbursement by over \$1 per hour, meaning deeper cuts in wages. Since then, the continued lack of oversight has seen three managed care plans reduce reimbursement by \$3.00 per hour. Because of the low administrative expenses these agencies have, this meant that they were forced to cut wages by 20%, to the minimum wage.

These stagnant and even falling wages have meant it is harder and harder for people to recruit and retain high quality workers. In fact, it is apparent to anyone who works in the industry that we find ourselves in the middle of a workforce crisis. The fastest growing industry in the State is so underfunded that those who rely on this to stay in the community – to fulfill the State's

obligation under the Supreme Court's *Olmstead* decision – cannot find people to do the job because of a decade's worth of neglect by policymakers.

Indeed, in 2006, the average worker in consumer directed personal assistance earned 150% of the minimum wage, allowing consumers to recruit and retain a high quality workforce. Gradually, while consumer directed workers' salaries have been stagnant or even decreased, we have seen many industries raise wages, either voluntarily or through required changes to the minimum wage. The fast food industry currently makes over \$1.00 per hour more than most people who take care of people with disabilities.

Wages in CDPA are so low that a single mother of two, working full time in New York City, qualifies for WIC, SNAP, HEAP, and Medicaid. Yes. Those who work in Medicaid themselves qualify for Medicaid.

Last year, when promoting the minimum wage increase, Governor Cuomo rightly decried companies like McDonalds and Wal-Mart who relied on public benefits to lower their costs. He cited that it cost the State \$6,800 per month, in the cost of public benefits when people were employed at the minimum wage. However, it is clear the State is accruing these costs on its own.

But in the State's case, it makes no sense. The state is paying tens of thousands of dollars per person per year to insure employees through Medicaid and deliver other basics, instead of making sure that Medicaid reimburses enough money so that these individuals do not have to rely on public benefits to begin with.

This has led to a scenario where our parents and loved ones with disabilities are losing workers to McDonalds. Seniors are looking for staff sometimes for longer than a year. The workers that are available, who will accept the insulting wages, are the most desperate in the workforce, meaning the quality suffers.

The Governor has invested \$270 million in funding the minimum wage. This is the absolute minimum that could have been done. The Governor's budget funds the law. It does not deal with the shortage, nor does it end the neglect. As demonstrated, the minimum wage increases are necessary; but this workforce needs additional money.

We have advocated for years that to strengthen the ability of consumers to recruit and retain high quality workers, personal assistants in CDPA must make more in wages. However, CDPA is funded exclusively through Medicaid. We cannot raise the cost of a burger or t-shirt to raise wages, this can only come from increased funding to plans from the state.

CDPAANYS is not worried that one or two FIs will have to close their doors. We are not even worried that a few consumers may not find workers. We are discussing the potential wholesale collapse of an industry.

CDPA is integral to the State's efforts to achieve the Triple Aim of lowering costs, increasing quality and increasing satisfaction. We are critical to maintaining lower costs in managed care capitation.

And it is not enough to say that managed care should be paying higher reimbursement. We know that the capitated model is broken. It does not take an actuary to figure this out.

Plans that have a relatively low number of complex cases are doing well. They provide low hours of home care or CDPA and they make lots of money. However, those plans that are particularly effective, those that specialize in helping those with complex needs, wind up with a disproportionate number of high hour cases, members who need live-in or 24/7 home care.

In these instances, the capitation model is broken. Therefore, we call on the State to mandate that the Department of Health create a high need community based rate cell. This will restructure funds to allow those plans who work with the highest need individuals to receive the resources they need. This must then come with linkages that tie the reimbursement to plans and mandate adequate payments to providers, and that this money be passed on to workers.

To do this, we may have to re-examine the global cap. The cap served its purpose well. New York has finally gotten Medicaid spending under control. In doing so, it has relieved local governments of much of their obligation under the program. However, Jason Helgeson himself noted that we are seeing extremely rapid growth in enrollment in Medicaid, likely from the Baby Boomer generation, and that this is preventing the state from making necessary investments in the program.

This is an unacceptable outcome. When the global cap is an obstacle to providing benefits to those who legally qualify for Medicaid, it has lived its useful life. At the very least, we must examine its structure to ensure that the basic obligations of the Medicaid program can be met.

To this end, we are troubled by the Governor's proposal that would grant the Division of Budget and the Department of Health sole authority to alter the cap in the event of changes to the program at the Federal level. We believe that in the event of any dramatic changes to the Medicaid program that impact the budget and create shortfalls, it is the job of the Legislature and the Governor to work together to develop and implement a supplemental budget, as has been done for decades.

CDPAANYS has a number of other concerns in the budget, which for timeliness are summarized below:

- We oppose the Governor's proposal to require a nursing home level of care for enrollment in managed long term care. This will place an undue burden on Medicaid recipients and counties, who have mostly dismantled their LDSS units that take care of these assessments and authorizations.
- We oppose the Governor's effort to end what is commonly referred to as spousal refusal.
- We feel that the Legislature must include language in the budget that certifies fiscal intermediaries who administer CDPA. This language was vetoed two years ago by the Governor because he said it must be included as part of the budget. Since then, the number of fiscal intermediaries has grown unchecked, from 56 in 2011 to over 450 today. This completely unregulated industry has created widespread potential for abuse, and we urge the Legislature to include legislation that was passed unanimously by both houses in their budget proposals.

Thank you very much for your time and I welcome any questions.

