

**Joint Legislative Public Hearing on Health/Medicaid
2019-2020 Executive Budget
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**Testimony of Allison Cook
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Thank you for the opportunity to comment on the Executive Budget. I am Allison Cook, New York Policy Manager for PHI, a national non-profit organization based in the Bronx that works to transform eldercare and disability services by promoting quality direct care jobs as the foundation for quality care. PHI was founded in affiliation with Cooperative Home Care Associates (CHCA), a worker-owned home care agency in the Bronx that continues to partner with us to improve training and job quality for home care workers in New York City. Over the past 28 years, PHI has become the nation's leading expert on the direct care workforce through our research, policy analysis, and direct consultation with policymakers, payers, providers, and workers—developing a unique 360-degree perspective on the long-term care system in our state and across the United States. In this testimony, I will provide a brief overview of New York's home care landscape, and then describe the impact of relevant budget provisions on the home care workforce and New Yorkers' access to high-quality home care.

Home Care Landscape

Home care workers provide the majority of paid hands-on support that enables older adults and people with disabilities to remain in their homes. In New York State, as with the rest of the country, Medicaid is the largest payer for home care services. The level of Medicaid funding for home care services, and related regulations, determines wages, benefits, training opportunities, and workplace supports for home care workers. In turn, these investments in the workforce impact care quality and quality of life for home care consumers.

As we testified last year, New York is facing a home care workforce crisis. In many areas of the state, consumers and providers already struggle to find home care workers. Meanwhile, the number of people aged 65 and older is projected to increase by more than a million from 2016 to 2026 (to more than 4 million), while the number of New Yorkers aged 18 to 64 is projected to slightly decrease.¹ These demographic changes are driving up demand for paid home care services—with the state expecting to add 173,000 new home care jobs during this time, on top of 570,000 job openings due to workers leaving the home care field (often due to low wages, poor benefits, and limited career advancement opportunities).² In total, New York will need to fill almost 745,000 home care jobs in the next decade, making it imperative to invest in home care jobs in order to attract and retain sufficient workers and enable them to provide high-quality care.

¹ Cornell University. 2018. "New York County Projections Explorer."
<http://pad.human.cornell.edu/counties/projections.cfm>

² PHI. "Workforce Data Center." Last modified December 17, 2018. <https://phinational.org/policy-research/workforce-data-center/>.

Executive Budget Provisions

In the following sections, we provide comments on Executive Budget provisions that impact the home care workforce in New York.

Funding for Minimum Wage Increases

PHI strongly supports the inclusion in the Executive Budget of funding to cover additional Medicaid labor costs related to minimum wage increases. Home care providers that rely on Medicaid reimbursement report that they lack sufficient funding to cover the full costs of care, including labor costs—a reality that well-intentioned minimum wage increases can exacerbate without proper consideration. PHI recommends that any budget provision that funds minimum wage increases explicitly covers the full costs entailed. As well as wages, these costs include overtime, benefits, and other expenses (such as disability insurance and workers' compensation). Furthermore, the budget should include safeguards to ensure that this funding is passed along to home care providers and workers.

Changes to Requirements for the Consumer Directed Personal Assistance Program

PHI agrees that there should be improved oversight and management of the Consumer Directed Personal Assistance Program (CDPAP) to achieve maximum value for consumers and the state. However, despite the intentions of the CDPAP provisions in the Executive Budget, we are concerned about the potential harm of the provisions as written.

First, we are troubled by the proposal to repeal and replace the CDPAP law. Replacement legislation will require federal approval, which creates the risk that CDPAP will be eliminated altogether if approval is not granted. The repeal of this program would negatively impact consumers, family members, and the workforce. Consumers would lose the hard-won opportunity to independently manage their own long-term services and supports; family members would no longer be eligible to receive payment as caregivers; and that, in turn, would exacerbate the workforce shortage. Ultimately, if it means that consumers are not able to receive the services they need at home, then the repeal of CDPAP would undermine the state's ability to meet requirements under the *Olmstead* decision, by which individuals with disabilities must have the opportunity to receive services in the most integrated setting appropriate for their needs.³

Second, PHI is worried that the proposal to amend participation criteria for fiscal intermediaries (FIs)—which would drastically reduce the number of FIs across New York—will negatively impact consumers and workers. The sudden reduction in the number of FIs may cause a bottleneck in worker authorizations, creating an additional barrier to employment for workers and limiting consumers' access to vital services. Additionally, because certain FIs specialize in serving specific communities, consolidation of FIs may leave the CDPAP system less able to meet those communities' needs. In other words, an FI that serves a large, diverse population is

³ ADA.gov. "Olmstead: Community Integration for Everyone." Accessed January 31, 2019. <https://www.ada.gov/olmstead/>

unlikely to have linguistic and cultural competency to meet the unique needs of all consumers and workers within its jurisdiction.

To address these concerns, PHI strongly recommends that strategies to improve CDPAP focus on minimizing disruption, strengthening access to services, and increasing quality. For example, the budget could include provisions to enhance reporting and audit requirements to better measure and ensure quality, with penalties for FIs that do not meet minimum standards.

