The Arc New York

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

Executive Director Mark van Voorst's Testimony

Joint Legislative Hearing of Senate Finance and Assembly Ways and Means Committees on FY 2020-21 State Budget

February 2020

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February 3, 2020

Dear Chairwomen Krueger and Weinstein, Senator Carlucci 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 serve.

I am Mark van Voorst, Executive Director 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 47 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 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 non-negotiable. However, our capacity to fulfill that responsibility is in question.

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Due to insufficient investments over the past decade, the service system for individuals with I/DD is in distress and at a major crossroads. Critical services are in jeopardy. Over the last decade, provider organizations have received only one cost-of-living funding increase – of just

0.02 percent – pushing many provider agencies to the brink of insolvency. A third of providers have been forced to reduce services or cut programs completely in the last three years due to funding constraints. Programs are operating with minimal or outdated technology and deteriorating infrastructure. Without investment, our system is simply not sustainable.

The Arc New York has joined forces with more than 300 providers across the state as a member of New York Disability Advocates to speak with a unified voice on the issues most essential to our field and the people we serve.

On behalf of our members, the more than 300 providers we represent, and the individuals and families we support, NYDA is requesting a 3% annual program funding investment each year for 5 years. A 3% increase is necessary to begin to address the significant lack of investment made over the past decade in the services and supports that are the foundation of health for New Yorkers with developmental disabilities.

A 3% investment is also necessary to continue the trend of increasing compensation for Direct Support Professionals begun under the bFair2DirectCare campaign, which is far from complete. Additionally, an investment of 3% for 5 years is in line with the request from others in the human services sector, with whom we are collaborating more closely than ever before. We collectively recognize human services provided through community-based organizations need commitment and investment in their future if they are to remain stable, viable resources for those they serve.

An investment of 3% for 5 years would keep pace with inflation, is on par with overall growth of Medicaid funding deemed reasonable and expected by the Administration, and would avoid unnecessary Medicaid spending in the future. Early intervention and better day-to-day care reduce the need for more costly emergency interventions. If the voluntary sector contracts, the state's obligation to provide services does not, shifting the burden of care to more expensive state-operated providers. Investment in the voluntary sector is ethically responsible to New Yorkers with I/DD, and fiscally responsible to all New Yorkers.

Managed Care

After nearly a decade of stagnant funding, our system of care is destabilized and unsustainable. We are a system on the brink of collapse, not a system on the cusp of constructive transformation.

The 2020 Budget Briefing Book included language which clearly articulated that the funds required to transition to a managed care system would be covered by the Global Medicaid Budget. This year, the Budget Briefing Book is silent on the matter. The omission is relevant and deeply concerning.

Funding for the implementation and operation of managed care *cannot* come from the operating budgets of providers delivering supports and services to people with I/DD, or from the existing resources of the OPWDD system. Any attempt to do so will result in the creation of a financial crisis that will rapidly and irreparably damage the service system before any positive outcomes can be derived from managed care.

The administrative costs associated with managed care are reported to be approximately 6-10 percent of the total revenues under the control of the managed care organization. Revenues associated with voluntary-operated programs in the OPWDD system total approximately $6 billion. Therefore, it is conceivable that managed care administration will require as much as $400-600 million per year in new funding.

Diverting hundreds of millions in current program funding to pay for MCO administration would cause unprecedented financial crisis for our field and result in program closures and service interruption for the people we serve. Funding managed care implementation and administration out of OPWDD's current operating budget is simply not an option. In a challenging fiscal landscape where will this money come from? Is the state prepared to assure providers and families that the funds to transition to and operate a managed care system will not come out of the existing resources needed to deliver supports and services?

Deferred Rate Action

While our field is in critical need of investment, initial budget briefings from OPWDD suggest that we should, in fact, be prepared for cuts effectuated through a Budget Neutrality Factor.

The rebased rates effective July 1, 2019 are now more than seven months delayed. Based on the draft rates, nearly half of all providers will face cuts. Once the rebased rates are finalized, those providers will need to scramble to repay months of reimbursements that were made at the higher rate. On top of this financial pressure, OPWDD announced a deferred rate action is expected to go into effect July 1, 2020, imposing a cut to all providers.

