

Heritage Christian Services (HCS) has provided support and services to individuals with Intellectual or Developmental Disabilities, and their families, for 34 years. HCS currently provides support to 1800 Individuals with intellectual & Developmental Disabilities (I/DD). In addition, through our diverse offerings outside the OPWDD system, HCS touches the lives of over 24,000 people. These diverse services include Expressive Beginnings Child Care, the Pieters Family Life Center, the operation of Springdale Farm & the Heritage Christian Stables. In addition, we have a national education arm – the Center for Human Service Education and an Employment Alliance. We also operate A Second Thought Resale shop which funds our international outreach.

In response to the state budget in prior years, HCS met with legislators and provided commentary from the perspective of a service provider. In addition, HCS joined together with other service providers through the Coalition of Provider Associations, Developmental Disability Alliance of Western NY, the New York Alliance for Inclusion & Innovation and American Network of Community Options and Resources. While these perspectives are undeniably crucial to the debate of how New York State disburses its resources, it became increasingly clear that speaking only on behalf of the agency ignored crucial budget proposals that, while not impacting the agency, could have significant impacts on the lives of people with Intellectual or Developmental Disabilities (I/DD) and their families. In our response this year, you will see support of and opposition to these types of proposals.

For many years, the predominant ask from Heritage Christian Services and other provider agencies was for the NYS Budget to increase funding for wages for Direct Support Professionals (DSP). We are pleased to see that Governor Cuomo's 2019 budget includes the funding promised in response to the #bFair2DirectCare campaign to increase DSP wages. Unfortunately, the problem of recruiting and retaining DSPs has worsened, and we join the #bFair2DirectCare campaign in asking that the out-year funding commitment come sooner, in order to facilitate hiring and retain the workers needed to serve people with I/DD in our community.

In addition to supporting increased wages for DSPs, Heritage Christian Services supports the following initiatives in the Governor's budget:

- OPWDD initiatives and general direction
- Increased cap on Physical Therapy visits
- Rural area home care study

Heritage Christian Services opposes the following in the Governor's budget:

- Elimination of COLAs in health and human services
- Managed Care changes which incent institutionalization
- Reduction in funding for Early Intervention
- Elimination of spousal refusal
- Further restricting the number of OT and Speech Therapy visits allowed
- Elimination of Provider Prevails
- Additional co-pays on non-prescription medication

Heritage Christian Services has also identified opportunities for the state to make better use of its resources, including a more cohesive system for background checks, transitioning the state out of the business of providing services, and collecting data to better inform policy.

Please see the full summaries below for greater detail on areas of support, opposition, and concern, as well as several means of better using resources. For additional information or clarification, please contact:

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## **Heritage Christian Services supports:**

### **Increased funding for Direct Care wages**

Governor Cuomo's Budget proposal includes full funding to support the 6.5% salary increases sought by the #bFair2DirectCare Coalition in 2017, the first 3.25% installment, which began January 1, 2018 and the second 3.25% installment to begin April 1, 2018 (the second installment includes clinicians in addition to direct support professionals and staff). The proposed Executive Budget also contains \$80 million to fund the third increase of the state's minimum wage to bring employees up to the new mandated minimum wage.

As noted in earlier in this document, to address the worsening recruitment and retention crisis, increases in funding to support increased DSP wages, must occur sooner than originally thought to be acceptable. Even with the State's commitment to date, the workforce crisis continues to worsen. #bFair2DirectCare is requesting to merge the final four installments into three payments, commencing January 1, 2019.

### **Office for Persons with Developmental Disabilities**

The Governor's budget contains several important initiatives affecting the Office for Persons with Developmental Disabilities (OPWDD).

- OPWDD is transitioning its waiver services from section 1915(c) to section 1115. The Governor's budget includes the language fixes necessary to facilitate this transition. The bill would extend OPWDD's managed care authority, currently due to expire in 2019, and make technical amendments to that authority.
- The Governor's budget Provides \$39 million, in fiscal year 2019, for operating expenses and transitional administrative expenses for Care Coordination Organizations;
- The Executive Budget commits \$15 million in capital funds to continue to develop Independent Living Housing.
- The Executive Budget continues the commitment to fund, for the fifth consecutive year, \$120 million to expand availability of certified housing supports in the community, increase respite availability, provide more day habilitation and employment options and other services for people receiving services and for those whose service needs have changed.

