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Center for Independence of the Disabled, NY

Testimony to the Joint Budget Hearing of the Senate Finance Committee and Assembly Ways and Means Committee on the Executive Budget - Health Care

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This testimony is submitted on behalf of Center for the Independence of the Disabled, NY (CIDNY), a non-profit organization founded in 1978. CIDNY's goal is to ensure full integration, independence and equal opportunity for all people with disabilities by removing barriers to full participation in the community. We appreciate the opportunity to share with you our thoughts about the New York State's Executive Budget Proposal and our recommendations. Because the conditions affecting the individuals and families we represent do not discriminate between rich and poor, we advocate for accessible, affordable, comprehensive and accountable health insurance for the privately insured, as well as for those in need of access to public insurance programs.

Over the past year, CIDNY has monitored proposed budget legislation and the effects of regulations and legislation on the over 2 million people with disabilities in New York State. As a result of our policy analysis and with the experiences of our consumers, we have developed the following recommendations related to the State budget and legislative agenda.

CIDNY supports the New York Health Act

CIDNY has long supported various versions of Single Payer Universal Health Care which would establish a seamless comprehensive system for access to health coverage and care. People with disabilities have a right to a transparent, accountable health care system that provides accessible coverage including benefits and services that are based on medical necessity. The current disjointed system of Medicare, Medicaid, and private commercial coverage and other specialized programs is difficult to navigate and often fails people with disabilities.

The New York Health Act would end the chaotic medical care system that people with disabilities are all too familiar with and its multiple uncoordinated programs, restrictive networks and formularies, deductibles and copays which can function as barriers to care. We are pleased to be able to support the New York Health Act A (Gottfried)/S(Rivera) since its comprehensive benefits now include long-term care, as well as primary and preventive care, prescription drugs, laboratory tests, rehabilitative and habilitative care, dental, vision and hearing. For people with disabilities, who may have multiple providers, the free choice of care coordination as a separate service to help get the care and follow-up the patient needs that does not operate as "gatekeeper" is an added plus. CIDNY appreciates the articulation of program standards that include the accessibility of care coordination, health care organization services and health services, including accessibility for people with disabilities and people with limited ability to speak or understand English. We also appreciate the maximization and prioritization of the most integrated community based supports and services. CIDNY looks forward to the passage and implementation of this important legislation.

MEDICAID GLOBAL CAP - *CIDNY Supports A.226 Medicaid Cap Repeal*

Since 2011 the Medicaid Program has been operating under a Medicaid global spending cap which has meant that essential programs and services that are important to the well-being of people with disabilities have faced significant cuts in recent years.

Many of these cuts have occurred "behind the curtain", since it is often a Managed Long Term Care Company that is carrying out the cuts, rather than a Governor and Legislature. Simultaneously with the adoption of the Medicaid Global Cap the Medicaid Director took a "managed care for all" approach to the Medicaid program requiring mandatory enrollment of "dual eligibles" (people eligible for Medicare and Medicaid) who need long term care into Managed Long Term Care (MLTC). This has resulted in severe cuts to home care hours which have only been restored by requesting fair hearings against the MLTC. A typical example would be a proposed cut of home care to 4 hours in the morning and 4 hours in the evening to a person who previously got 24hours/7 days of home care because they need to be turned and repositioned every two hours to avoid bedsores. The fact that this could result in the need for hospitalization or wound care nurse visits is not considered by the MLTC (possibly because they may not be the payor for these services) and the medically necessary services have to be restored by an Administrative Law Judge. This can mean that people whose hours are cut are forced to give up their independence and move into institutional care.

The State needs to continue in its tradition of providing community-based services to low-income individuals and people with disabilities. It is time for New York to end this arbitrary global cap.

CIDNY SUPPORTS CONSUMER ASSISTANCE FUNDING

CIDNY supports the proposed budget allocation of $2.5 million for the Community Health Advocates program and urges the Legislature to provide additional funds to maintain funding at $3.9 million. Since 2010, CHA has helped over 360,000 New Yorkers, including many people with disabilities, all over New York State navigate their health insurance plans to get what they need. CHA helps New Yorkers resolve billing issues and coverage denials, get prior authorizations, respond to out-of-network and surprise bills, and locate health services no matter what type of insurance they have. Services are provided through a central helpline and community-based organizations that can provide in-person assistance throughout the state. CHA has saved New Yorkers over $47 million since it started. Every dollar the State invests in CHA produces $1.31 in savings for consumers. These services are needed more than ever so that New Yorkers can manage the disruption caused by COVID-19. HCIDNY urges the Assembly and the Senate to contribute an additional $1.4 million to the Executive Budget proposal to maintain funding for the program.

