



NEW YORK
**ALLIANCE FOR
INCLUSION & INNOVATION**

Testimony to Joint Fiscal Committees of the New York State Legislature

2021-22 Executive Budget for the NYS Office for People With Developmental Disabilities

Mental Hygiene Budget Hearing (Virtual)
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Testimony Delivered by:

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OPENING

Good morning/afternoon Chairwoman Krueger, Chairwoman Weinstein, Chairman Mannion Chairwoman Gunther, Chairman Abinanti, and distinguished members of the New York State Legislature. Thank you for the opportunity to provide you with our perspective on the 2021-22 Executive Budget as it relates to supports and services to people with disabilities and the administration of New York's Medicaid program.

My name is Michael Seereiter and I am the President and Chief Executive Officer of the New York Alliance for Inclusion and Innovation.

INTRODUCTION

The NY Alliance is a statewide association representing over 150 not-for-profit agencies serving people with disabilities. Our association envisions a society where people with disabilities are contributing citizens with equal rights and the ability to live full, productive and meaningful lives.

Before I begin our testimony, I wish to acknowledge the leadership in the State Senate and State Assembly for the thought and wisdom demonstrated through recent actions to establish new committees devoted to addressing issues regarding the intellectual and developmental disabilities community. The NY Alliance very much appreciates the creation of the State Senate Standing Committee on Disabilities and the State Assembly Standing Committee on People with Disabilities.

The NY Alliance stands ready to assist the committees, committee chairs and staff.

I will focus my testimony on the Executive Budget proposal as it relates to:

- the importance of **COVID-19 relief funds for the I/DD service delivery sector as a means to avoid cuts**;
- recommendations to address **workforce shortages** faced by the intellectual and developmental disabilities (I/DD) sector;
- the **fiscal sustainability** of New York's not-for-profit provider agencies;
- Support for the **codification of telehealth provisions** included in the Executive Budget and
- the necessity for a **strategic vision for this sector with respect to managed care and future service delivery changes** in the I/DD sector.



GENERAL OVERVIEW

While 2020 was a year unlike any other in recent memory, we recognize that the FY 2022 Budget process will likely follow in that same vein. Understanding that this Budget, more so than any other in recent memory, will be predicated on events in Washington and the amount of Federal funding that is allocated to New York State, we are hopeful that many of the negative fiscal consequences contained within the Executive Budget can be alleviated with additional Federal aid. That being said, I will focus my comments on what is in the Governor's Executive Budget proposal and what changes we would like to see should additional resources become available.

The need for regular funding increases could not come at a more critical time. Like many other health care sectors, the challenges that this sector faced prior to COVID-19 have only been magnified by this global pandemic. Issues such as workforce shortages and financial sustainability that were previously prevalent in our sector have reached a true crisis level. Providers were severely impacted by the additional costs associated with the pandemic, while at the same time dealing with declining reimbursement levels due to mandated closures and the inability to operate at pre-pandemic levels. During the past year, providers in this sector have spent over \$130 million in additional payroll costs directly associated with the pandemic in the form of enhanced wage rates in an effort to keep appropriate staffing levels and incentivize their essential front-line workforce. Additionally, providers spent nearly \$55 million on personal protective equipment (PPE) and other COVID-related expenses that were unbudgeted at the beginning of 2020. Most impactfully, providers statewide have seen reimbursement revenues drop more than \$327 million due to the pandemic. Combined, the pandemic has resulted in over \$513 million in unbudgeted net losses during the pandemic for the not-for-profit I/DD service delivery sector.

WORKFORCE INVESTMENTS

Workforce Recruitment and Retention

On behalf of the NY Alliance, I'd like to take this opportunity to thank members of the Legislature for your consistent support of the campaign to implement a living wage for direct support professionals, direct care workers and clinicians across the three disabilities sectors.





Last April, the final scheduled 2% wage increases for Direct Support Professionals and clinicians went into effect. These funds have undoubtedly made a difference in the ability to attract and retain a talented and committed workforce. However, our job is not done on this front. As the COVID-19 pandemic has created staffing challenges across many essential services, our sector is no different. The ability to recruit and retain DSP's has required agencies to pay out over \$130 million last year in "hero pay" to ensure that individuals with disabilities receive appropriate levels of support through this unprecedented time.