National Provider Identifiers for Home Care Workers

The Executive Budget includes a provision that would assign each home care worker a National Provider Identifier (NPI). NPIs are assigned to health care providers and health plans for use in administrative and financial transactions completed under the Health Insurance Portability and Accountability Act (HIPAA). Because home health aides do not directly complete such transactions, we are concerned that the assignment of NPIs will be unnecessary at best. At worst, it may penalize workers for actions (such as fraudulent billing) that are outside their responsibility, and may also delay workers' inclusion on the home care worker registry (creating a barrier to employment in a field that is already struggling to recruit new workers).

Funding for the Expanded In-home Services for the Elderly Program

PHI strongly supports the \$15 million funding increase in the Executive Budget for the Expanded In-home Services for the Elderly Program (EISEP), which is administered by Area Agencies on Aging (AAAs). EISEP provides essential home care services to New Yorkers who do not qualify for Medicaid, and creates potential savings for Medicaid by preventing or delaying middle-income New Yorkers from becoming eligible for Medicaid and/or entering a nursing home.

In addition, PHI strongly encourages the Governor and legislature to add funding to address the home care workforce shortage in New York. Many rural AAAs struggle to attract enough workers to provide services, and would greatly benefit from additional, flexible funding to implement innovative worker recruitment strategies. The workforce shortage merits further attention in this budget, as described in our additional recommendations below.

Additional Recommendations to Strengthen the Home Care Workforce

PHI recommends the inclusion of six additional provisions in the budget to help strengthen the state's home care workforce and address the workforce shortage:

Create a Home Care Workforce Shortage Taskforce

New York State must recruit and retain more home care workers to meet growing demand, especially in rural areas where the workforce shortage is most acute. This year's budget should establish a multi-stakeholder taskforce to develop a strategic plan for strengthening the state's home care workforce.

Fund Implementation of the Advanced Home Health Aide Occupation

New York State recently finalized regulations for the advanced home health aide occupation, which will allow certified advanced aides to administer certain medications.⁴ To ensure that this new role is successfully established, this year's budget should include funding to pilot-test implementation of the role, covering training, supervision, evaluation costs, and higher wages for advanced aides. This pilot funding will provide the opportunity to evaluate advanced aide implementation and costs, and can assist with future budget planning and policy decisions.

Establish the Home Care Jobs Innovation Fund

Because home care providers currently lack the funds to test new recruitment and retention strategies, PHI recommends that this year's budget create the Home Care Jobs Innovation Fund.⁵ This fund would provide a total of \$15 million in grants over three years to support the pilot-testing of strategies to attract and retain workers – such as innovative methods for finding the right applicants, effective orientation strategies for new hires, and novel worker investments (e.g., transportation assistance, scholarships, and retention bonuses). The findings from these pilot projects would help the state craft a comprehensive strategy to address the home care workforce shortage.

Establish a Home Care Advocate

Many workers and employers struggle to keep up with the evolving labor laws that apply to the home care workforce, such as minimum wage and overtime requirements. This year's budget should establish and fund a statewide public home care advocate⁶ to help home care workers and employers navigate these complex developments. This advocate could also help connect workers with other supports, such as training, public benefits, and career advancement opportunities, among others.

Establish a Home Care Workforce Data System

A robust workforce data system will allow the state to more accurately track the size and quality of the workforce. Good data is also essential for monitoring whether recent policy changes, such as increasing the minimum wage and establishing the advanced aide occupation, are having their intended effects. As a starting point, this year's budget should fund a survey of all state agencies, including (but not limited to) labor, health, and education, to identify data sources and data collection gaps regarding this workforce. This year's budget should also fund a statewide survey of home care workers to better identify the job experiences and challenges that impact recruitment and retention.

⁴ Cook, Allison. 2016. "New York Legislature Passes Advanced Home Health Aide Legislation." <https://phinational.org/new-york-legislature-passes-advanced-home-health-aide-legislation/>

⁵ Cook, Allison. 2018. "The Home Care Jobs Innovation Fund." <https://phinational.org/wp-content/uploads/2017/11/Home-Care-Jobs-Innovation-Fund-PHI-Jan-2018.pdf>

⁶ Rodat & Cook, 2016. "A Public Advocate for New York's Home Care Workers: A New Role to Strengthen the Workforce." <https://phinational.org/wp-content/uploads/2017/12/NY-Public-Advocate-PHI-April-2016.pdf>

Set Baseline Rates that MLTC Plans Must Pay Providers

Because the Medicaid Managed Long Term Care (MLTC) program is the largest payer for home care in the state, MLTC rates largely determine provider investment in these workers. To boost funding for workers, this year's budget should require that the Department of Health set a minimum amount ("baseline rate") that plans must pay home care providers, accounting for the costs of training, wages, benefits, and workforce supports.

Conclusion

Thank you for the opportunity to testify today. PHI looks forward to working collaboratively to create solutions that strengthen the home care workforce and provide high-quality home care to New Yorkers.