CIDNY supports increased funding for the Long-term Care Ombudsprogram. The Governor proposed level funding in his Executive Budget for the Long-term Care Ombudsprogram--a program with a mandate to protect New York's nursing home residents. During the pandemic over 15,000 nursing facility residents have died due to the virus and additional deaths have resulted from lack of care. The program has been dealing with visitation issues, inappropriate discharges, psychotropic drugging and other serious problems with only minimal resources. Currently, New York's program is one of the most poorly funded in the nation. The State Comptroller released a report which found that many residents in LTC facilities lack representation from an Ombudsman due to lack of volunteers and paid staff. The report found that statewide, there are about

half the recommended number of full-time staff. It found that in New York City alone, 23 more full-time staff would be required. *The legislature should increase state share funding of the Long-term Care Ombudsprogram by $3 million.*

CIDNY supports fully funding the Navigator program at $32 million and allocating an additional $2 million so that community-based organizations can conduct outreach in hard-to-reach communities. enrollment assistance so that New York can increase enrollment in existing health coverage programs.

Navigators are local, in-person assisters that help consumers enroll in health insurance plans. Navigators have helped over 300,000 New Yorkers enroll since 2013 without ever receiving a cost-of-living increase*. The State should increase the navigator budget from $27.2 million to $32 million to guarantee high quality enrollment services.* One third of the remaining uninsured are eligible for free or low cost coverage, but are unaware of it. This is especially important for people in immigrant communities, including people with disabilities, who are living in a state of great uncertainty because of federal threats like "public charge". *The State should provide $2 million for community based organizations to conduct outreach and educate consumers in the hardest-to-reach communities.*

Community Health Access to Addiction or Mental Healthcare Project (CHAMP) Insurance barriers stop many New Yorkers from getting care for mental health or substance abuse issues. CHAMP started in 2019 and has already helped thousands of New Yorkers resolve those issues and get necessary care. CHAMP funding should be maintained at $1.5 million.

Medical Billing Protections New Yorkers deserve protection from unfair medical billing practices. **A.3470A (Gottfried)/S2521-A (Rivera)** would eliminate some of these practices by requiring hospitals to send bills in a timely manner and clearly list the services associated with each charge. It would reduce the statute of limitations on medical debt from six years to two so that patients have a better chance of defending themselves in court, and limit the interest rate that providers can add to medical debt. The Governor's Executive Budget has proposed reducing interest on consumer debt from 9% to the Treasury rate which is less than 3%. CIDNY supports this proposal.

The bill would improve surprise bill protections so that patients are held harmless when using a provider that their plan or the provider has said is in-network. It would prevent patients from being charged facility fees. The bill would also improve New York's financial assistance law and comply with the state's All-Payer Database so that patients can easily get financial assistance and get better information about the costs of their medical care. Finally, the bill would require providers to use standard financial liability forms so that consumers could more easily understand their financial obligations when seeking medical care.

New Yorkers cannot afford the bills that result from these out-of-control medical billing practices. New York's medical providers should not and cannot support themselves by nickeling and diming patients.

CIDNY supports access to home care, personal care and consumer directed personal assistance for all who need it by paying home care workers 150% of a region's minimum wage.

COVID- 19 has highlighted the very real dangers that have long existed in nursing facilities. The State should be prioritizing access to home and community-based services as the answer to the tragic deaths in facilities during the pandemic. As wages increase in other sectors, such as fast food restaurants, it is increasingly difficult to find people willing to do home care work which is physically and emotionally demanding. The State has a legal obligation under *Olmstead* to ensure people have access to appropriate care in the most integrated setting, their home communities. The State needs to provide a living wage to home care workers in order to attract people to work in that field. CIDNY joins with the NY Caring Majority, which is calling for the State to increase wages for all home care workers to 150% of a region's highest minimum wage.

CIDNY supports a *Home Care Jobs Innovation Fund* funded at $5 million per year for 3 years.

As New York's home care providers struggle to recruit and retain workers, they unfortunately lack the resources to test innovative solutions to this problem. This year's budget should include funding to support pilot projects throughout the State that help to increase recruitment and retention of home care workers. CIDNY joins the NY Caring Majority in proposing that the State allocate $5 million per year for 3 years to support this effort. The findings from these projects can help determine statewide solutions.

CIDNY strongly opposes eliminating provider prevails. The Executive Budget proposes to repeal an important patient protection restored "prescriber prevails" for prescription drugs in the fee for service and managed care programs. A prescriber, with clinical expertise and knowledge of his or her individual patient, should have the final say to be able to override a preferred drug. People with disabilities often have chronic conditions that require a complex combination of medications. Different individuals may have very different responses to different drugs in the same class. Sometimes only a particular drug is effective or alternative drugs may have unacceptable side effects. Disrupting the continuity of care can result in detrimental or life threatening consequences and can actually lead to more medical complications, expensive hospitalizations, emergency room use, and higher health costs. It can also discourage consumers from continuing with needed treatment due to uncomfortable

side effects or because drug failure erodes their trust in medication. Prescribers are in the best position to make decisions about what drug therapies are best for their patients. *CIDNY urges the State to recognize the importance of specific prescription drug combinations and protect Provider Prevails.*

CIDNY supports the Health Equity Impact Assessment Act (A.191/S.1451). This legislation would require institutional health care providers to submit a health equity impact assessment as part of a Certificate of Need (CON) application asking for state approval to expand or reduce health care capacity in the communities they serve.