While we recognize the investments in prior years have been instrumental in the fight to establish a living wage amongst DSPs, more must be done to address the current crisis. We are calling on the Executive and members of the Legislature to create a dedicated fund using Federal resources from the Medicaid enhanced FMAP the State has and will receive to address the workforce crisis in a targeted manner. This fund would be used solely for the purposes of recruitment, training, and retention of (non-supervisory residential direct support professionals. Eligibility for the fund would be targeted towards agencies with highest DSP vacancy rates.

Paid Sick Leave for Vaccinations

The push to get all populations vaccinated against COVID-19 will continue to be a priority for everyone as we look to find our way out of this pandemic. As the push toward large-scale vaccination will benefit all New Yorkers, it is incumbent upon the State to incentivize that effort by amending the Paid Sick Leave Law to authorize time off for employees to get vaccinated.

Direct Support Professional Credential Pilot Program

In 2015, the Legislature and Governor Cuomo charged OPWDD to provide recommendations for the design and implementation of a New York State-specific DSP Credential Program. The research in the report states that credentialing programs provide targeted educational opportunities that help people master increasingly specialized or rapidly changing content areas in professions without necessarily investing in a longer-term degree program. Since then, there have been two comparative analyses done with 5-6 agencies in NY credentialing a small set of workers that includes wage increases or bonuses for accomplishing the credential work.

The comparative analyses show:

- improvements in quality outcomes and affordability of long-term supports and services;



- the ability to attract applicants into the DSP field, and decreased turnover and vacancy rates;
- enhanced competence in the field;
- higher quality supports and services to people with I/DD; and
- advanced competence in health and safety requirements set forth by the State of New York.

The Assembly and Senate have consistently recognized the importance of the DSP workforce and the tremendous value placed on training and career advancement. Assemblywoman Gunther reintroduced this legislation, A.80, to advance the credential pilot program. On behalf of the NY Alliance, we thank you for your ongoing support of this legislation.

As it will require funding to support the credentialing program and to bring it to a broader group of DSPs, we recommend the Legislature invest \$1.5 million as part of the 2021-2022 Enacted Budget to implement the professional credential pilot program for direct support professionals in the I/DD field. This investment will build upon the use of existing core competencies, skills building, and other educational resources. The funds would support the credentialing of over 300 DSPs in this pilot program; and, coupled with the wage enhancements in the proposed budget, begin to address the structural fix needed to support recruitment and retention of workforce in the I/DD field.

FISCAL SUSTAINABILITY– RESTORE THE COST-OF-LIVING ADJUSTMENT, REIMBURSE COVID-RELATED EXPENSES, AND ELIMINATE THE 1% TARGETED RATE CUT

Over the past several years, the State’s human services sector has highlighted the need for consistent funding increases to help provider agencies keep up with the cost of doing business. Historically, the sector had received annual increases to ensure that not-for-profit providers were able to address expenses associated with inflation. Rates to provide services were adjusted to reflect increased costs in food, utilities, fuel, labor, and other necessary products and services as a result of doing business.

As you’re aware, the not-for-profits who provide supports and services to New Yorkers with disabilities have been asked to do more with less. Support more people; support more people with more significant/intense needs; provide more compensation to their workforce; accommodate more overtime and new staff training costs that result from lack of investment in





the workforce; comply with more regulations and mandates; and invest more in their organizational infrastructure necessary to operate efficiently in a fast-paced/technology-based world. All with reduced resources; or, in the best-case scenario, with resources that have remained flat, despite cost escalators that the State accommodates in its own State-operated system and budgets. The fiscal sustainability of some of our member agencies, from all parts of New York State, is in question.

Therefore, the NY Alliance calls upon the State to commit to restore the Cost of Living Adjustment that comprise NY's human services sectors, including those organizations that support people with disabilities. It is simply unrealistic to expect these sectors to meet the demands of government for higher quality supports and services when corresponding resource allocations to ensure sustainability haven't been realized.

Right now, critical community 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. The lack of new funding for providers to support individuals with I/DD has resulted in unfunded mandates on providers.

Restore the 1% targeted Medicaid Rate Reduction

The success of the #BFair2DirectCare campaign has led to DSPs and clinicians receiving scheduled wage increases, while at the same time providers have been forced to accommodate cuts that exceed the new funds being allocated. This perverse process has essentially resulted in providers, not the State, funding the critical increases in DSP and clinician wages.