*Heritage Christian Services is supportive of the overall direction OPWDD is taking in its shift toward a future in which service delivery is more individualized and consumer-controlled, with the intended outcomes being greater independence and community participation.*

*HCS is concerned regarding the pace of the conversion from the current Medicaid Service Coordination system to the Coordinated Care Organizations (CCOs). The inclusion of \$39 million to fund transition expenses appears insufficient given the size of the conversion. The system will need to transition 90,000 individuals in a very short period of time, commencing July 1, 2018. Six regional CCOs have received designation. In this race to get ready, the agencies planning to be CCOs have been forced to take out bank loans in order to fund the critical staffing and technological enhancements necessary. In addition, provider agencies are losing the Medicaid Service Coordination staff that would be best qualified to provide services after the transition to CCOs. These staff are frequently leaving because so many details remain ambiguous leading into July.*

### **Increased cap on Physical Therapy visits**

The Governor's budget proposes to increase the existing cap on physical therapy visits from twenty to forty. Unfortunately, the increase is predicated on funding received through the proposed penalty pool for hospitals scoring poorly on preventing readmissions.

*Raising the cap on Physical Therapy visits is a movement in the right direction. However, having a cap of forty visits is still arbitrary and contrary to the needs of some individuals. Also, predicated on the creation of a penalty pool for low-scoring hospitals is counter intuitive.*

### **Study of Home Care in Rural Areas**

The Governor has proposed to authorize the Department of Health (DOH) to conduct a study of home and community-based services in rural areas of the State. Depending on the results of the analysis, DOH could provide a targeted Medicaid rate enhancement for fee-for-service personal care and waiver programs.

*HCS supports increased focus on rural needs, but it is already abundantly clear that additional funding is needed for wages for workers providing in-home services – in fee-for-service, waivers, and managed care programs. This is true for rural, suburban, and urban areas. This study could be more useful if it approaches the challenges of providing services in rural regions in a more holistic manner. Concrete recommendations, and the funding with which to act on these recommendations, would be more impactful than just a look at wages.*

### **Wellness for Medicaid Managed Care Enrollees**

The Governor's budget proposes to add Medicaid managed care enrollees to those eligible to receive incentive payments for participating in wellness activities and for avoiding unnecessary hospitalizations and unnecessary utilization of hospital emergency department services.

*HCS supports incenting and rewarding healthy behaviors, especially for people with disabilities who have been left out of similar initiatives in the recent past.*

## **Heritage Christian Services opposes:**

### **Elimination of Cost of Living Adjustments**

*The Governor's budget eliminates COLAs in programs within the Department of Health and other Human Service programs. Agencies providing services within the affected programs continue to have increases in the cost of doing business. These costs include wages, general supplies, overhead, and significant technology upgrades (often required to maintain compliance with NYS mandates).*

*While New York has budgeted to increase wages for direct support professionals in certain OMH and OPWDD programs, not all direct workers are in these categories. DOH home care programs cannot keep up with mandated minimum wage increases. In addition, not only direct support workers are impacted by the increases in minimum wage. Wage increases are necessary for clerical and administrative workers who may otherwise earn less than minimum wage. This is to say nothing of the need to address wage compression and stagnation in the industry.*

*The human service COLA should be re-instated and paid at a rate more closely resembling CPI for healthcare.*

### **Managed Care Changes**

The Governor's budget would reserve enrollment in Managed Long Term Care (MLTC) plans for individuals demonstrating a long-term need for home and community based services, specifically those who score a 9 or above on the Universal Assessment System (UAS) for New York and require at least 120 consecutive days of community-based long term care. The Governor's budget also proposes to require continuous MLTC plan enrollment for 12 months.

*The Governor's proposed changes to Managed Long Term Care will incentivize plans to move high need individuals from community to nursing homes. It is clear that the state is taking steps to remove higher need, more expensive individuals from MLTC. While these moves will enable MLTC to appear more financially sound, it will come at the expense of individuals being forced more expensive and more institutional services.*

*Additionally, while HCS can appreciate the desire of MLTC plans to secure consumers for longer periods of time – improving financial predictability and reducing the administrative efforts and costs associated with consumers changing plans – we oppose the proposal to require 12 month enrollment. Forcing consumers to lock in with an MLTC plan for a full year limits consumer choice and may restrict a consumer's ability to secure the services and workers most appropriate to the consumer's needs.*

### **Reduction in Funding of Early Intervention Services:**

*The Governor's budget attempts to emphasize reductions in bureaucracy, but at the end of the day, the budget is removing \$18 million in state and local spending annually. In Monroe County, many providers have already withdrawn from the Early Intervention system because the reimbursements were inadequate. More providers are in danger of withdrawing. Delays and waiting lists for children to be evaluated are already a reality and would only get worse under this budget. Early Intervention providers are overdue for an increase in funding, not a reduction.*

### **Elimination of Spousal Refusal and Restrictions on Spousal Budgeting**

The Governor's budget would amend Social Services Law §366 to conform state law with federal law with regard to spousal contributions and responsibilities for spouses residing together in the community. Section seven of this bill would amend Social Services Law §366-c to align the minimum level of resources retained by the spouse of a Medicaid recipient in order to qualify for Medicaid long term care eligibility with the Federal minimum (\$24,180).