The Public Health and Health Planning Council (PHHPC) makes critical decisions regarding many important aspects of the health and long term care systems available in our communities including care provided by hospitals, clinics, nursing homes, home care agencies and hospices. The PHHPC makes determinations about policies related to all of these providers including the review and approval of CON applications for any providers seeking state approval to expand, merge, downsize or close. This bill would require that all would have to include a Health Equity Impact Assessment explaining how the proposed project would improve access or reduce health disparities of medically underserved groups including people with disabilities, disclose the existence of any civil rights access complaints (See section 3 (c), the means of ensuring effective communication with people with speech, visual, or hearing impairments, or how it will reduce architectural barriers for people with mobility impairments. (See section 3 (g) and (h). Patients must now engage in lengthy and costly litigation against hospitals to enforce civil rights laws when their rights under these laws are violated. Shining a light on these issues early on when a hospital is seeking a change in its buildings or services, could avoid this lengthy and costly litigation.

CIDNY SUPPORTS AFFORDABLE COVERAGE FOR ALL

CIDNY seeks $13 million to create a *temporary* state-funded Essential Plan for New Yorkers with incomes up to 200% of the federal poverty level who have had COVID-19 and are excluded from health coverage programs because of their immigration status . (A1585/S2549)

Immigrant New Yorkers have been at the forefront of the state's fight against COVID-19, representing one-third of the state's essential workers and playing a key role in all sectors of our battle against the pandemic, from frontline health care provision to food production and delivery. Twenty percent of nursing assistants who have provided direct care to older people and people with disabilities in nursing facilities are immigrants. This ongoing exposure has contributed to the disparate outcomes in COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color.

Another important driver of this inequity is the ongoing disparity in access to health care services caused by the state's persistent and pernicious exclusion from health insurance coverage of 400,000 New Yorkers who do not qualify because of their immigration status. This measure would cover more than 5,000 New Yorkers who have suffered the direct consequences of COVID-19 and need ongoing care to make a full recovery.

New York has a history of providing coverage to immigrant communities excluded from federal programs. The state should continue to step up where federal policies fall short. The pandemic presents a grim opportunity to see the life-and-death consequences of this inaction. As the state raises new revenue from more equitable taxation, it should dedicate a portion of new funds to make ALL low-income undocumented New Yorkers eligible for the Essential Plan (A1585/S2549).

Effective public health responses require attention to all community members. A pandemic response that excludes any member of our communities, including for those recovering from COVID-19, is an ineffective response. This temporary coverage would cost $13 million, but the state already pays half of that in uncompensated care for uninsured people, so the effective cost is less than $7 million to provide thousands of New Yorkers with potentially life-saving coverage.

CIDNY also seeks legislation that extends the Essential Plan to all people whose immigration status makes them ineligible for federal financial participation.

CIDNY supports A.880(Gottfried)/S.1572(Rivera). This bill provides adult immigrants with access to health insurance coverage that is *equivalent* to the coverage offered to their fellow citizens or lawfully present counterparts who are eligible for the Essential Plan because their income is below 200% of the Federal Poverty Level. In New York City, 58% of people with disabilities have incomes below 200% of the Federal Poverty Level. Some of these New Yorkers with disabilities are people with immigration statuses that preclude Essential Plan eligibility.

Extending eligibility to these immigrants builds upon New York's success covering children through the Child Health Plus program which *does* include immigrant children. It extends coverage to eligible adult immigrants ensuring that all New Yorkers have access to affordable health coverage, averting the health insurance cliff many young immigrants now face when they turn 19 after years of state investment in their health.

CIDNY supports the "safe staffing for quality care act." A108 (Gunther)/S1168 (Rivera)

CIDNY supports legislation that would require acute care facilities and nursing homes to implement direct care nurse to patient ratios and minimum staffing requirements. CIDNY supports minimum care hours per nursing home resident, per day for Registered Nurses, Licensed Practical Nurses (LPNs), and Certified Nurse Assistants (Certified Nurse Assistants) and would impose civil penalties for violation of these requirements. The minimum hours of care per resident, per day are as follows: RNs: 0.75 hours divided among all shifts to provide an appropriate level of RN care 24 hours per day, seven days a week; LPNs: 1.3 hours; and CNAs: 2.8 hours.