Unfortunately, not only does the FY 2022 Executive Budget propose to defer the planned Cost of Living Adjustment, but it also actually goes further by recommending a 1% targeted decrease in Medicaid reimbursement rates. These are the same type of cuts that forced providers to fund the DSP & clinician salary increases in prior years, so we call on this administration and the Legislature to restore this arbitrary cut on Medicaid services.

REFUND THE FULL AMOUNT OF THE 20% WITHHOLD AND ELIMINATE THE FUTURE 5% WITHHOLD

The COVID-19 pandemic has created a fiscal situation the likes of which we have not experienced in generations. Over the summer, the State began withholding 20% of most non-



Medicaid State share-only payments. For the I/DD sector this was particularly impactful as many agencies act as a fiscal intermediary for individuals who self-direct their own supports. Often times, a large portion of the funding in these self-directed budgets is State-only non-Medicaid funds which are subject to the withhold. The policy of the State to withhold 20% of these funds has placed providers in the very difficult situation of either attempting to absorb the 20% in withheld funds for an undetermined period of time or passing that withhold along to the individuals they support. In almost all instances, providers have stepped up to the plate and absorbed this financial impact. Unfortunately, providers can no longer continue to absorb these cuts without certainty on how long funds will continue to be withheld or at what magnitude. In a recent survey on the impact of the withhold conducted by New York Disability Advocates (NYDA), of which NY Alliance is a member, 30% of providers indicated that they would no longer be able to continue to operate programs affected by the 20% withhold if it lasted past January.

Furthermore, with the commitments that President Biden has publicly made around continued aid to State and Local governments as well as the new political dynamics in Congress it appears as though additional Federal resources are imminent. We urge the members of the Legislature and Governor Cuomo to restore the withheld funds and discontinue any future withhold for the sake of individuals with I/DD who will lose access to services if this cut continues much longer.

TELEHEALTH FLEXIBILITIES AND AFFORDABLE INTERNET ACCESS

Telehealth Flexibilities

Undoubtedly the COVID-19 pandemic has changed the way that all of us live our lives on a daily basis. While most of us could do without the changes that we've been forced to experience over the past 11 months, there have been a few bright spots. The most consequential of those is the successful expansion and utilization of telehealth services as a means to provide care. Like many of us have gotten used to virtual meetings, we've also become more attuned to the benefits of telehealth. As part of the Federal emergency Appendix K Waiver, providers in the I/DD sector were afforded flexibilities with respect to telehealth that allowed them to provide services safely and efficiently and be reimbursed accordingly. With the relative success of these services during the pandemic we are pleased to see the recommendation to continue this service modality and the flexibility it offers to individuals who choose services via telehealth. While we recognize that telehealth will not always be the appropriate modality of care, especially post pandemic, we



are pleased that the Governor appreciates the efficacy of this service and has included many of these provisions in a comprehensive Article VII bill in the Executive Budget. We urge the Legislature to accept the Governor's recommendations regarding telehealth and extend these flexibilities in perpetuity.

Affordable Internet Access

Many people with disabilities remain among our state's lowest income earners, despite years of efforts to help people with disabilities find economic prosperity through gainful employment. This leaves many such individuals without the means to afford internet connectivity. Therefore, we encourage the Legislature to support the Governor's budget proposal to create affordable internet access for all New Yorkers at \$15/month, and we ask that this benefit be made available to people with disabilities.

MEDICAID MANAGED CARE TRANSITION

For about a decade now, the I/DD service delivery sector has been awaiting some finality on the State's decision as to whether the move to a fully capitated managed care delivery model was going to happen or not. Unfortunately, the FY 2022 Executive Budget does not provide any more clarification on this issue than we've had in the previous decade. Our system is at a crossroads and the longer we wait in limbo as to which path will be chosen, the more precious time and resources are being squandered.

While we recognize the challenges both fiscal and administratively with implementing a large-scale service delivery change of this nature, the time to take careful planning steps is now to prepare for a future where the outcome is known, one way or the other. To that end, there are a number of recommendations that the NY Alliance believes are critical to the success of any kind of change in service delivery model, whether that be in a managed care environment or not.