*Heritage Christian Services opposes the Governor's effort to restrict access to Medicaid by eliminating spousal refusal and restricting spousal impoverishment budgeting. No one wants a wealthy couple to take advantage of these mechanisms, but Local Districts of Social Service already have the ability to recoup payment from wealthy individuals and couples who can afford to pay. Spousal refusal and spousal impoverishment budgeting should remain in place for couples of more modest income and wealth.*

### **Further Restrictions on Occupational and Speech Therapy**

*The Governor's budget proposes to further restrict access to appropriate Occupational and Speech Therapy sessions. Each service is currently capped at 20 visits per year. The Governor has proposed to have a combined cap of 20 visits for the two services.*

*As noted above, having a cap on necessary and appropriate services is arbitrary and contrary to the needs of the patient. To further tighten the cap by combining to dissimilar services is unacceptable.*

### **Elimination of Prescriber Prevails**

The Governor's budget would eliminate the prescriber's right of final determination in both fee-for-service managed care when the justification for use is not clinically supported.

*HCS opposes the elimination of prescriber prevails rules. The doctor and patient are in the best position to know what medications are most effective and clinically justified.*

### **Increased Co-pays on Pharmaceuticals**

The Governor's budget would align coverage for non-prescription drugs and over-the-counter products with other 11 states and the Federal Medicare Part D program, and to increase the required co-payment amount for such products from \$0.50 to \$1.00.

*HCS opposes increases on pharmaceutical copayments. While a \$.50 co-pay on one medication may seem insignificant, for individuals living on low incomes with strictly fixed budgets, often taking multiple medications, the combined impact can be serious.*

## **Items of Concern:**

### **Overpayment Recovery**

*The Executive Budget stipulates that MCOs must recover overpayments from providers. No one disagrees with this. However, the Governor's proposal to allow the plan to now collect a recovery fee up to 5% from the provider runs the risk of making the plans more financially sound at significant cost to the provider agency. If there was a more concrete means of apply the fee only in cases of deliberate fraud by*

*a provider, this proposal would be more palatable, but the reality is that Medicaid fraud investigators often treat the most mundane clerical error in the same way they treat deliberate fraud.*

### **Health Care Facility Transformation**

*Of the \$425 million devoted to Health Care Facility Transformation, \$60 million is intended for community-based providers, but Consumer Directed Personal Assistance providers are not included in this fund. CDDA providers are subject to increasing scrutiny and mandated quality assurance measures. Having the opportunity to access these funds to enhance Information Technology platforms and other capital needs would enhance the ability of CDDA providers to meet the needs of consumers while also providing the needed quality assurance to oversight entities.*

### **Windfall Tax**

*There has been a lack of clarity as to how funds claimed by the state as part of the 14% tax on health insurance company windfall profits, caused by changes in the national tax code, will be used. Funds claimed from the healthcare system must stay in the healthcare system and not be used to close holes in the general fund budget.*

## **Opportunities to better use resources:**

### **Background checks for Health Homes**

*The Governor has proposed to extend existing background check requirements to Health Homes and entities subcontracting through Health Homes. This makes sense; however, it is crucial that New York not create additional redundancy in a system that already frustrates providers, workers, and consumers.*

*Too often, workers are required to submit to the same background check, multiple times, in order to work in the same position at different agencies. Also, because the state agencies funding services often require background checks through different systems, an individual worker may be subjected to multiple background checks through several different records systems. These duplications are not helpful and instead create unnecessary administrative costs and delays.*

*New York must streamline the background check requirements and move toward a more comprehensive system.*

### **The State as a Service Provider**

*Despite the vast number and diversity of voluntary, non-profit provider agencies in the OPWDD system, New York State continues to be a provider within the system. NY as a service provider costs considerably more, while reaching lesser outcomes, serving essentially the same population.*

*NY has taken small steps to decrease its direct service provision, but the time has come for NY to expedite its withdrawal from service provision. NY could focus its resources on supporting the network of non-profit providers to build capacity to serve all the individuals currently served by the state.*

*The Governor's budget does not contain any proposals addressing this opportunity.*

**Better Data**

*Many decisions about programs and services for people with disabilities are made with insufficient data. Improvements in data regarding health record, cost tracking, census info grouped by disability, and many other areas would be a worthwhile investment than would lead to a better ability to use New York's resources by targeting discreet populations with successful, evidence-based programs and services.*

*The Governor's budget does not contain any proposals to address the need for better data regarding people with disabilities.*