OPWDD extended funds to fully reimburse actual costs through July 2020. However, the Executive Budget does not include sufficient resources to fully fund provider costs beyond that date. To close that gap, providers have been advised that a budget neutrality factor of less than 1.0 will be applied effective July 1, 2020. This deferred rate action would equate to a cut for provider's total reimbursable costs. As an example, a budget neutrality factor of .985 would reimburse providers at 98.5 cents on the dollar, the equivalent of a 1.5 percent rate cut. Discussions with OPWDD indicate that they need to recoup approximately $30 million in state share funding through this rate adjustment.

Such a reduction would essentially eradicate the investment made in our workforce, and would destabilize many providers, driving more rapid and urgent consolidations. The system simply does not have the capacity to manage the numbers of crisis consolidations that would result from a cut imposed by this deferred rate action – and crisis consolidations are not the foundation for a stable and sustainable field.

The Arc New York requests the Legislature add $30 million in state-share funding to fully cover costs under the rate rationalization methodology using a Budget Neutrality Factor of 1.0.

Auspice Change Funding

We believe the State is intentionally and systemically underfunding the system to drive consolidation. There have been many agency consolidations in our field, and specifically within The Arc New York, with even more planned for the coming year. But if the goal is increased efficiency, not survival, then consolidations should be planned, proactive, and initiated prior to a provider devolving into a crisis where services are jeopardized. Thoughtful and effective consolidations require planning, funding, support from OPWDD regional offices and Central

Office, and approximately six to 12 months to effectuate. Ideally, the state should support thoughtful, proactive consolidation with both policy and funding.

However, crisis consolidation will continue to escalate in response to the economic constraints our providers face. In the first 65 years of our existence, The Arc New York conducted a total of four mergers. Not even one a decade. Yet, eight mergers were completed in the last five years alone, and another five are planned by the end of 2021. A similar trajectory can be seen throughout the field. OPWDD is struggling to efficiently administer the mergers that are currently underway. They simply do not have the funds or capacity necessary to handle the rapidly increasing rate of consolidation.

Under OPWDD's waiver agreement with CMS, when two providers consolidate out of urgent need, the resulting merged agency is funded at the higher rate between the two independent providers. This policy helps to support the cost required to equalize wages and fringe benefits – primarily for DSPs – when two agencies become one. This is a critically important and necessary funding policy, which we emphatically support.

The cost of implementing auspice change funding for these consolidations is insignificant compared to the savings the state has accrued by deferring the COLA each year, which is driving providers to merge. A portion of the savings from COLA deferral must be reinvested to support the cost of resulting agency consolidations. We do not believe OPWDD has sufficient resources to sustain the higher-of funding policy without shifting funds intended for programs and services.

The Arc New York requests the Legislature add $10 million in state share funding to support the cost of additional consolidations occurring in the upcoming year. COLA deferral has saved the state $5 billion over the past decade. This minimal reinvestment from that savings would support the administration's stated goal of fewer, more efficient providers, while ensuring the stability and sustainability of the resulting consolidated agencies.

Clarity

We will continue to identify efficiencies, including consolidation, collaboration, shared services and more. We will continue to deliver quality programs and services at significantly less cost than state-operated providers. However, we cannot fulfill our obligation to the people we serve without reasonable investment from the state, and we cannot attempt to transform the field without first stabilizing it.

The Arc New York, our Chapters, our families and the people we serve want to work in partnership with state leaders to ensure we fulfill our duty and our mission to provide quality, integrated supports and services for New Yorkers with I/DD. To meet that goal, we must be unified in vision. We must be informed, and we must have the clarity of direction necessary to plan thoughtfully and invest proactively in the future of our service system.

Today, I urge not only your investment, but your transparency. We are striving to plan effectively for our future in a fog of uncertainty. We have far more questions than clarity about the transition to managed care, and the preparation and investment that will be necessary to transform our field. We believe the state is driving the field toward consolidation, but we have no definitive picture of New York's plan for our service system or its expectations for providers. To be effective partners with the State in serving New Yorkers with I/DD, we need the administration to be clear and transparent about its vision for the future of our field.

We will work to identify solutions and be strong partners in achieving our shared goals. To do so effectively, and to fulfill both our mission and our responsibility to the people we serve, we need the State to clearly define the path forward.