Ensuring Adequate Resources for the Transition:

We all agree that managed care should not result in a reduction in supports and services due to lack of availability of needed programs, unreasonable utilization review criteria, or a diversion of current financial supports for services to pay for the cost of implementing managed care. Instead, managed care should enhance inclusion, person-centered planning, and equity in access



to health care and DD services. Ensuring any move in the direction of managed care is provider led is an integral component to a successful transition.

The key to achieving this goal is an effective care coordination model that will move us beyond the "silo" approach to accessing services and help families and people with disabilities access supports across multiple systems. Managed care should enhance, not jeopardize, the financial viability of providers.

As part of the transition to managed care, the State should guarantee that the resources needed to stand up a managed care delivery system are not taken out of services and supports for people with disabilities and their families. Under no circumstances should the administrative costs associated with managed care come out of services and supports. Providers, let alone the families and individuals with disabilities they support, cannot sustain service reductions in order to implement managed care.

Health Information Technology

One of the key areas to ensure that managed care can be operationalized for people with I/DD is through the use of modernized health information technology (HIT). HIT supports the health information management across computerized systems and enables the secure exchange of an individual's health information between providers, managed care organizations and other payers. Electronic health records are one example of HIT currently used by many providers, but not necessarily all providers, as we've found through a managed care readiness self-assessment. The use of HIT varies widely across all sectors including I/DD and many are well versed in its applications, while others continue to use antiquated systems that will not allow a provider to effectively engage with managed care entities.

Even with appropriate HIT systems in place, provider agency staff need to be adequately trained on the use of new and innovative systems. Therefore, investments are required to enable providers to modernize the delivery of truly person-centered supports and services as well as timely reimbursement. Start-up funds are necessary for the purchase, training, and optimal use of HIT for provider agencies. Ongoing resources are also necessary to use, enhance and optimize the system.

Access to comprehensive information and usable communication technologies has become a necessity for all people in our society, particularly people with intellectual and developmental





disabilities. Enabling technology promotes self-determination, advances person-centeredness, increases independence, and allows for natural safeguards and valued outcomes. The use of enabling technology also allows people with I/DD to engage meaningfully in aspects of life such as employment, education, recreation, civic participation, and all other social determinants of health. It also creates new markets, employment opportunities, reduces healthcare costs and improves independence and people's quality of life. It's important for society to recognize the importance of enabling technology in the lives of people with I/DD as a means by which to realize their basic civil rights. We call upon the State Legislature to adopt a resolution acknowledging the importance of enabling technology and establishing the State of New York as a technology first state.

Specialized Intellectual/Developmental Disabilities Ombudsman Program

The NY Alliance strongly believes that the role of an Ombudsman is essential in publicly funded human services delivery systems and is especially vital when new systems are put in place.

An ombudsman is officially charged with representing the interests of the public and is independent from government. Through the NYS Budget process, a (NYS) Substance Use Disorder and Mental Health Ombudsman has been created. This helps individuals, and their families navigate New York's behavioral health care system to ensure people have access to necessary care and services and also to help resolve issues when care has been delayed or denied as part of Medicaid managed care.

An independent, specialized I/DD Ombudsman would be tasked with assisting people in New York's I/DD system and their families to navigate in a managed care environment, which includes but is not limited to:

- denials;
- complaints and grievances;
- quality monitoring; and
- health outcomes measures and display metrics on specialized, I/DD provider-led managed care plans and other managed care entities.

A bill has been introduced in the Senate and Assembly to create the specialized I/DD Ombudsman program. We thank Senator Mannion and Assemblywoman Buttenschon for introducing S.1766-A and A.1153. The Senate Disabilities Committee reported the bill from



committee to Senate Finance last week. Again, we thank you Senator Mannion and members of the committee for moving the bill. The NY Alliance wholeheartedly supports this bill.

Comprehensive Strategic Planning

All of this discussion about managed care, the tenuous condition of our current system, and the uncertainty about the future of this system causes us to once again call for a re-establishment of the statutory comprehensive planning process, as outlined in Mental Hygiene Law section 5.07. This process serves as the mechanism by which stakeholders are engaged in discussion about the future of our system and where the state can lay out a vision for that system so that all parties can be aligned with that future system. At a time like this, there is perhaps no greater need for a strategic plan and a process that supports all stakeholders to participate in the development of that plan.

Closing

On behalf of the NY Alliance, we thank you for the opportunity to provide you with our recommendations and feedback on the 2021-22 Executive Budget.

